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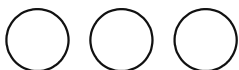
Solar farm tax battle lands in court

Towns sue New York state over a new system they say is shortchanging them.



Rick Karlin

May 3, 2022



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A coalition of towns has gone to court to protest the the way they have been told by the state to assess solar farms.

Times Union file photo

BLENHEIM — Nearly a dozen towns in Schoharie County are suing New York state over new rules governing how solar farms are taxed.

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They contend a standardized method the state has ordered them to use, which includes a large discount, will shortchange them millions of dollars worth of school and property tax revenue over the years.

Solar developers, on the other hand, say that reversing the tax system at this point could bring lots of projects to a standstill since they need to know what their tax burdens will be to get financing. They also say the new template for assessment was devised to accommodate the unique qualities of solar farms which are cropping up across rural areas upstate.

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Either way, the case in the State Supreme Court in Albany County highlights one of the unanswered questions regarding the rapid growth of solar power in New York: What is the extent to which these large multi-million-dollar projects will benefit the towns where they are located?

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State Supreme Court Justice Christina Ryba
restraining order to halt use of the new asses
towns and the state Department of Taxation and Finance will be back in court



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later in May to present their arguments.

“I’m furious about the entire thing,” said Stella Gittle, an assessor in Montgomery County.

While not a party to the suit, she like other assessors has objected to the state’s mandated assessment template for solar farms, which is different from the way other similar properties, such as power plants, factories or warehouses are assessed.

“Hopefully it can be resolved soon,” said Anne Reynolds, executive director of the Alliance for Clean Energy, which represents numerous solar farm developers.

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If not, she said, many projects could grind to a halt as they await word on what their local property and school tax bills will be.

The plaintiffs include the Schoharie County towns of Cobleskill, Conesville, Esperance, Jefferson,

They contend that the state Department of Taxation avoided going through the standard rulemaking process, including public



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hearings, when it devised the system, which involves a standardized spreadsheet, to value solar farms.

“The real crux of this lawsuit was that they didn’t follow the State Administrative Procedures Act,” said Dylan Harris, the lawyer representing the towns. He is with the Poughkeepsie-based Lewis & Greer law firm.

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The new system uses a discounted cash flow model. Basically, that means it projects the amount of revenue going forward, with a discount, and sets taxes

Many local assessors wanted instead to use the traditional cost method that looks

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at the expense of building the facility, in this case, the solar farm, depreciated over time.

Many if not most solar farms work out payment in lieu of tax or PILOT agreements for their tax bills.

But the method for assessing what would be their regular tax bills plays a role in arriving at a PILOT agreement.

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Questions about how to value and tax solar farms over the next 10 years, noted Warren Wheeler, executive director of the Solar Energy Association.

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Some towns, he said, were good at negotiating PILOT agreements that helped their tax bases, and their taxpayers, while other towns were not.

Agreements for PILOT payments, for instance, ranged from \$5 to \$30 per kWh or kilowatt capacity of the solar farm.

Many planned and under-development solar farms upstate are large. The Montgomery County town of Glen, for instance, is looking at a total of 350 MW or megawatts, worth of solar development. A megawatt is 1,000 kilowatts.

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Wheeler's organization had initially offered input on how to devise a tax schedule

but that wasn't adopted in the final plan.

The result, he says, is that many towns could get less tax revenue than they were hoping for.

Montgomery County's Gittle agrees. A solar farm planned for Montgomery County, for instance, could yield \$361,000 for the Fonda-Fultonville school district there – if it were taxed on the traditional cost basis. But under the new

mandated method, it will generate just about \$11,800, which is far less than some of the warehouse/distribution centers in town.

Those warehouses, along with solar farms, are among the few real large-scale growth industries coming to much of rural upstate.

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“This has thrown a monkey wrench into values,” Gittle said.

The Alliances for Clean Energy’s Reynolds, however, said that school and property taxes that are too expensive would deter financing for many of the projects.

“If the taxes are too high then the projects don’t get built,” she said.

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