



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE OFFSHORE WIND)
REBATE PROGRAM FOR THE INSTALLATION)
OF METEOROLOGICAL TOWERS

ORDER

DOCKET NO. EO08110971

(SERVICE LIST ATTACHED)

BY THE BOARD:

On October 22, 2008, New Jersey's Energy Master Plan was issued. The Energy Master Plan (EMP) contains a goal of installing at least 1000 megawatts (MW) of offshore wind (OSW) energy by 2012 and at least 3000 MW by 2020. To further work toward these goals, the Board of Public Utilities (Board) is authorizing initiation of an application process for a proposed OSW Rebate program for the construction of meteorological towers to support the development of at least 1000 MW of OSW by 2012. Funding for this proposed program, in the amount of \$12 million, is being proposed within the 2009 New Jersey Clean Energy Program and Budget (2009 NJCEP Budget). The application process being authorized by the Board is in anticipation of and subject to the Board's subsequent approval of the proposed OSW Rebate program as part of the 2009 NJCEP Budget.

BACKGROUND

At its October 3, 2008 agenda meeting, the Board approved, pursuant to its Offshore Wind Solicitation, a grant award of \$4 million to Garden State Offshore Energy (GSOE) to install, as a pilot, an aggregate capacity of up to 350 megawatts in offshore renewable wind electricity generating technology Docket No. EX07060398. The Board emphasized that the approval of this grant was a first step, that meritorious proposals in addition to that of the grantee had been submitted, and that the Board would continue to look for ways in which to support the development of offshore wind.

On October 10, 2008, the Governor announced a goal of installing at least 1000 MWs of OSW by 2012 and at least 3000 MW by 2020. This announcement was followed by the release of the final Energy Master Plan (EMP), which includes the same OSW goals.

In response to the EMP's OSW goals, the Board approved a stakeholder process for rulemaking on a proposed OSW Renewable Portfolio Standard (RPS) set aside, similar to the solar set-aside already contained in the rule, at its October 24, 2008 agenda meeting. On October 30,

2008, Board Staff (Staff) held a public stakeholder meeting to discuss next steps in achieving the OSW goals specified in the EMP. Meeting participants discussed multiple aspects of potential programs, including:

- Various financing models to support initial development costs;
- An OSW set-aside within the RPS, similar to the existing solar set-aside;
- Power purchase agreements to support OSW projects;
- A process whereby interconnection costs could be supported throughout the PJM territory;
Working closely with the United States Department of the Interior (USDOl), Mineral Management Service (MMS) to provide some regulatory certainty; and
- Putting in place an ocean planning process to aid in the siting of OSW projects.

Based on the need to develop programs to achieve the OSW goals in the EMP, and as a result of stakeholder comment and feedback, Staff developed a proposal for an OSW Rebate program that would support multiple simultaneous projects. Staff's proposal is directed at the construction of meteorological stations to gather the necessary data for the development of at least 1000 MW of OSW.

On November 12, 2008, the Renewable Energy (RE) committee of the Clean Energy Council discussed the budget for the RE portion of the 2009 NJCEP Budget, which included a line item of \$15.4 million for OSW. Based on the development of the proposed OSW Rebate program the proposed line item has been revised to \$12M and continues to be reviewed by the RE committee and will be presented to the Board, along with public comment, for its consideration as part of the 2009 NJCEP Budget.

Staff recommends that the Board authorize an application process, as set forth below, for the proposed OSW Rebate program in anticipation of and subject to the Board's subsequent consideration and approval of the proposed OSW Rebate program. This authorization would enable the application process to begin in anticipation of and subject to the Board's subsequent consideration and approval of the proposed OSW Rebate program as part of the 2009 NJCEP Budget. The Board is scheduled to consider the 2009 NJCEP Budget, along with comments from stakeholders and interested members of the public which are received by the comment close date of December 5, 2009, at a special agenda meeting tentatively scheduled for December 16, 2009.

Staff's proposed timeline for issuance of a rebate application and processing of completed applications for the proposed OSW Rebate program is set forth below. This proposed timeline reflects stakeholders' input on the time needed to construct meteorological stations rapidly enough to gather data supporting the goal of constructing at least 1000 MW of OSW by 2012.

- An application for the proposed OSW Rebate program would be posted on the NJCEP website on or about November 24, 2008. The application would contain a notice that if applicants want an OSW rebate commitment letter in 2008 they need to apply by December 8, 2008. The notice shall clearly state that the application process is being conducted in anticipation of and subject to the Board's subsequent consideration and approval of the proposed OSW Rebate program as part of the 2009 NJCEP Budget. Staff review would be completed and any recommendations for rebate commitment letters made to the Board at the scheduled December 17, 2008 Agenda meeting.

Commitment letters would be issued before December 31, 2008 subject to the Board's prior approval of the proposed OSW Rebate program as part of its 2009 NJCEP Budget. Rebate payments, if any, would not be made until construction of the meteorological towers is completed which is anticipated to be during 2009.

Rebate Application and Technical Worksheet

The purpose of the proposed rebate program is to support the development of offshore wind farms that are needed to achieve the EMP goal of at least 1000 MW by 2012. In order to meet this target, a critical next step is the installation of meteorological towers in the areas that are proposed for offshore wind farms. These towers collect wind data that is critical to project design along with other ecological data that will be used in the permit application process. Therefore, Staff recommends that the rebate application include criteria set forth below which is based on consideration of comments received from stakeholders and interested members of the public as discussed in the Comment and Responses section herein. The criteria for the proposed OSW Rebate Application is for:

- Up to \$4 million per meteorological tower and limited to one rebate per entity. If the installation cost of the meteorological tower exceeds \$4 million, the developer will be responsible for the additional cost;
Construction in an area included in the Department of Environmental (DEP) Ecological Baseline Study area;
- A proposed project for a meteorological tower that has been designated by MMS as being in a MMS New Jersey Interim Policy Lease Area;
- Construction of a meteorological tower that will be operational in 2009, provided, however, that in the event the construction of the meteorological tower is delayed by an event which is not within the reasonable control of the applicant, then applicant shall promptly notify the Board of such event and shall consult with Board Staff to determine whether a revised schedule is appropriate. In the event that the applicant does not proceed to complete construction of such meteorological tower no rebate will be issued;
Construction of a meteorological tower that is designed to provide data for a proposed OSW wind farm that will be at least 200 MW; and
- Construction of a meteorological tower that shall avoid areas of potential high environmental impacts (e.g., shoal area, highly productive shellfish beds) based on available data.

In addition, any OSW rebate commitment shall be conditioned on the following:

- The rebate applicant shall provide access to the meteorological tower to DEP and/or DEP's contractors to collect data and/or deploy instruments for data collection, with such access to be based on an agreement executed by the parties based on good faith negotiations, provided, however, that no wind resource data or other such meteorological data shall be collected by the DEP and/or DEP's contractors. Further, data collection and instrument deployment by the DEP and/or DEP's contractors shall not in any way interfere with or limit the ability of the developer to collect the primary data required to facilitate the permitting, financing and completion of the wind farm;
- That issuance of a rebate commitment and payment of the rebate for the meteorological tower does not constitute State approval of a wind farm in the area of the tower;
That the wind data collected from the meteorological tower will be proprietary to the rebate applicant provided the applicant is using commercially reasonable efforts to

obtain all necessary permits to construct an offshore wind farm with a projected completion date of 2012; if this condition is not met, the applicant shall be granted a 30-day cure period to demonstrate the commercial reasonableness of its efforts to the BPU's satisfaction. In the event that the BPU determines that the applicant has failed to pursue such necessary permits in a commercially reasonable manner, all wind data collected from the meteorological tower will be turned over to the BPU and made public; That non proprietary summary wind data will be provided to the BPU and DEP in a format that is mutually acceptable to the parties based on good faith negotiations;

- That ecological and environmental data will be provided to DEP in a mutually acceptable digital format once it is collected, assessed and compiled; and
- The rebate applicant shall coordinate with DEP and MMS concerning wind farm pre-construction ecological/environmental studies conducted from the meteorological tower to insure the studies meet the needs of DEP and MMS for wind farm permitting/leasing, and to expedite and standardize the data collection process.

Comments and Responses

A Request for Comments on the one-page 2009 Offshore Wind Meteorological Station Rebate Program Criteria was posted on November 18, 2008. Comments were due on November 19, 2008.

Comments were submitted by: Clean Ocean Action, American Littoral Society, Garden State Offshore Energy (GSOE), Fishermen's Energy, Occidental Development and Equities, Department of Environmental Protection, United Wind Energy.

A summary of comments and staff responses follows.

Clean Ocean Action and the American Littoral Society requested an extension of the timeframe in which to submit comments, stating that one day did not constitute sufficient time in which to consider and comment on a \$12 million program. The commenter also suggested that if the \$12 million dollars constituted part of the approved 2008 budget for OSW, the Board should provide more time to consider various proposals for the use of that money put forth at the October 30, 2008 OSW stakeholder meeting, as well as other ideas that might be proposed by the public.

Staff notes that the proposed rebate program is a proposed line item in the 2009 budget, which is still under review. Comments arising out of public discussion of the budget at the Renewable Energy Committee meeting on November 12, 2008, at which a line item for OSW was discussed, will be accepted through December 5, 2008. This Order does not approve the expenditure of those funds, but rather approves an application process; as noted above, this application process is approved in anticipation of and subject to the Board's subsequent approval of the proposed OSW Rebate program as part of the 2009 NJCEP Budget. Based on discussion and consideration with stakeholders, it is Staff's opinion that the meteorological towers must be constructed and operational in 2009 if the EMP goal of at least 1000 MW of generation by 2012 is to be met. In order to accomplish this intermediate goal, Staff has recommended an expedited application and review process, but public comment on the program and its funding have been provided for and are ongoing.

GSOE commented generally in support of the application process and proposed several revisions to the criteria for the recommended rebate technical application. Staff appreciates the commenter's proposed clarifications, some of which are incorporated in revisions to the criteria and others are discussed below.

GSOE proposed a definition of compliance with the requirements of the MMS, to state that an applicant must have already engaged in negotiations with the MMS regarding the issuance of an alternative energy limited lease as follows:

The meteorological station needs to be constructed in the Department of Environmental (DEP) Ecological Baseline Study area and *in that certain Block of the Outer Continental Shelf (OCS) which was nominated by the applicant under the United States Department of the Interior (USDOI) Minerals Management Service (MMS) interim policy on Offshore Alternative Energy Resource Assessment and for which MMS has selected and engaged in negotiations with the applicant focused on the noncompetitive issuance of an alternative energy limited lease authorizing resource assessment.*

Staff, after consultation with MMS, believes that the criteria should be clarified from "approved nomination" to state that the proposed project for a meteorological tower that: "has been designated by MMS as being in a MMS New Jersey Interim Policy Lease Area" is appropriate. Requiring location with an MMS Interim Policy Lease Area facilitates achievement of the EMP's OSW goal for 2012 and protects the public interest in these areas without requiring an applicant to be at a particular point in negotiations.

GSOE proposed that wind data from a meteorological tower be proprietary to an applicant as long as that applicant had used "commercially reasonable efforts" to obtain all necessary permits for an offshore wind farm with "a planned construction commencement date no later than 2012." Staff concurs that "commercially reasonable" is an appropriate standard for assessing the efforts of an applicant. However, given the EMP's goal of 1000 MW of offshore wind generation in 2012, these efforts must be directed toward a planned construction completion date by the end of 2012, rather than a planned construction commencement date in that year.

GSOE proposed modifying the criterion requiring the meteorological tower to be operational in 2009 to state that if construction was delayed by an event beyond the control of the applicant, the applicant would have no obligation to proceed with the construction of the tower. Staff has considered this comment in revising the criterion at issue. By requiring prompt notification of the Board and consultation with Staff if such an event occurs, the possibility of project completion, under a modified schedule if necessary, is maximized. The modified criterion also underscores the fact that since the rebate is payable only upon completion of a tower, no rebate or fraction of a rebate would be payable for a project halted prior to completion.

Fisherman's Energy comments that the second criterion for the rebate should be rephrased to permit construction of the meteorological tower in the DEP Baseline Study Area, while the installer of the wind farm would be required to have "an approved nomination" from MMS. The commenter acknowledges that this modification would permit it to construct a "first phase" of a wind farm in State waters, followed by a larger phase in federal waters. However, this change cannot be accommodated within the scope of the rebate program, whose purpose is the furtherance of the EMP's goal of at least 1000 MW of offshore wind energy in 2012. The program criteria expressly reference the MMS New Jersey Interim Policy Lease area to provide

for construction in federal waters. In addition, the application criteria specify an offshore wind farm of at least 200 MW, not a project including a smaller 'pilot.'

The Department of Environmental Protection commented that the criteria regarding collection of environmental data should be provided to DEP in a mutually acceptable digital format. DEP further commented that the: "Applicant shall coordinate with DEP and MMS concerning wind farm pre-construction ecological/environmental studies conducted from meteorological stations to insure the studies meet the needs of DEP and MMS for wind farm permitting/leasing, and to expedite and standardize the data collection process." Staff appreciates DEP's comments which are incorporated in revisions to the criteria.

United Wind Energy submitted several questions with respect to the application process. The entity will be directed to appropriate program staff at the agencies responsible for the areas of concern to them.

DISCUSSION

A commitment to the development of OSW resources is an integral part of the Board's renewable energy policy, as evidenced by the recent award of a \$4 million grant for the development of a pilot OSW project of approximately 350 MW. The goals articulated for OSW in the Energy Master Plan require an acceleration of the means necessary to effectuate that commitment. Initiating a public stakeholder process for the development of a set-aside in the RPS is one means of furthering the development of this resource. Providing assistance in the form of proposed rebates for the installation of meteorological towers, which will provide specific data on the resource available for development, provides for measurable progress in the near term toward the achievement of the EMP's goal of at least 1000 MW by 2012.

The application criteria proposed by Staff, which reflects Staff consideration of comments received from stakeholders and interested members of the public are reasonable and will facilitate successful applicants becoming operational in 2009 and also complying with the State and federal regulatory schemes designed to protect the public interest in offshore areas. A meteorological tower would be required to be located in the area covered in the DEP's baseline study, and also to be designated by MMS as being in a MMS New Jersey Interim Policy Lease Area. Moreover, the proposed \$12 million for the proposed OSW rebate program in the Staff proposed 2009 NJCEP Budget will, if approved by the Board, utilize previously approved funding for OSW.

The Board's authorization proposed in this Order would enable the application process to begin in anticipation of and subject to the Board's subsequent consideration and approval of the proposed OSW Rebate program as part of the 2009 NJCEP Budget. As noted above, the comment period for the 2009 NJCEP Budget is open until December 5, 2009 thereby providing stakeholders and interested members of the public sufficient opportunity to comment on the proposed programs including the proposed OSW Rebate Program. The Board will consider the 2009 NJCEP Budget, along with timely public comments at a special agenda meeting tentatively scheduled for December 16, 2009.

The Board HEREBY AUTHORIZES Staff to develop and issue an application for the proposed OSW Rebate program in accordance with the above criteria and conditions and to take such further actions as may be necessary to implement the application process in an expeditious manner so that if applications are received on or before December 8, 2008 the Board may consider authorizing Staff to issue commitment letters at its scheduled December 17, 2008

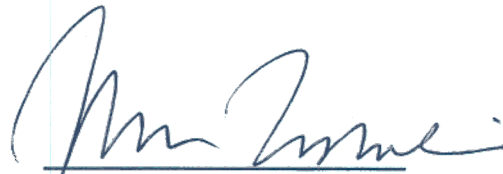
Agenda Meeting. The Board's authorization herein is in anticipation of and subject to its consideration and approval of the proposed OSW Rebate program as part of the 2009 NJCEP Budget, which is tentatively scheduled for a special agenda meeting on December 16, 2008.

DATED: 11/26/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities

