

Insights

STATE SPECIFIC REQUIREMENTS FOR WIND AND SOLAR PROJECT LAND CONTRACTS

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Although wind and solar project development in the U.S. experienced record-breaking sales in recent years, headwinds are anticipated to increase. Several challenges continue to delay deployment, such as lack of sufficient grid capacity and long interconnection queues, permitting and siting challenges, high interest rates, and lingering supply chain issues. A new federal administration continues to seek opportunities to create roadblocks for clean energy project development by freezing federal funding and threatening to end the Inflation Reduction Act and Bipartisan Infrastructure Law. Threats to impose tariffs and increase taxes on imports also create concern for project development. Despite such challenges, the U.S. increasingly needs more clean energy development as demand from data centers rapidly escalates requiring significant growth in electrical generation and storage.

Remaining optimistic, the Energy Information Administration (EIA) estimates 63 gigawatts (GW) of new utility-scale electrical generation capacity will be added to the U.S. electrical grid in 2025. Such amount would represent a nearly 30% increase from 2024, with solar and battery storage collectively accounting for 81% of the anticipated total electrical capacity additions. The EIA further anticipates 2025 will result in approximately 32.5 GW of new utility-scale electrical capacity to be added to the U.S. grid by solar project development in 2025, with an additional 7.7 GW of capacity to be generated from wind projects.

While the federal government continues to threaten policies to reduce federal funding and increase project costs by imposing tariffs, many states have enacted moratoriums on clean energy project development, revised zoning codes making development impractical, and statutes requiring specific language to be included in wind and solar land contracts, such as leases and easements. This overview is intended to provide a quick reference guide with respect to the various state statutory requirements for language to be included in wind and solar project leases and easements. Updates will be forthcoming as additional states enact such requirements, and as relevant case law interprets such statutory requirements or provides commentary on the repercussions of noncompliance.

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MEET THE TEAM



Puanani E. Norwood

Los Angeles / Kansas City

puanani.norwood@bclplaw.com

[+1 310 576 2184](tel:+13105762184)



Deanna Lee Davise Gorges

St. Louis

deanna.gorges@bclplaw.com

[+1 314 259 2086](tel:+13142592086)



Talia Housik

Los Angeles

taliam.housik@bclplaw.com

[+1 310 576 2117](tel:+13105762117)



Summer Garrison

Los Angeles

summer.garrison@bclplaw.com

+1 310 576 2135

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