New York – Office of Renewable Energy Siting (ORES)

Enabling Legislation: NY Executive Law Section 94-c
Effective Date: March 3, 2021
Pathway Type: State Preemption
Threshold: >25 MW
Administering Agency: Office of Renewable Energy Siting (ORES), within the Department of Public Service
Typical Timeline: 12 months (statutory deadline)
Application URL: https://dps.ny.gov/ores-permit-applications

What It Does
Section 94-c (now codified under the RAPID Act as Public Service Law Article VIII) created ORES as a centralized permitting body for major renewable energy facilities. ORES can issue a single state permit that supersedes all local zoning, building codes, and moratoriums for eligible projects. However, ORES jurisdiction is limited to renewable energy *generation* facilities ≥25 MW, *co-located* energy storage, and certain electric transmission facilities. **Standalone BESS projects are not eligible for ORES review under current law**, regardless of their size.

This means a developer with a 100 MW solar + 50 MW BESS hybrid project can use ORES to bypass a town's moratorium. But a developer with a standalone 50 MW BESS project in the same jurisdiction cannot, they must permit locally.

Key Requirements:

- The renewable generation component must exceed 25 MW nameplate capacity
- The BESS must be co-located with the generation facility as part of the same project
- Full application includes environmental impact assessment, visual and noise studies, community benefit plan
- Public comment period is part of the ORES process
- Host community can negotiate a Community Benefit Agreement but cannot veto the project

Pending Legislation Senate Bill S5506 (Sen. Kavanagh) and Assembly Bill A8378 (Asm. Levenberg) would expand ORES jurisdiction to include standalone "qualified energy storage systems." The bill was introduced in February 2025, referred to the Energy and Telecommunications Committee, and remains in committee as of April 2026. Multiple municipalities have passed resolutions opposing the bill.

Strategic Insight

Developer Takeaway

Under current law, ORES is only a viable bypass for hybrid projects that include renewable generation ≥25 MW with co-located storage. Standalone BESS developers facing New York's 98 active moratoriums must work within local permitting frameworks, waiting for moratoriums to expire, negotiating variances, or selecting alternative sites. If S5506/A8378 passes, standalone BESS projects would gain access to the ORES pathway, fundamentally changing the development calculus in moratorium jurisdictions. The ORES process adds 12–18 months to permitting timelines compared to a cooperative local approval, but removes the moratorium as a blocking factor.

Source: NY Executive Law §94-c (FindLaw) | ORES Permit Applications

Found at : BESS Moratorium Bypass Laws: State Siting Pathways