

**STATES OF NEW JERSEY
BEFORE THE
BOARD OF PUBLIC UTILITIES**

Investigation of Resource Adequacy
Alternatives

Docket No. EO20030203

COMMENTS OF ATLANTIC SHORES OFFSHORE WIND, LLC

By order dated March 25, 2020, the New Jersey Board of Public Utilities (the “BPU”) initiated this proceeding “to examine whether New Jersey can achieve its long-term clean energy and environmental objectives under the current resource adequacy procurement paradigm and, if not, recommend how best to meet New Jersey’s resource adequacy needs in a manner consistent with the State’s clean energy and environmental objectives, while considering costs to utility customers.” In accordance with the March 27, 2020 Request for Written Comments of the BPU Staff, as supplemented on April 17, 2020, Atlantic Shores Offshore Wind, LLC (“Atlantic Shores”) submits the following comments.

I. ATLANTIC SHORES OFFSHORE WIND, LLC

Atlantic Shores is a 50:50 partnership between Shell New Energies US LLC and EDF-RE Offshore Development, LLC (a subsidiary of EDF Renewables, Inc.). The joint-venture company was formed to co-develop offshore wind projects in the Atlantic Ocean that seek to interconnect directly to the transmission system operated by PJM Interconnection, LLC (“PJM”). Atlantic Shores intends to participate in New Jersey’s next offshore wind renewable credit (“OREC”) solicitation.

II. COMMENTS

Atlantic Shores supports the BPU’s decision to initiate this proceeding “to examine whether New Jersey can achieve its long-term clean energy and environmental objectives under

the current resource adequacy procurement paradigm.”¹ The BPU takes this action in response to recent orders issued by the Federal Energy Regulatory Commission (“FERC”) regarding PJM’s Minimum Offer Price Rule (“MOPR”).² These FERC orders extend the MOPR to most renewable energy projects and New Jersey’s Basic Generation Service (“BGS”) auctions, thereby increasing the risk of higher capacity-related costs for the state. These changes may also have a negative impact on future offshore wind developments, which are unlikely to clear the PJM capacity market under the expanded MOPR, based on the details transpiring from the PJM compliance filing of last March.

Atlantic Shores, therefore, supports the BPU’s decision to explore the full range of options – including the ability to work with PJM to develop future market rule changes – that could mitigate negative impacts from FERC’s MOPR orders. Any creation of Fixed Resource Requirement (“FRR”) service areas will be associated with certain costs and risks; therefore, the BPU is right in moving carefully and cautiously before ordering its electric distribution companies to create FRRs. For the state to move ahead with FRRs, there should be a clear net economic benefit for New Jersey’s retail customers, while supporting the state’s long-term clean energy goals.

Having the BPU (and other stakeholders) work with PJM on reforms within the RPM and other PJM-administered markets could bring results that align more closely with the state’s energy goals. The BPU and other stakeholders could work with PJM to develop a variety of changes related to market design, bidding rules, and capacity obligations. Such changes will

¹ *In the Matter of BPU Investigation of Resource Adequacy Alternatives* (Mar. 27, 2020).

² *Calpine Corp. v. PJM Interconnection, LLC*, 169 FERC ¶ 61,239 (2019) (“December 19 Order”), *order on reh’g and clarification*, 171 FERC ¶ 61,035 (2020); *Calpine Corp. v. PJM Interconnection, LLC*, 171 FERC ¶ 61,034 (2020).

build upon the commitment shown by PJM, as part of the MOPR developments, to listen to stakeholders' concerns. In response to FERC's December 19 Order, PJM held numerous stakeholder meetings and demonstrated a willingness to listen to all stakeholders. In its March 2020 compliance filing, PJM specifically stated that Unit-Specific Exemptions are allowed and can use an asset life above the 20-year term used in the default cost of new entrant values, which is no longer a market reality. PJM also has generally acknowledged the need for additional reforms to improve the integration of its resource mix within states' clean energy goals. These developments provide a foundation to improve market incentives and value for renewables throughout PJM, including offshore wind connected to the New Jersey grid.

Both big-picture changes and minor rule adjustments could create substantial value for New Jersey's retail customers within the current RPM mechanism. For example, through the Carbon Pricing Senior Task Force,³ PJM is coordinating with stakeholders to explore the development of carbon pricing. The task force has presented studies regarding the potential impacts of a carbon price and potential leakage mitigation mechanisms. The creation or modification of non-capacity markets, including new or modified ancillary services, also could provide increased revenue streams for offshore wind (and renewables more generally) that could further offset any cost increases experienced by New Jersey's retail customers due to the expanded MOPR. All of these ideas provide the potential to generate substantial value for New Jersey's retail customers that exceed any benefits the state might obtain through creating FRR service areas.

³ Materials for the Carbon Pricing Senior Task Force are available at <https://www.pjm.com/committees-and-groups/task-forces/cpstf.aspx>.

Aggressively pursuing reform discussions with PJM could bear more fruit for New Jersey because several factors remain in play that could result in modifying or undoing FERC's latest MOPR requirements. For instance, the U.S. Court of Appeals for the Seventh Circuit will hear requests to reverse the recent FERC MOPR orders. Also, PJM may exercise its discretion (where possible) to push its MOPR implementation as favorably as possible towards the BPU's clean energy goals. An exit by New Jersey and other neighboring states would undermine the effectiveness of the RPM design.

In summary, given the many moving parts and opportunities to work with PJM to create value for renewable energy resources and New Jersey's retail customers without leaving the RPM, any decision to create FRR service areas should be well-supported by clear and quantifiable benefits for the BPU's twin goals of increasing renewable energy and preventing unnecessary rate increases.

Below please find Atlantic Shores' responses to some of BPU Staff's specific questions.

1. Can New Jersey Utilize the Fixed Resource Requirement ("FRR") Alternative to Satisfy the State's Resource Adequacy Needs?

Although technically feasible, the pursuit of FRR service areas in New Jersey may raise numerous legal and policy challenges that could ultimately increase energy costs for the state's retail customers.

An FRR allows a load-serving entity to avoid participating in PJM's capacity market (i.e., the RPM) by developing a capacity plan that must cover a minimum term of five consecutive Delivery Years.⁴ "If PJM has provided written notice to an LSE that its election of the FRR Alternative is valid, an LSE must submit its initial FRR Capacity Plan through the Capacity

⁴ PJM Manual M-18: PJM Capacity Market, § 11.1.3 (Participation in the FRR Alternative).

Exchange system at least one month prior to the conduct of the Base Residual Auction for the first Delivery Year that such election is to be effective.”⁵

As the Third Circuit already noted, “participating in the FRR option is an all-or-nothing proposition, and appeals as a practical matter only to large utilities that still follow the traditional, vertically integrated model.”⁶ This fact has not changed. Regarding the pricing implications, as an expert witness for the New Jersey Division of Rate Counsel has noted,⁷ FRR service areas within New Jersey could lead to higher costs for retail customers—increases potentially far greater than those created from the exclusion of offshore wind from the capacity market. For instance, New Jersey-based FRR service areas could face substantial and unmitigated market power.⁸ Also, PJM would require New Jersey-based FRR service areas to source a high percentage of resources within the state to satisfy Local Delivery Area (“LDA”) requirements.⁹ Furthermore, should PJM decide to create new LDAs with New Jersey, any affected FRR entities might have only a few weeks to adjust their FRR capacity plans.¹⁰

Recently, PJM’s Independent Market Monitor (“IMM”) issued reports analyzing potential negative outcomes for New Jersey¹¹ and Maryland¹² should either state pursue the FRR

⁵ *Id.*

⁶ *New Jersey Bd. of Public Utils. v. FERC*, 744 F.3d 74, 84 (3d Cir. 2014).

⁷ The New Jersey Division of Rate Counsel raised these concerns to FERC in substantial detail through the May 21, 2011 affidavit of James F. Wilson attached to its Request for Rehearing and for Expedited Consideration filed in Docket Nos. EL11-20-001 and ER11-2875-001 (“Wilson Affidavit”) Atlantic Shores’ comments highlight some of the concerns identified by Mr. Wilson that remain unresolved.

⁸ Wilson Affidavit at ¶¶ 21-23.

⁹ *Id.* at ¶¶ 21 & 29.

¹⁰ *Id.* at ¶ 30.

¹¹ Monitoring Analytics, *Potential Impacts of the Creation of New Jersey FRRs*, (May 13, 2020), available at https://www.monitoringanalytics.com/reports/Reports/2020/IMM_Potential_Impacts_of_the_Creation_of_New_Jersey_FRRS_20200513.pdf (“NJ FRR May 13 Report”).

approach. Atlantic Shores continues to evaluate these reports, and currently takes no position as to how important a role they should play in influencing the BPU's decision-making process. Nevertheless, these reports provide a useful tool to help the BPU identify potential risks and challenges with market power in any New Jersey-based FRRs that the BPU should evaluate before deciding to leave the RPM.¹³

The BPU also must address questions around the deliverability of capacity resources. Should it create FRR service areas, New Jersey would need to include in its procurement efforts steps to properly vet in-state vs out of state capacity, given limitations in the transmission grid and import capacity into New Jersey. This problem also could pose valuation challenges. For instance, the capacity price for a resource in New Jersey should properly reflect the locational value of that capacity resource. Otherwise, New Jersey risks weakening system reliability should it contract with generation located further from where it is truly needed.

The challenges in forecasting obligations eight years into the future (for a five-year plan, three years forward) also risks increasing rates for New Jersey's retail customers. "Load forecasting that far in advance is of course highly uncertain, and this requirement can lead to contracting a substantial quantity of resources that ultimately will not be needed."¹⁴ At the same time, without the certainty of a particular market design, future resources would face additional

¹² Monitoring Analytics, *Potential Impacts of the Creation of Maryland FRRs* (Apr. 16, 2020), available at https://www.monitoringanalytics.com/reports/Reports/2020/IMM_Potential_Impacts_of_the_Creation_of_Maryland_FRRs_20200416.pdf.

¹³ Such importance issues include the fact that, "[i]n the FRR approach, there is no PJM market monitoring of offer behavior by generation owners, there are no market rules governing offers, and there are no market rules requiring competitive behavior." NJ FRR May 13 Report at 4. Furthermore, according to the IMM, "[a]ll participants in the New Jersey, JCPL, and PSEG FRRs fail the one and three pivotal supplier test which reinforces the conclusion that there is structural market power in each case." *Id.*

¹⁴ Wilson Affidavit at ¶ 28.

financing challenges, or the costs of financing such resources would be higher than otherwise because of the inherent uncertainty of the long term capacity design and prices.

As with any organized and centralized market, the RPM is designed to provide transparent market signals (*e.g.*, centralized market auctions, same price in each capacity zone) and prevent market power by particular participants via defined market power tests and scrutiny of bids by PJM and its IMM. Ultimately, any procurement alternative should prioritize maintaining transparency in the marketplace, minimizing potential for market power, and providing same competitive advantage and access across all generation projects.

Because of these risks associated with any FRR construct, the BPU should commission a study that quantifies the short- and long-term costs and benefits of moving to an FRR as a next step in the current proceeding.

2. Can New Jersey Utilize the FRR to Accelerate Achievement of New Jersey Clean Energy Goals?

Leaving the PJM capacity market to create FRRs could hinder attainment of New Jersey's clean energy goals. To create one or more FRR services areas, each load-serving entity in the state would have to demonstrate to PJM that it can satisfy the governing reliability criteria, regardless of whether the capacity comes from renewables or fossil-fueled energy. To meet these requirements in the short term, given the limited amount of renewable energy projects currently located in or near New Jersey, it is highly likely that the state would need to contract with a substantial amount of capacity from fossil fuel-based resources to obtain PJM approval of any FRR service areas – at least until sufficient renewable resources in the right locations come on-line. Meanwhile, converting New Jersey to into FRR service areas would reduce its access to

renewable energy resources across the wider PJM region, making it more difficult to transition to 100 percent clean energy.

Working with PJM to appropriately adjust the RPM to improve the integration of all types of renewable resources can re-establish confidence in the valuation of the capacity attribute of offshore wind resources. Additional policies like carbon pricing (as discussed above) can further incentivize clean energy generation.

III. CONCLUSION

Atlantic Shores thanks the BPU and its Staff for providing the opportunity to submit these comments. For reasons stated herein, Atlantic Shores supports the BPU's efforts in this docket to explore options for New Jersey to consider regarding its resource adequacy needs. Ultimately, Atlantic Shores believes the state needs to engage with PJM to find ways to work within the RPM system to improve it, while further vetting creation of FRR service areas. In this decision, the BPU should commission a study that quantifies the short- and long-term costs and benefits of moving to an FRR before pursuing this option.

Respectfully submitted,

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