

**“Planning”, “Siting” and the local Acceptance of Wind Power:  
Some Lessons from the French Case**

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**Abstract**

After some years of trifling development under a system of public tenders (1995-2000), French politicians have progressively changed the national policy framework for feed-in tariffs (December 2000) and wind power development zones (July 2005). The new policy framework has triggered a beginning of takeoff in wind power capacity. The paper examines French wind power development in the light of two key dimensions and concepts related to wind power policy: “planning” and “siting” (part 1). We particularly focus on the recent French legislative debate, which led to the adoption of the new policy framework (part 2). The French case shows that the recourse to planning tools was not tailor-made for siting issues but resulted from a political fight over the decentralization of energy policy. The policy outcome, which we call “*flexible decentralized planning*”, is both interesting and ambiguous. It is interesting in that it develops interfaces between planning tools and siting institutions. It is ambiguous in that it is potentially very hierarchical: the final decision-power is left in State-planners’ hands, making it unpredictable the extent to which room will genuinely be provided for siting processes to take place.

**Keywords:** wind power, siting, planning, France, decentralization, local acceptance.

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## Introduction

Over the past decade, the European Union (EU) has initiated a process of reforming energy sectors and energy policy. It is within this context that France might be emerging as a new comer in wind power development. Following the current trend, the French Ministry of Industry recently concluded that France RES-E capacity target for 2010 could be within reach. As of February 2005, the overall projection amounted to 5403 MW (i.e. 371 MW installed, , 1557 MW granted, 3198 MW under instruction and 278.5 MW forecasted under onshore and offshore tenders), 1131 MW having been refused between February 2003 and February 2005, which amounted to 22.5% of the installed capacity (Minefi, 2005).

After some years of trifling development under a system of public tenders, the policy framework has progressively been changed for feed-in tariffs (December 2000) and wind power development zones (July 2005). The new policy framework has triggered a beginning of takeoff in wind power capacity. Administrative decisions concerning the authorization of new wind power developments have been transferred at the level of department prefects (subdivision of the regions) and municipalities<sup>4</sup> by the new law. They will be framed by departmental planning and dealt with through siting processes including both collegial decision-making and public participation. While it is clear that the main issue over the coming years will be the local acceptance of the new projects, the question remains open whether or not the new policy scheme might provide the right balance between territorial planning and room for open participation.

Based on a set of case studies undertaken in 2004, Jobert et al. (2006, in this issue) show how local acceptance is influenced by both planning rules and local factors. We take a complementary view by examining French wind power development in the light of two key dimensions and concepts related to wind power policy: “planning” and “siting” (part 1). We argue that planning and siting have different logics, which might make them complementary or contradictory. Local acceptance refers to issues and processes related to siting. However, planning approaches have dramatically evolved over the past decades, passing from top-down (“rational planning”) to more participative approaches (“communicative planning”). While this makes planning tools more relevant to deal with local acceptance issues, political deciders are not always aware of this evolution. When they are not, they tends to answer to local opposition with hierarchical planning tools, leaving implicit the assumption that such tools might solve siting issues.

We particularly focus on the recent French legislative debate, which led to the adoption of the new policy framework (part 2). The French case shows that the recourse to planning tools was not tailor-made for siting issues but resulted from a political fight over the decentralization of energy policy. The policy outcome, which we call “*flexible decentralized planning*”, is both interesting and ambiguous. It is interesting in that it develops interfaces between planning tools and siting institutions. It is ambiguous in that it is potentially very hierarchical: the final decision-power is left in State-planners’ hands, making it unpredictable the extent to which room will genuinely be provided for siting processes to take place.

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<sup>4</sup> The French levels of governance do not overlap with the ones usually covered by the Anglo-Saxon terminology. For the sake of simplicity, we use a terminology found in international description of the French administrative organization (OECD, 2006):

- *Municipality (ies)* or refer to the French “*commune*” or “*municipalité*”, an entity more or less corresponding to the English parish or local government, albeit it is not a governmental administration in France.
- *Intercommunality (ies)* refers to a group of communities.
- *Department* refers to the French “*département*”, a sub regional administrative division.
- *Region* refers to the French “*région*”.
- *Central / national government or State* refers to the central administration.
- *Non central / Sub national government or State* refers to the regional or departmental administration.

Regional and departmental prefects are local representatives of the State.

## 1. “Planning” and “siting” as tools for dealing with local acceptance and landscape issues

The distinction between *planning* and *siting* is a usual terminology in the analysis of wind power policies and issues. It generally points at different aspects of wind power development, which are sometimes considered as complementary (Jobert et al., 2006), other times as opposite (Wolsink, 1996), leaving unanswered the question whether or not planning might help to overcome siting issues.

“Planning” generally refers to an integrated approach of the territory, which allows planners to decide on land uses in time and space. The so-called ecological planning, developed by Ian Mac Harg in the sixties (Mc Harg, 1969), is emblematic of the territorial representation that planning might develop. The method consisted in analysing the territory according to several criteria and to draw maps for each of them (e.g. natural areas, zones of particular biodiversity, housings areas ...). Maps were then superimposed and the remaining empty zones were considered as the areas that could possibly welcome new infrastructures. This method, which we might call “rational planning”, proceeds by abstraction as it extrudes from the territory a set of single-variable layers (e.g. natural space layer, roads layer...). It also works in a top-down manner, considering the whole to decide on the destiny of the parts. It was used to deal with big-scale issues, national or regional. Ian Mac Harg was working with genuine slides in his time. Nowadays, Geographic Information System (GIS) offers increasing return to scale and provides the conditions for a full deployment of the method. It has been used, for instance, to assess the potential for environmentally-tempered wind power development in Germany, based on a mapping of wind potential and natural areas (Krewitt & al., 2003).

Over the past decades, new concepts have departed from the hierarchical dimension of rational planning in order to put the emphasis on the social dimension of the planning process (Forester, 1989; Healey, 1997). “Communicative planning”, as it is sometime called, is based on the participation of different social groups, agencies and individuals to this process (Cf. Després et al. 2004, for a recent application). Planning then becomes a way of collectively designing a space to live in. While it remains a *framed* process, it is closer to what is sometimes called “siting”.

“Siting” has been employed in the expression « siting policy » (Wolsink, 1996), referring to a policy that deals with local issues related to the siting of wind power infrastructures. The concept of site is a rather old and frontier notion that has recently retained anew theorists’ interest, including from aesthetic philosophers (De Duve, 2002; Tieberghen 2001a). The site of the classics was a situation *in which* a town could be sited or a situation *from which* or *over which* a view was offered. Recent works pointed at interesting commonalities between the internet “virtual site” and the “site” of the landscape designers (Cauquelin 2002; Nadai 2005). For landscape designers, “siting” refers to a process which is part of the transformation of a landscape. When they start to work on a place, they immediately call it a “site”, pointing with this term at a temporary and unstable state of the place; a state in which social networks that are connected to the place get recomposed. The transitions from “place” to “site” and then back from “site” to new “place”/“space” (when the project is ended) require a set of operations: the uses of the place are reconsidered and physical works are undertaken. Most often, the memory and the identity of the place emerges through multiple channels as the project gets developed (e.g. discovering polluted soils, uncovering a former quarry, modifying some spatial features...), enticing some people to feel concerned and voice their position, for or against the transformation under course. The physical dimension of the works is a triggering factor and the site is finally being built in the course of the action: it is endowed at once with both spatiality and meaning, as is the surfing-space of the internet user. One important consequence of these properties is that “siting” is an *open process*, working *from the site onwards* and *bottom-up*. It is foreign to hierarchical patterns.

Echoing Michel Callon’s pair of concepts (i.e. framing / overflows) (Callon, 1998, 2006), it could be said that siting (and to a certain extent “communicative planning”) “overflows”: it triggers the emergence of new concerned groups, who voice their position. A proliferation of social links ensues. On the contrary, rational planning is based on a “framing” logic: it aims at optimizing social welfare on the basis of an ex-ante spatial scheme. Due to their respective logic and scale of operation, siting and rational planning also do not grasp the same reality. Siting operates at the level of locality, a level at which the local scale (i.e. a set of spatial relation between the elements composing the local

landscape and holding it together as a unified and distinct entity) and the local social links are constitutive of the sense of place. Open consultation, participation and technologies for representing/sharing the spatial and social meaning of locality are the ways through which siting proceeds. The strength of siting is that it ties durable social links because it explores and integrates social networks. Its drawback is that it is work and time consuming and requires heavy policy processes. Different from this, rational planning operates at levels at which the Welfare State administrates the territorial organization, be it national, regional or infra regional. Hierarchical decision (based on a social welfare indicator or an ad' hoc proxy extracted from a layered representation of the territory) and territorial zoning are the ways through which rational planning proceeds. The advantage of rational planning is that it extracts from the territory a simplified representation and simplifies policy processes. Its limit is that it does not take into account social networks and local opposition. These very different logics of rational planning and siting prove, if it was necessary, that nothing in rational planning prepares it to solve siting issues.

In the realm, the apparent efficiency of rational planning as compared to the complexity of siting processes, makes it tempting for policy makers to answer to siting issues with hierarchical planning tools. This is even more likely to be the case in countries where institutions are centralized, as centralization entices policy makers to rely on abstracted representations of the territory in order to embrace the big scale at which policy decisions have to be taken.

The French policy process for wind power development is a case in point. During the recent parliamentary debate over the new Energy Law (Ministry of Energy, 2005), wind power became a national issue and a genuine controversy. Landscape issues and local opposition were invoked in order to justify the need for State coordination - i.e. planning decisions -, as if planning was the right instrument to solve siting issues. However, the recourse to planning tools resulted as much from a political battle over the decentralization of the French energy policy. Supporters of wind power ended up defending a full delegation of wind power policy to local municipalities whereas detractors of wind power ended up arguing for central State control through rational planning tools. The battle was fought by manipulating a set of regulatory variables influencing the weight of planning tools or siting processes in the development of wind power projects. These variables were: the size of wind power parks (through power-threshold for fixed tariff benefit); the institutional allocation of decision power (State or non State institutions); the territorial scale for decision making (national, regional, departmental or local) and the public control over wind power development (e.g. veto or consultative power of local commissions, height/power trigger-thresholds for study of impact and public inquiries ...) (Cf. Table 1).

## **2. The French process of wind power development**

### ***2.1. Before 1996: Centralized energy system***

In 1995, the EU White Paper on Energy Policy had set targets for renewable energies in the EU (12% of raw energy consumption in 2010). The Danish success in developing wind parks was already emerging as an exemplary case (e.g. in 1996, 600MW already in operation in Denmark according to Nielsen [1996]). One year later, in 1996, the installed wind power capacity in France amounted to about 6 MW (ADEME 2006a), most of them being due to Europe's support to the technology. The discrepancy between France and the other member States was due to a mix of reasons, ranging from a very centralized political culture to a technological and institutional lock-in into nuclear industry. As far as RES-E were concerned, the first noticeable regulatory move seemed to date from February 1996.

### ***2.2. Feb. 1996 – Dec. 2000: Tender as a running test for policy instrument***

In February 1996, inspired from the UK Non Fossil Fuel Obligation, the French Ministry for the Industry decided to launch a tender program named «Eole 2005». It aimed at triggering the development of 250 to 500 MW of wind power energy at the horizon of 2005 and helping the wind power industrial sector reach a competitive size. However, the actual installed capacity (as of today,

70 MW have issued from “Eole 2005”) sharply contrasted with the submitted and selected ones (324MW). Various reasons for failure have been pointed out, such as: the administrative procedures, the “stop and go” regime of the tenders (four successive slots) and their competitive aspect. Defenders of wind energy saw in the choice of a tender program the long lasting ambiguity of the French authorities as regards to the development of RES-E technologies. According to them, such a choice might have been avoided given what was known from the UK NFFO bad performance at that time. French experts were already advising the French authorities to opt for investment subsidies or fixed tariffs (Chabot 1996; for a scientific discussion of NFFO performance, see: Douglas and Saluja, 1995; Mitchell, 1996; Mitchell and Connor, 2004; Van der Horst, 2005; Agnolucci, 2006). Other reasons such as the administrative procedures, the “stop and go” regime of the tenders (four successive slots) and their competitive aspect have also been pointed at. In 1999, the French Ministry of Environment issued a decree explaining to prefects how to better take account of public acceptance and environmental issues in the development of the projects (Ministry of Environment, 1999). However, most of the projects selected revealed difficult to finance because of cost understatement. At that time, submitted projects applied as low as 51 €/MWh (Cochet, 2000, p 98), a cost close to the 2005 long-term minimal marginal generation cost estimated by the EU commission (50€/MW, Commission 2005a). New conditions issued at the end of 2000 (about 84 €/MWh for the first five years, 84 to 20€ the following years) were not enough to overcome the obstacle. By that time, the comparative success of countries having implemented tariffs (i.e. Germany, Denmark, Spain) made it clear that tenders were not the best policy instrument to secure a wind power takeoff. The EU agenda and the political events in France also had opened a window for action, which allowed a shift in regulatory instrument.

### ***2.3. Dec. 2000 – Apr. 2004: Tariffs for a playing field***

The end of the year of 2000 marked the turn towards a scheme of feed-in tariffs (Ministry of Economy, 2000). The French political context and the EU agenda were decisive factors.

French politics had brought the socialists back into the government in an alliance with the green party (June 1997 - May 2002). Two public reports give a proxy idea of the political and intellectual context related to renewable energies during this period. The first report, written for the socialist Prime Minister by Yves Cochet, deputy and member of the Green Party (Cochet, 2000), argued for a significant development of RES-E technologies. It recommended the adoption of feed-in tariffs with a possible, but progressive, shift to green certificates and quotas when RES-E technologies would be mature. The second report, issued by the French Commission for the Assessment of Scientific and Technological Choices (OPECST) under the steering of two members of the French National Assembly, each from one side of the political chessboard (Birraux, Le Déault, 2001), defended a position that was more or less shared on the benches of the National Assembly from right-wing to centre. While open to the development of renewable energies, it considered that renewable electricity should not be considered the sole room for manoeuvre as regards to CO2 reduction, even if micro-hydro could be developed given its reduced impact on the environment. Nuclear technology should keep on securing energy provision and providing France with “*clean electricity*” (i.e. without CO2). Energy savings in transportation and housings, renewable heat (e.g. solar technology, geothermal technology ...) and biomass fuels should be developed. Wind power being the most mature RES-E technology but considered as raising landscape and grid management issues (intermittence of electricity generation) should only be given a temporary role in fulfilling the Kyoto commitments. Last but not least, French fixed tariffs were pointed at for providing wind power industry with a supposedly undue rent.

Concerning the EU agenda, France led the presidency of the EU Commission between March and December 2000. The devising of the Directive for the promotion of RES-E was at the top of the agenda (Commission, 2001a)<sup>5</sup>. Several pending issues, including the type of quantitative targets and policy instrument that could be imposed by the Directive, were dealt with under the French presidency. By the end of the year of 2000, the French administration was quite confident that no

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<sup>5</sup> For the calendar of the EU legislative procedure, see Commission 2000a, b, c and go to: <http://www.europarl.eu.int/oeil/FindByProcnum.do?lang=2&procnum=COD/2000/0116>

mandatory targets or specific policy instruments would be imposed by the EU directive. The French prime Minister had already publicly announced the setting up of a working group on French tariffs<sup>6</sup> involving parties from various sides (i.e. French ADEME, EDF, SER, Ministry for Energy). The process led to the adoption of tariffs (Ministry of Economy, 2001a) inspired from the German example – i.e. targeted at wind parks under 12 MW of capacity ; stable until the first 1500 MW then decreasing in order to avoid undue rents from technological progress. Yet, a major difference with the German system laid in the absence priority access to the grid, so that the promise of fixed tariffs combined with the possible limitation of access triggered a race among developers to be first served. The overall capacity of projects submitted for authorization raised dramatically after June 2001, especially in the most-windy regions, where they contributed to trigger local opposition (See Jobert & al., 2006). As off the end of the year 2005, 8 of the 22 French regions concentrated 75% of the installed wind power capacity<sup>7</sup>. As the lack of coordination progressively became obvious, a set of administrative and legal acts were adopted through ongoing legislative processes (Ministry of Economy, 2003a ; Ministry of Environment, 2002, 2003a ; Ministry of Interior, 2003a). Regional schemes for wind power development were still voluntary but ad' hoc institutions had been developed by regional and departmental administrations in order to co-ordinate actions (e.g. regional schemes; good practices and wind power charters; mapping of wind power potential; wind power committees ...). These institutional tools witnessed to an ongoing process of institutional learning. By the end of this period, the installed capacity amounted to 239 MW (DGEMP, 2005). Adding delivered permits (852 MW of permits granted, not yet installed) and permits under instruction (2 525 MW of applications still to be instructed), the potential wind power capacity totalled up 3 616 MW. This represented a significant growth in the potential capacity (3546MW) but a low increase in the installed capacity (169 MW) over the period. A quarter of the permits under instruction were still subject to legal contests: these were partly due to reasons of landscape albeit data on this aspect were not made available. Overall, the period can be regarded as one over which actors “trained” in developing real-size wind power projects and experienced institutional learning as regards to local wind power development.

#### ***2.4. Apr. 2004 – Jul. 2005: Politicizing landscape and local acceptance***

The legislative debate over a new Energy Law started with a first governmental draft in April 2004 and closed with the adoption of the final Energy Law in July 2005 (Ministry of Energy, 2005a). The new law aimed at defining strategic orientations for the French energy policy. The so-called “parliamentary shuttle” included successive readings by the National Assembly (hereafter called the “Assembly”) and the Senate, each setting up a committee to reach an internal draft before full session vote.

In the French system, deputies are elected through direct suffrage, whereas senators are elected through indirect suffrage by a college of deputies, regional and municipal representatives. Senators and deputies have the same legislative power except in case of divergence, a case in which deputies have the last word. However, due to the composition of their electoral college, senators are endowed with a representation of territorial collectivities. As a matter of fact, their decisions do often reflect on issues of territorial interest, such as the impact on local or regional development.

In the case in point, divergences in views between deputies (members of the Assembly) and senators led to four readings (two readings by each of them) and a joint Committee before reaching a final draft. Remaining opposition at this stage resulted in a convocation of the Constitutional Council to check on the constitutionality of the text<sup>8</sup>.

The process opened in a context marked by important political changes, as the 2002 legislative election had installed a right-wing political majority in the main institutions: National Assembly, Senate and Government. A National Debate on Energy had been scheduled to take place over the

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<sup>6</sup> Conference of the Syndicate for Renewable Energy (SER) - May 29, 2000

<sup>7</sup> See: [suivi-éolien.com](http://suivi-éolien.com)

<sup>8</sup> For a calendar of the French legislative debate and links to its details, go to: <http://www.senat.fr/dossierleg/pjl03-328.html> or <http://www.assemblee-nationale.fr/12/dossiers/energie.asp>. Information about the policy process and quotes have been collected from these web sites. Quotes have been translated into French by the author.

Winter and Spring of 2003 (Ministry of Industry, 2003). The future of French nuclear energy and the diversification of the energy mix were expected to be major debated issues but the new government decided beforehand to invest into a new nuclear power project (Ministry of Economy, 2003a) - a point that was strongly contested by part of the political opposition -, leaving unsolved the question of public support to the French nuclear orientation.

The decentralization of the French administration was another important ongoing process. Since the eighties, successive laws led to the development of highly structured inter-communalities and the reinforcement of the role of regions. However, more traditional governance structures such as the central government, the departments and the municipalities still remained in place. The result was a multi-layered administrative organisation (a so-called “*millefeuille administratif*”) characterized by the allocation of sectoral responsibilities (e.g. road, culture, social services ...) to each administrative level without overall hierarchical patterns (OECD, 2006). Different from Italy or Spain, the French reform had not resulted in any institutional primacy of the regions. Nor had regions been endowed with competence in the field of energy.

At the outset of the legislative process, wind power legislative treatment had just been modified four years in a row. The major steps were: the first inclusion of wind power into the French legislation in the so-called law of modernization of the electricity sector (Ministry of Economy, 2000b article 10, application of Commission, 1996); the setting up of conditions for tariffs benefit (Ministry of Economy, 2001a); a proposal of law for wind power siting and environmental protection (Le Grand, 2002,); the Law on Gas and Electricity (Ministry of Economy, 2003a, article 59) and the Law on Urbanism and Housing (Ministry of Interior, 2003a, article 98), both setting requirements for siting processes. Wind power resulted in being regulated under several legal frameworks ruling tariffs benefit, construction permits, studies of impact and public inquiries as follows<sup>9</sup>:

- Less than 12 MW RES-E production units could benefit from *fixed tariffs*, providing they would respect capacity conditions and obligations that should be established through decree.
- *Construction permits* were made mandatory above 12 meters of height. Their instruction procedure was ruled by the code of urbanism and delegated to the mayors of the municipalities (if the municipality had decided so) or (if not the case) to the prefects of departments.
- *Studies of impact and public inquiries* were made mandatory above 2,5 MW of wind park capacity. A notice of impact was required under 2.5MW. The minimum distance between wind turbines in order to consider them as part of separate parks (i.e. 1500m) had been ruled by a Decree in March 2003 (Décret du 27 Mars 2003).
- Regions were encouraged to design *regional wind power schemes* in order to harmonize wind power development. They were based on various considerations, including landscape, birds and noise. They should point at geographical sectors considered most adapted for wind power development but did not have a prescriptive status. Departmental administration, inter-communalities and decentralized services of the governmental administration could be consulted in the devising of these schemes.

#### ***The first reading by the Assembly: fully decentralizing decisions (May 2004)***

Considering the burden of administrative procedures and the weak performance of French wind power development, deputies proposed to decentralize the administrative decisions from regions and departments to municipalities. They decided to transfer the delivering of construction permits to the municipality mayors, provided they would consult the neighbouring municipalities and obtain a “*favourable*” advice from a Departmental Commission for Sites, Perspective and Landscapes (CSPL). These commissions, created in 1993 under the socialist government (Ministry of environment, 1993), composed of State representatives, territorial collectivities and experts ; they are chaired by the Prefect of department.

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<sup>9</sup> For the sake of clarity, we leave aside the issue of financial provision for turbine dismantling and site rehabilitation.

The rationale backing this change was that opposition to wind power was coming from localities and should be tackled at this level. The pre-existing regional Prefect decision-level was considered as a by-default choice merely duplicating rules in place (e.g. for high-powered lines). The introduction of a “favourable” (rather than “mere”) advice from this Commission was a major change, allegedly justified by the need to reinforce the protection of landscapes and sites.

The overall proposal was adopted. The vote displayed a clear dividing line between right-wing (pro) and green / left-wing (cons). Opposition to the legislative draft was based on a variety of reasons related to the overall energy strategy. Among these, what was then judged as excessive obstacles to wind power development (i.e. “favourable” advice from CSPL, public inquiry) was only one contributing reason.

#### ***First reading by the Senate: reintegrating wind power into existing institutional schemes (June 2004)***

The Senate Committee dealt with more than four hundred amendments from senators, which gives an indication of the amount of divergences on the text. The discussion revolved to a great extent around issues related to nuclear strategy and wind power development.

The Assembly proposal was thought to be legally and democratically ambiguous, because it gave wind power a specific institutional treatment and introduced confusing rules. Mayors could interpret it as endowing them with a direct decision power as regards to wind power permits, whereas existing rules only endowed them with direct competence in cases where a previous local democratic processes had decided so (i.e. Local Plan for Urbanism, Communal Chart):

*“The paradox [...] is that mayors [...] might be endowed with the competence of delivering permits for machineries of three hundred meters height when they would even not been delegated the competence of doing so for a house”*

(President of the senatorial Committee, right-wing, public session, discussion on article 8 bis, June 10, 2004)

As regards to CSPL, requiring its “favourable” advice did not seem appropriate to senators as it could build a precedent paving the way to a veto-type competence of the Commission on similar issues.

Another debated issue was the risk attached to the decentralization of decision included in the Assembly proposal. Some senators feared that competition between municipalities looking for wind power revenues could drive wind power development at the expense of landscapes. Other senators perceived local opposition as being strong enough to block the overall development of wind energy if the decision power was transferred to the municipality mayors. The term “*eolicide*” - wind power translates as « énergie éolienne » in French language - appeared in the debate, pointing at a possible hidden agenda behind the instrumentation of local acceptance issues by the Deputies:

*“I would qualify the article adopted [8 bis] by the National Assembly of “eolicide” ! [...] The ones wanting to put an end to this energy had several possibilities: either they proposed to cancel the purchase obligation, they would have been sure to reach their goal but this would have been too frontal [...] or, and it was the way they chose, under the argument of transferring the decision to the mayors and to the presidents of inter-communalities, they truly endow CSPL with a veto-power [...] We are not preoccupied by the fact of transferring the competence to mayors, on the contrary, this can only reinforce the role of territorial collectivities as regards to renewable energies. What is unacceptable, is to give a de facto power to commissions which are not legally designed to face it.”*

(Senator from Aude – Languedoc Roussillon, socialist, public session, Senate, June 10, 2004)

Looking for the right balance between local interest and general interest, senators agreed on the necessity for a coordination of local decisions. Positions diverged as regards to the potential role for municipalities in energy policy but a majority of senators considered that wind power development should remain in the hands of the State. Overall, apart from two consultation provisions (CSPL and neighbouring municipalities), wind power was almost brought back to its pre-parliamentary state, that is to say: back into existing institutions. The instruction of the permits was transferred back to the Prefect of department (unless the municipality had decided differently and endowed the mayor with direct decision power) and only a “mere” CSPL advice was required.

#### ***Second reading by the Assembly: controlling wind power development (June 2004 – March 2005)***

The second reading by the Assembly probably was the most controversial and conflicting moment of the process. On the one hand, the Assembly committee decided to follow Senate’s line and “*bring back wind power into common law*” by contesting the remaining specificities as regards to consultation requirements (i.e. consultation of neighbouring municipalities). On the other hand,

deputies argued that decentralizing decisions at the level of the municipalities could be administratively heavy and increase the risk of damaging landscapes, as wind power might result in being spread out over the territory. In order to offset these risks, deputies decided on a set of measures resulting in a “*more ambitious reform*”, as the Committee called it.

Criterion triggering the study of impact and the public inquiry were changed from power-criterion to height-criterion, as was currently the case for construction permits under the code of environment. A thirty-meter threshold was proposed, meaning that any average industrial wind turbine would be submitted to both procedures. Deputies also proposed a new planning approach in the form of wind power development zones (WPDZ). The initial amendment stated that development zones would be directly devised by the Ministry in charge of the Energy, at the level of the central State. A revised amendment decentralized this process, so that WPDZ would be devised at the department level after having consulted the neighbouring municipalities and the CSPL. WPDZ should also take account “...of the wind power potential, the current state of the grid and the necessary protection of landscape ...”<sup>10</sup> What has then been called an “*eolicide proposal*” was to condition the benefit of feed-in tariffs to these development zones and to a minimum wind park capacity. An initial threshold was set at 30MW, it was then reduced to 20MW as a way of compromising with the opponents to a minimum capacity threshold<sup>11</sup>. In other words, a wind power park would have to be located into a development zone and to generate more than 20MW in order to benefit from fixed tariffs.

The official rationale behind this proposal was that local opposition was due to a lack of co-ordination and could be overcome by planning wind power development: turbines should thus be grouped into big parks in order to limit their impact on the landscape. The debate in the Committee displayed a variety of views converging towards a centralized and industrial conception of energy systems:

*“Mr. F. [right-wing deputy] considered thus relevant to do in sort that the Government took responsibility in this matter and stressed that big parks were globally preferable to a multiplicity of small projects [...]”*

*Mr. G. [right-wing deputy] stressed that the new scheme would allow to point [...] the sites for project development [...] Considering that the wind power industry had reached maturity [...] He concluded that wind power project should have an industrial dimension and that their impact on landscape should be stopped.”*

(Poignant, 2005:71)

Such views echoed the one traditionally prevailing in the French energy system and administration as well as the conclusion of the OPECST report (Cf. in the above).

The very ambiguity of this parliamentary reading was that local opposition and landscape issues were put forward in order to argue for the reintegration of wind power into the traditional energy planning pattern. Not only was wind power brought back to “*common law*”, it was also attached to new planning tools that made it into a high-scaled industrial and centrally manageable energy technology. Yet, as central-right, green and left-sided deputies were pointing out in the debate, the cure might prove to be worse than the disease. Indeed, a minimum capacity threshold could hamper any development in several departments where big projects could not be developed given the spread out pattern of housings. The resulting configuration in the Assembly was particularly interesting since it played at reverse fronts: wind-power industry, green and left-wing actors were facing right-wing and pronuclear actors defending landscape issues, whereas such issues were usually pushed forward by green and left-wing politicians.

### **Second reading by the Senate: co-ordinating decentralized decisions (March- May 2005)**

At the outset of the second reading by the Senate, the Senate Committee agreed that local acceptance should be dealt as close to the field as possible and stated that local powers should be endowed with the decisions related to wind power development (e.g. conditions for authorization, power thresholds for benefiting from tariffs...). Major debated issues related to the visual impact of wind turbine over neighbouring municipalities included in the “co-visibility” perimeter of the wind turbine. With the exception of blank opponents to wind power or RES-E technologies, the need for a clear co-ordinating and planning device in order to limit the visual impact of wind turbines appeared to be consensual.

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<sup>10</sup> Article 10, Text n° 409 so-called “Petite loi”.

<sup>11</sup> Amendment 122.

The level at which such a tool should be devised was the point in debate. Some senators were in favour of a national definition. Others, including the Senate Committee, pushed for decentralizing this definition and give local powers latitude in devising specific criteria. Senators' final strategy was to bounce on Assembly's proposal and turn development zones into decentralized coordinating schemes. They amended the definition of development zone (Senate, 2005 ; article 10) by replacing the uniform and controversial 20MW minimum threshold for tariffs benefit with a *couple of local floor/ceiling power-thresholds*, to be defined by the departmental Prefect.

The co-visibility issue was also approached by considering that the sharing of wind power benefits might tamper the competition among municipalities and create room for genuine spatial co-ordination. Benefits sharing and co-visibility were dealt as related issues in the discussion. A specific type of business tax – the so-called “*wind power tax*” - was introduced in the tax code<sup>12</sup> in order to provide municipalities with the possibility of sharing revenues from wind farms<sup>13</sup>.

### **Joint Committee to final adoption: flexible decentralized planning (May-July 2005)**

Due to divergence between the Assembly and the Senate a joint Committee was organised in order to finalize a compromise. The content of the joint proposal remained quite close to the last senatorial proposal with the exception of some remarkable amendments.

Explicit mention was made that the Prefect of department “*should pay attention to [...] the pooling of wind turbines in order to minimize their impact on landscape*” (article 10-1) and that wind power “[*departmental*] *development zones were imposed upon regional wind power schemes*” (article 10-1). The same article stated that these “*development zones should be proposed by municipalities or inter-communalities to the department Prefect for approval*”.

Specification was introduced that feed-in tariffs should not lead to undue rent (i.e. “*should not lead to a return on investment [...] exceeding a normal remuneration of capital ...*”) and could be revised if it was demonstrated to be the case<sup>14</sup>. A last minute governmental amendment was adopted, giving to this principle an application deadline (March 31, 2006) at which feed-in tariffs should be re-examined<sup>15</sup>.

The debate clearly drew the line which had demarcated the parties involved. Decentralization was stated as a dividing issue between senators and deputies, while political obedience (right-wing / left-wing demarcation) was the dividing line inside the Assembly, as the ultimate vote showed it. Right-wing deputies confirmed the limited role they assigned to renewable energies and especially to wind power technology (Poignant, 2005, p7). The most active ones in the process stated their limited support to fixed-tariffs and the decentralization of energy policy:

*«The simplest would have been to cancel the purchase obligation [...] The Committee did not do it [...] I hope that the Commission of Finance will examine this worrying situation»*

(Quote, Senator from Manche, Right-wing, Poignant, 2005, p9)

*« [...] By not imposing minimum or cap thresholds, the regulator gives up on its responsibilities. He leaves them in the hands of the administration, as the decision power will be transferred to the prefects. This wind power file runs the risks of boiling down to a mere departmental energy policy.»*

(Quote, Senator from Eure, Right-wing, Poignant, 2005, p14)

### **3. Reach and limits of “flexible decentralized planning”**

As shown in Table 2, key variables weighing out the importance of rational planning and siting in the new policy scheme have been manipulated throughout the legislative process. This led to successive proposals of policy schemes, relying to different extent on rational planning and/or siting institutions.

The final outcome can be described as a *flexible decentralized planning* for energy policy. The initiative for devising development zones is given to local powers (municipality and inter-

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<sup>12</sup> Art 39, Law 2005-781 from July 13, 2005 refers to the Tax Code, introducing a special mention to “*installation generating electricity out of the mechanic energy of the wind*” into this code.

<sup>13</sup> Other measures dealing with deadlines for communities / CSPL advices and “*possibilities of connection to the grid*” (which opened the way to possible investments by the developers) were introduced. For the sake of clarity, we do not consider them here.

<sup>14</sup> Article 36, modifying article 120 of law 2000-108 from Feb. 10, 2000.

<sup>15</sup> This issue is at the top of the agenda at the moment of writing this paper.

communalities). However, central government keeps a hand on wind power development through internal administrative channels, as department prefects are part of the government and endowed with the final decisions on wind power development zones and permits.

Interestingly, *flexible decentralized planning* provides an institutional interface between planning and siting institutions. Indeed, municipalities in charge of siting institutions (e.g. construction permit instructions, public inquiries / study of impact ...) are the ones supposed to propose the planning tools (i.e. departmental development zones). This opens to the possibility of a type of « local » planning, which could be a way to integrate siting issues (the « local » scale and issues) in planning tools.

However, the decentralized branches of the government in charge of the final decision are left with a great room of manoeuvre. It is possible that they play a genuine role of interface between local and central powers, planning and siting institutions. It is also possible that they simply impose planning views on wind power local developments. As far as siting is concerned, one essential aspect of landscape issues is about the scale relation between the wind turbines / parks and the local landscape. There is *a priori* no reasons to think that big parks will fit all local situations. “*Pooling*”, if it is hierarchically imposed, might be counter productive as regards to local acceptance since it might result in imposing infrastructures that will be too big to fit the local scale of the landscapes. Since there is no contestable definition of “*pooling*” included in the legislative text, everything will depend upon the parties involved, including wind power developers, the administrative rules and routines, the local politics and the public control over the process. The performance of the new regulation will thus largely depend on the use made of the flexibility that it provides.

By contrast, one unambiguous outcome is that the new policy scheme allows big industrial projects to become profitable in France, which was not the case before (<12MW threshold for tariff benefit). This way France joins countries such as Denmark and Germany, who are also increasingly developing industrial parks through re-powering policies (Danielsen 1994; Nielsen 1996).

## Conclusion

The analysis of the French legislative debate over the new energy policy shows that landscape and local acceptance have been recurring issues in the debate. However, these issues were not examined as such in the political debate. They were pushed forward by the protagonists in order to fight a battle, which boiled down to a major issue for French energy policy: decentralization.

The new policy scheme builds an interface between planning and siting institutions. It is an interesting association of planning zones with local siting institutions, which can be named “*flexible decentralized planning*”. Wind power policy stays in the hand of the state, as traditionally is energy policy in France, but it is decentralized and somewhat blended with local siting institutions (e.g. studies of impact, public inquiries).

The analysis shows that the new policy scheme will facilitate the development of big industrial wind power projects in France. However, its capacity to fulfil the role that is allegedly assigned to it – i.e. fostering wind power development (overcoming issues of local acceptance) while limiting its impact on landscape – is difficult to predict. It will largely depend on the use the State administration will make of the decision power that the new scheme provides it with. Hierarchical use of this decision power might reduce the new institutions to mere rational planning schemes and increase local opposition to wind power.

The French case also provides a good illustration of how much wind power policy is socially embedded in a countries' previous energy choices (e.g. nuclear energy, centralization of energy policy, in this case). It shows that the mere replication of another country's policy scheme (the German scheme, in this case) cannot guarantee equivalent results, because so many other institutional factors play a role in wind power development.

The analysis finally opens to a number of questions regarding the short term development of French wind power. One question relates to the ongoing renegotiation of French feed-in tariffs, which will decide upon wind power development for the coming years. Even if the tariffs are kept in place, their decrease will progressively lower the incentives for developers to locate their projects into the

development zones. What will then these zones become? Will the learning generated through their design be capitalized in the institutions and act as a rule? The answer will greatly depend on the role played by the French administration, a point that is left open by the new regulatory framework.

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**Table 1: Rational planning versus siting**

	Rational planning	Siting
<b>Characteristics</b>	Hierarchical decision Framing rules Big/aggregated scale	Open process Proliferation of social networks Local scale
<b>Typical policy instruments</b>	Layered representation of the territory  Aggregated indicators for State decision taking, zoning.	Project representation including idiosyncratic/local features (construction permits, studies of impact).  Local commissions, participative processes (public inquiries)
<b>Key variables</b>		
. Size of parks	Uniformisation at the national level (according to welfare consideration)	Differentiation according to local contexts
. Decision power	State (Central State, decentralized branch of the State)	Non State (local municipality, local representative)
. Scale for decision making	Big / national scale	Small / local scale
. Public control	Weak / indirect (hierarchical decision)	Strong / direct (participative process, local commissions).

**Table 2: The successive policy scheme proposals and the decentralization of wind power policy**

Phase Policy scheme Weight of siting and rational planning	Size	Decision Power	Scale of arbitrage	Stringency of public control
<i>Before parliamentary debate</i>  Decentralization (State decision) <i>small sized parks</i>  Siting +/- Rational Planning -/-	Small parks <12 MW for tariffs benefit	State Departmental prefect (final decision for construction permit)	Departmental Departmental prefect (construction permit)  Regional Advisory wind power schemes	+/- Power threshold (> 2,5 MW) (study of impact, public inquiry)  Height threshold (> 12m) (construction permit)  "Consultative" advice from Site and Landscape Commission (CDSP) (construction permit)
<i>First reading (Assembly)</i>  Full decentralization (Local decisions) <i>small sized parks strong public control</i>  Siting +/+ Rational Planning -/-	Small parks <12 MW for tariffs benefit	Municipality Municipality Mayor (construction permit)	Local Municipality Mayor (construction permit)  Regional (Advisory wind power schemes)	+/+ Power threshold (> 2,5 MW) (study of impact, public inquiry)  Height threshold (> 12m) (construction permit)  "Favorable" advice from CDSP (construction permit)  Consultation of neighbouring municipalities (construction permit)

<p><i>First reading (Senate)</i></p> <p><b>Decentralization (State decision)</b> <i>small sized parks</i></p> <p>Siting +/- Rational Planning -/-</p>	<p><b>Small parks</b> &lt;12 MW for tariffs benefit</p>	<p><b>State</b> Departmental prefect (construction permits)</p>	<p><b>Departmental</b> Departmental prefect (construction permits)</p> <p><b>Regional</b> Advisory wind power schemes</p>	<p>+/- Power threshold (&gt; 2,5 MW) (study of impact, public inquiry)</p> <p>Height threshold (&gt; 12m) (construction permit)</p> <p>"Consultative" advice from CDSP (construction permit)</p>
<p><i>Second reading (Assembly)</i></p> <p><b>Centralized planning</b> <i>Industrial parks</i></p> <p>Siting +/- Rational Planning +/+</p>	<p><b>Industrial parks</b> &gt;20 mW for tariffs benefit</p>	<p><b>State</b> Departmental prefect (construction permits)</p> <p>Departmental prefect (Wind Power Development Zones [WPDZ] mandatory for tariff benefits)</p>	<p><b>Departmental</b> Departmental prefect (construction permits)</p> <p>Departmental prefect (WPDZ)</p> <p><b>Regional</b> Advisory wind power schemes</p>	<p>+/- Height threshold for public inquiry and study of impact (&gt; 30m)</p> <p>No consultation of neighbouring municipalities (construction permit)</p> <p>Consultation of neighbouring municipalities and CDSP (WPDZ)</p>
<p><i>Second reading (Senate)</i></p> <p><b>Decentralized planning</b></p> <p>Siting +/- Rational Planning +/-</p>	<p><b>Flexible</b> Differentiated floor/cap thresholds for tariffs benefit</p>	<p><b>State</b> Departmental prefect (construction permits)</p> <p>Departmental prefect (WPDZ, floor/cap thresholds)</p>	<p><b>Departmental</b> Departmental prefect (construction permits)</p> <p>Departmental prefect (WPDZ)</p> <p><b>Regional</b> Advisory wind power schemes</p>	<p>+/- Height threshold for public inquiry and study of impact (&gt; 50 m)</p> <p>Consultation of / sharing benefits with neighbouring municipalities and CDSP (WDZ)</p>
<p><i>Joint Commission</i></p> <p><b>Flexible decentralized planning</b> <i>Industrial parks</i></p> <p>Siting +/- Rational Planning +/-</p>	<p><b>Flexible / Industrial</b> Differentiated floor/cap thresholds for tariffs benefit  with a <u>mission to "pool turbines"</u></p>	<p><b>State / Municipality</b> Departmental prefect (construction permits)</p> <p>Departmental prefect / Municipality (proposal) (WPDZ, floor/cap thresholds)</p>	<p><b>Departmental</b> Departmental prefect (construction permits)</p> <p>Departmental prefect (WPDZ)</p> <p>WPDZ imposed on regional wind power schemes</p>	<p>+/- Height threshold for public inquiry and study of impact (&gt; 50 m)</p> <p>Municipality or Inter communality <u>proposal</u> (WDZ)</p>