



## COMMERCIAL REAL ESTATE INSIGHT & NEWS

The Bowditch & Dewey Real Estate Blog

### Massachusetts Energy Facilities Siting Board Lacks Jurisdiction Over Battery Energy Storage Systems

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On May 11, 2023, the Massachusetts Energy Facilities Siting Board (“EFSB”) dismissed the Petition of Medway Grid, LLC to construct a 250-megawatt, 500-megawatt hour battery energy storage system (“BESS”) in Medway, Massachusetts for lack of subject matter jurisdiction. In its detailed decision, the EFSB concluded that “[g]iven the lack of explicit authority, and different energy processes involved in generating and storing energy, the [EFSB] finds that the Legislature did not grant jurisdiction over BESS to the Siting Board.” The deadline for supplemental briefs in this closely watched proceeding is May 26, 2023. Learn about the [details of the Medway Grid Battery Project](#).

The final outcome of the proceeding will undoubtedly have an impact on municipalities seeking to adopt zoning bylaws to regulate large-scale [solar energy] systems and BESS in a climate where, as the Supreme Judicial Court observed in *Tracer Lane II v. City of Waltham*, 489 Mass. 775 (2022), “the amount of solar power needed by 2050 exceeds the full technical potential in the Commonwealth for rooftop solar, . . . substantial deployment of ground-mounted solar is needed under any circumstance in order to achieve [n]et [z]ero [greenhouse gas emissions by 2050].” See the [Executive Office of Energy and Environmental Affairs, Massachusetts 2050 Decarbonization Roadmap](#), p. 59, n. 43.