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**Comments of the New Jersey Division of Rate Counsel on
Board of Public Utilities Proposed Amendments to
N.J.A.C. 14:8-6, Offshore Wind Renewable Energy Rules**

BPU Docket No.: EX12050466

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Introduction

The New Jersey Division of Rate Counsel ("Rate Counsel") appreciates the opportunity to submit comments on the revisions to N.J.A.C. 14:8-6 (Offshore Wind Energy Rules) proposed by the Board of Public Utilities ("BPU" or "the Board") and published in the NJ Register on August 20, 2012. Rate Counsel supports the changes proposed by the Board for the following reasons.

Rate Counsel Position on Modified Sections

Rate Counsel supports the proposed changes to Section N.J.A.C. 14:8-6.1 that now includes a definition of "controlling interest" as used in the proposed amendments to N.J.A.C. 14:8-6.5(a)1v. Rate Counsel believes this clarification will be useful in reviewing applications that may arise from more commercially complex offshore wind ("OSW") proposals.

Rate Counsel supports the Board's proposal to modify Section N.J.A.C. 14:8-6.3 that allows for multiple application periods at the Board's discretion. This flexibility

should allow the Board greater flexibility in responding to market changes and unanticipated changes that may facilitate OSW development.

Rate Counsel supports the Board's proposed amendments to N.J.A.C. 14:8-6.4 that will allow Board Staff to consult with any consultants or experts retained by the Board in determining administrative completeness phase of any application review. Rate Counsel supports the Board's goals of attaining technical advice and the financial resource to support that technical advice, in the review of future OSW applications.

Rate Counsel strongly supports the proposed revisions to Section N.J.A.C. 14:8-6.5(a)1 that will require applicants:

- To notify the Board within 30 days of the departure of any key employee and submit the expertise and qualifications for any new key employee for approval by the Board throughout the period in which the application is active.
- To seek Board approval for any changes to the organizational structure of key employee positions and the level of expertise and qualifications of those key employees; and for any entity seeking to obtain control of the proposed or approved qualified offshore wind project.
- To disclose any prior bankruptcies for any of its parent company, affiliates, subsidiaries or key employees, and
- To clarify that substantiating documentation must be provided for any claims that manufacturing will be sourced in New Jersey.

Rate Counsel supports the aforementioned revisions, collectively, since they should help keep the Board, as well as other parties, apprised of changes in project control that could impact any proposed OSW project's management and leadership stability. The proposed revisions requiring OSW applicants to report prior bankruptcies are important additions to the overall financial review of any proposed project. Lastly, Rate Counsel strongly supports additional revisions to this Section requiring OSW applicants to provide project documentation, rather than simple assertions, about local

sourcing of potential OSW manufacturing. This will be an important requirement in evaluating the net benefits of any proposed OSW project.

Rate Counsel also supports the proposed changes to Section N.J.A.C. 14:8-6.5(a)2 that will require a number of additional reporting requirements for OSW applicants. Rate Counsel is particularly supportive of the proposals that will require more concrete documentation including memoranda of understanding from turbine manufacturers on the technologies selected, or under consideration, by an OSW applicant. Rate Counsel also supports the Board's proposal that will require OSW applicants to demonstrate their experience in projects of similar proposed size and scope. Rate Counsel also believes that the Board's proposed revisions in this Section requiring OSW applicants to provide a wind resource and energy assessment from a wind energy consultant for the exact manufacturer, model, and specifications of turbines selected for the project will be an important part of the OSW application that allows the project to be assessed with a meaningful degree of realism.

Rate Counsel supports the Board's proposed revisions to N.J.A.C. 14:8-6.5(a)3 requiring additional and detailed cost documentation, as well as accounting and financial information based upon U.S. GAAP standards.

Rate Counsel supports the proposed revisions to Section N.J.A.C. 14:8-6.5(a)4 that will require an OSW applicant to produce evidence and documentation supporting its financial support, such as: a letter of intent to offer credit from credible financiers; a letter of commitment from equity investors; and/or a guarantee from an investment grade party.

Rate Counsel supports the hold-harmless modifications included in the revisions to N.J.A.C. 14:8-6.5(a)5 and N.J.A.C. 14:8-6.5(a)9.

Rate Counsel supports the proposed revisions to N.J.A.C. 14:8-6.5(a)12 clarifying (a) the means by which OREC plan information is provided, and (b) the total revenue requirement method under which OREC prices will be required to be calculated. Rate Counsel also supports the proposed revisions in this Section that will require OREC pricing proposals to specify: total equipment, construction, operation, and maintenance costs of the project; tax credits, subsidies, or grants the project will qualify for; debt service costs and return on equity assumptions; taxes and depreciation assumptions; the nameplate capacity of the project; the expected energy output of the project; the assumed capacity factor and the number of ORECs to be produced by the project; and, the price per OREC (megawatt hours (MWh)) necessary to make the project commercially viable. Requiring this information up-front, as part of the overall filing requirements, should facilitate, and reduce the administrative costs associated with the review of any OSW application.

Rate Counsel also supports the proposed amendments to Section 14:8-6.5(a)12 that require the value of electric energy, capacity payments, and any other environmental attributes or other benefits be returned to ratepayers. Rate Counsel supports the Board's revisions that limit excess incremental energy revenue retention to 25 percent, excluding environmental attributes or other benefits.

Lastly, Rate Counsel supports the proposed revisions to Section N.J.A.C. 14:8-6.5(a)15 increasing an OSW applicant's escrow amount from \$100,000 to \$125,000 in order to cover the costs associated with the review of the application as well as any

additional funds deemed necessary by Board Staff to conduct a meaningful review of the OSW application.

Conclusion

Rate Counsel appreciates the opportunity to comment upon the Board's proposed revisions to its Offshore Wind Energy Rules. Rate Counsel agrees with the proposed revisions offered by the Board and believes that these proposed revisions will (a) provide clarity on the Board's expectations in reviewing OSW applications, (b) strengthen the OSW application review process, and hopefully, (c) reduce the overall administrative cost associated with the analysis of these applications.

Respectfully submitted,



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