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July 26, 2018

By Hand Delivery and Electronic Mail

Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In the Matter of Offshore Wind Renewable Energy Certificate
(OREC) Funding Mechanism
BPU Docket No. QX18040466**

Dear Secretary Camacho-Welch:

Please accept for filing the enclosed original and ten (10) copies of comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-captioned matter. Hard copies of Rate Counsel's comments will be provided to all parties upon request to our office.

We are enclosing one additional copy of the comments. **Please stamp and date the extra copy as "filed" and return to our courier.**

Thank you for our consideration and attention to this matter.

Respectfully submitted,

By: 
Brian O. Lipman, Esq.
Litigation Manager

BL
Enclosure

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STATE OF NEW JERSEY

BEFORE THE BOARD OF PUBLIC UTILITIES

In the Matter of Offshore Wind Solicitation) BPU Docket No. QX18040466
of 1,100 MW)
)

**COMMENTS OF THE
NEW JERSEY DIVISION OF RATE COUNSEL
ON THE OFFSHORE WIND SOLICITATION OF 1,100 MEGAWATTS**

July 26, 2018

Introduction

The Division of Rate Counsel (“Rate Counsel”) would like to thank the Board of Public Utilities (“Board” or “BPU”) for the opportunity to provide comments on the Offshore Wind (“OSW”) Solicitation of 1,100 Megawatts (“MW”). On February 28, 2018, the Board directed Board Staff to take the necessary steps to establish an OREC Application Process for the solicitation of 1,100 MW. Staff issued a list of nine topics for comment on June 29, 2018.

- 1. How should BPU stagger/phase in New Jersey’s offshore wind procurements to realize the State’s goal of 3,500 megawatts. Should this schedule be announced before any solicitations are released?**

Rate Counsel Comment: The BPU should phase in the solicitation amount in order to learn from its own New Jersey-specific experiences as well as those of other coastal states that are also entering into similar OSW processes. Rate Counsel suggests that a more cautious approach to the solicitation schedule be followed given the unique market situation and legislative requirements in this state. Rate Counsel also suggests that the “back-end” of any solicitation schedule could be accelerated to compensate for the use of a more cautious schedule at the front-end of the process.

Rate Counsel supports moving in a diligent yet cautious fashion in meeting the Governor’s goal of realizing 3,500 MW of OSW capacity. Even 1,100 MW is a considerable amount of capacity for any state to solicit, much less one with little OSW procurement experience.

Rate Counsel recommends that the BPU offer a proposed strawman solicitation schedule to all stakeholders for review of their positions, particularly developers. Rate Counsel supports the use of a pre-defined solicitation schedule but suggests that any solicitation schedule be developed with caveats for unexpected outcomes. Rate Counsel recommends that the Board define a solicitation schedule in advance in order to allow developers to prepare their bids, and for stakeholders to participate in the review of bids and offers.

- 2. How should the BPU structure the initial solicitation for 1,100 megawatts of offshore wind capacity as called for under EO8?**

Rate Counsel Comment: Rate Counsel supports a “phasing-in” of the initial 1,100 MW of capacity through a series of smaller solicitations to test what will ultimately become the Board’s rules and procedures. The BPU should solicit comments from parties on this schedule and formulate its own process that will result in an expedited process consistent with the Governor’s order, but one that conditions against any negative ratepayer impacts.

- 3. Should the BPU request proposals scaled at 1,100 megawatts, or should the BPU request proposals in smaller blocks of capacity (i.e. 400 megawatts)?**

Rate Counsel Comment: The Board should solicit stakeholders for their proposed solicitation schedule. In addition, or in the alternative, the Board could embed some flexibility in its in its request for blocks of capacity, allowing bidders to submit proposals for capacity up to 1,100 MW as opposed to a specific, fixed 1,100 MW.

In Massachusetts, the investor-owned EDCs and the Massachusetts Department of Energy Resources issued a joint RFP in June 2017 for at least 400 MW of OSW and associated transmission.¹ The Massachusetts solicitation however, included a degree of flexibility, by allowing bidders to offer proposals of up to 800 MW if it was determined that a larger-scaled proposal is both superior to other proposals and is “likely to produce significantly more economic benefits to ratepayers.”² Bidders were required to submit at least one proposal of 400 MW, but bidders could also submit alternative proposals with a nameplate capacity of no less than 200 MW and no greater than 800 MW. Bids were received in December 2017 and the utilities reported that the RFP “resulted in a robust and sophisticated suite of proposals for offshore wind energy generation and associated transmission networks.”³ The Massachusetts experience leads Rate Counsel to suggest that a phased-in approach may be more advantageous to one that seeks to lock down a fixed 1,100 MW at one time.

The New Jersey solicitation should also allow for flexibility in contract terms, defined as a period of 15 to 20 years. Bidders should be encouraged to make their own determination as to the product delivery term that best fits their needs in order to develop the most competitively-priced bid. A range of between 15 years to 20 years seems reasonable and offers flexibility to OSW developers.

Furthermore, if the Board elects to move forward with the full 1,100 MW of capacity in one solicitation, Rate Counsel recommends that a structure similar to the long-run SREC-II Based Financing Program be utilized in the bid evaluation process. In this process, a Solicitation Manager would evaluate bids for overall reasonableness, identify any outliers, and, most importantly, develop a range of reasonable OREC prices. The solicitation manager would solicit input from Board Staff and Rate Counsel on methods and assumptions to estimate these pricing ranges.

4. How may a solicitation be structured to ensure strong competition from multiple OSW developers?

¹ Dvorak, P. 2017. Massachusetts issues new RFP for 400 MW of offshore wind energy projects; December 2017 bid deadline. Windpower Engineering Development. Available at: <https://www.windpowerengineering.com/offshore-wind/massachusetts-issues-new-rfp-400-mw-offshore-wind-energy-projects-december-2017-bid-deadline/>; and Delony, J. 2017. Bids are in for Massachusetts offshore wind procurement; storage included. Renewable Energy World. Available at: <https://www.renewableenergyworld.com/articles/2017/12/bids-are-in-for-massachusetts-offshore-wind-procurement-storage-included.html>.

² Massachusetts Department of Energy Resources, Request for Proposals for Long-Term Contracts for Offshore Wind Energy Projects. June 29, 2017.

³ Lilian, B. 2018. Massachusetts offshore wind project selection delayed. North American Wind Power. Available at: <https://nawindpower.com/massachusetts-offshore-wind-project-selection-delayed>.

Rate Counsel Comment: A well-structured solicitation with clear and concise requirements will prevent inflated pricing and motivate bidders to submit their best price. The winning bidder should be contractually obligated to meet all specifications once the bids are submitted and a winning bid is selected. A bidder must also demonstrate that its proposal can be developed, financed, constructed and technically viable within a commercially reasonable timeframe.

The RFP should clearly define the bid evaluation and selection criteria and process and should also define the net economics benefits test that each selected project will be required to pass. The manner in which the net economic benefits of each project will be evaluated is an important consideration. Rate Counsel recommends that the Board be very clear in setting the criteria in which these net economic benefits will be evaluated staying as close to the requirements and language in the OWEDA as possible.

As a general matter, the Board should develop an open process that does not restrict developer participation, nor will it restrict developer bidding flexibility provided those developers meet the filing terms and conditions of the solicitation. It is not the responsibility of the Board, nor any other stakeholder like Rate Counsel, to divine the specifics of a proposed OSW project under a future solicitation.

While flexibility is recommended, there are some items that must be defined for the solicitation, including the technology/vendor associated with the bid, the capacity/size of the proposed OSW project, the cost of the proposed project, and a clear definition and explanation of how the project will be financed. Proposals that fail to meet these minimum requirements need to be rejected immediately.

Further, Rate Counsel supports the ability of OSW developers to offer multiple bids of various sizes within a single solicitation to encourage more flexibility and competition.

5. What conditions should be included to ensure maximum competition in terms of OREC Price?

Rate Counsel Comment: An open and clearly-defined competitive bidding process, that includes a certain degree of flexibility, will help facilitate maximum competition in the OSW solicitation process. However, Rate Counsel suggests that while maximizing competition is very important in this solicitation process, it should not come at the expense of developing a framework that has a high degree of OSW developer accountability. Rate Counsel also suggests that while including certain levels of “flexibility” will help facilitate competition, this flexibility needs to run in both directions in terms of facilitating competition while also ensuring ratepayer protections. Rate Counsel supports a solicitation process that gives OSW developers the financial certainty they are looking for, and accommodates flexibility, but also assures accountability and transparency for ratepayers.

6. OWEDA requires the OREC Price to be an all-in price that includes the full cost of the construction, operation and decommissioning of the project with all revenues

being refunded to ratepayers. What measures can be included in project proposals to optimize all revenues over the life of the project?

Rate Counsel Comment: Rate Counsel understands that the Board Staff is now considering an option that will require OSW bidders to maximize the revenue streams associated with their respective projects/bids in any future solicitation. Rate Counsel supports this addition since it will help assure that New Jersey ratepayers get the full benefits associated with the financial support they are providing for an OSW project secured under the Board's solicitation process. Rate Counsel recommends that as part of this revenue maximization process, the Board require bidders to itemize each and every revenue stream (i.e., energy sales, capacity sales, etc.) that will be used to credit against project costs and to identify any and all assumptions utilized in estimating these revenue streams such as future energy and capacity prices, escalation rates, and any other forecast information.

7. **OWEDA requires that offshore wind developers demonstrate a net economic benefit for the State. How should the BPU ensure net economic benefits in order to be able to compare applications?**

Rate Counsel Comment: The RFP should provide a guideline of specific and standardized measurements of economic benefits provided by the project. This would enable a comparable set of information for each bidder when evaluating applications. These requirements are clearly defined in the OWEDA. P.L. 2010, c. 57, Sections 3(a), items (1) through (14) and 3(b), items (1) and (2) outline these requirements. Rate Counsel recommends that the Board clarify when these net benefits analyses will be expected from developers. For instance, will each bidder be required to provide this information as part of their bid or will there be an initial price/bid review in which a "short list" of projects will be selected, and will then be required to provide a net benefits analysis.

8. **What other elements should BPU consider including in the 1,100 megawatt offshore wind solicitation called for under EO8 (e.g. storage, other adjunct technologies)?**

Rate Counsel Comment: The Board should focus only on OSW and should not go beyond the requirements of the OWEDA statute, particularly in the initial solicitation phases.

9. **Should the BPU request bids for expandable, nondiscriminatory, open-access offshore transmission facilities for the efficient delivery of power to the onshore transmission system?**

Rate Counsel Comment: No, the Board should focus only on OSW and should not go beyond the requirements of the OWEDA statute, particularly in the initial solicitation phases. Bidders should however, be required to include detailed plans and cost information for transmission and should be itemized such that bids can be assessed on a comparable basis.