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PUBLIC

December 4, 2018

VIA 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 the Petition of Nautilus Offshore Wind, LLC for the Approval of the State Waters Wind Project and Authorizing Offshore Wind Renewable Energy Certificates
BPU Docket No. QO18080843

Dear Secretary Camacho-Welch:

In lieu of a more formal brief, please accept this letter brief on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") according to the procedural schedule in the above-mentioned matter. An original and ten (10) copies of this Reply Brief is being filed with Public and Confidential versions. A copy of this Reply Brief is being sent to all parties on the service list by hand-delivery, electronic and/or overnight mail. Please stamp and date the extra copy as "filed" and return it to our courier.

INTRODUCTION

On November 29, 2018, Rate Counsel filed its Initial Brief with the New Jersey Board of Public Utilities ("BPU" or "the Board") pursuant to the procedural schedule ordered by President Fiordaliso, the presiding hearing officer in this matter. Based upon an extensive review of the Application filed by Nautilus Offshore Wind, LLC ("Nautilus") on August 1, 2018, and the voluminous record developed by the parties, Rate Counsel concluded that the offshore wind ("OSW") proposal by Nautilus ("the Project") did not meet the requirements of the Offshore Wind Economic Development Act ("OWEDA") and should not be approved by the Board.

Through his direct and surrebuttal testimony, Rate Counsel witness, Dr. David Dismukes, demonstrated that the Project – as originally proposed and as amended - does not produce positive net economic or environment benefits for New Jersey ratepayers. Contrary to the assertions by Nautilus in its Initial Brief, the size and commensurate costs of the Project do not justify Board approval. Further, any claimed benefits from "lessons learned" if the Board approved the Project would be neglible, given Governor Murphy's Executive Order No. 8 issued January 31, 2018 calling for 3,500 MW of OSW by 2030. On September 17, 2018, the Board initiated the first solicitation for 1,100 MW of OSW to fulfill Governor Murphy's directive with proposals to be filed on December 28, 2018.[1] As illustrated by Dr. Dismukes in his testimony, the Project should be rejected by the Board as too expensive for New Jersey ratepayers and not a prudent investment.

[1] BPU Order QO18080851; p.4 (dated 9/17/18). (I/M/O the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,100 MWs of Offshore Wind Capacity in Furtherance of Executive Order No. 8).

ARGUMENT

A. The Nautilus Project Should Not be Approved Since it is Uneconomic and any "Lessons Learned" do not Justify the Unreasonable OREC Pricing Plan for New Jersey

In its brief, Nautilus claims that New Jersey can benefit from its OSW project by ". . . learning at a small-scale before implementing at commercial scale . . ."[2] Although Nautilus concedes that its project lacks the ". . . economies of scale and cost[s] more, on a per unit basis, than utility scale projects . . .," their argument that the Board (and New Jersey) should still utilize the Project as guidance for future OSW facilities is misplaced.[3] Dr. Dismukes' analysis of the Project's OREC Pricing Plan, in comparison to other OSW projects, demonstrated that it was too excessive for its relative size.[4] Nautilus' insistence that the Board ignore this crucial fact in exchange for alleged "lessons learned" is not in the best interest of New Jersey ratepayers and contrary to the requirements outlined in OWEDA.

Pursuant to OWEDA, the Board has the obligation to review - among other items - the cost-benefit analysis of an OSW application and determine whether the project produces positive net benefits to the State.[5] In order to assist its review, pursuant to OWEDA, the Board may also consider ". . . any other elements . . . appropriate in conjunction with the application."[6] Nautilus claims that the Board should consider certain "lessons learned" as positive benefits if its project is approved. These include: (1) environmental permitting process; (2) organization of labor to construct the OSW projects; (3) research laboratory to understand future projects; (4) investor

[2] Nautilus Brief; page 9.
[3] Ibid.
[4] Exhibit JR-14, Dismukes Testimony, pp. 26-28; and, RC Brief, pp. 6-7.
[5] N.J.S.A. 48:3-87.1(b)(1)(b).
[6] N.J.S.A. 48:3-87.1(b)(2)(b).

understanding of OREC financing; and (5) collaboration with fishing industry.[7] Although Nautilus accuses Rate Counsel of ignoring these alleged benefits of the Project, it must be pointed out that Dr. Dismukes specifically explained at the beginning of his Direct Testimony that ". . . [m]ost OSW development in the U.S., with the exception of Rhode Island, is moving forward quickly with expansive programs that effectively skip any form of "experimental" or "pilot" process.[8] Furthermore, Dr. Dismukes also correctly pointed out in his Direct Testimony that Nautilus did not provide any quantification of "lessons learned" in its Application.[9] Nautilus' introduction of an estimated "...cost of $1.52 per household . . ." for "lessons learned" in its brief is not supported in the record and should not be regarded as credible.[10] Nearby coastal states such as New York and Maryland have already begun their larger scale OSW process.[11] New Jersey need not place itself at a competitive disadvantage by approving a **[BEGIN CONFIDENTIAL]**[redacted]**[END CONFIDENTIAL]** facility that is uneconomic and contrary to current State policy initiatives simply to test Nautilus' claimed "lessons."

Furthermore, Governor Murphy's Executive Order No. 8 explicitly directed the Board and other relevant state agencies to develop 3,500 MW of OSW by 2030.[12] As part of developing an "Offshore Wind Strategic Plan" the Board is charged with implementing OSW facilities that include ". . . achieving scale to reduce costs; job growth; supply-chain businesses; workforce development; data collection and appropriate siting facilities . . ."[13] Thus, those same lessons will be "learned" in conjunction with the Board's September 17, 2018 Order initiating

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7 Nautilus Brief; page 38.
8 Exhibit JR-14, Dismukes Testimony, p. 5, lines 5-7.
9 Exhibit JR-14, Dismukes Testimony, p. 73, lines 1-4.
10 Nautilus Brief, page 9.
11 Exhibit JR-14, Dismukes Testimony, Schedule DED-8. [Confidential]
12 Executive Order No. 8, p.2.
13 Ibid.

the 1,100 MW solicitation in compliance with Executive Order No. 8 shortly after Nautilus would be completed and at a scale more useful to New Jersey moving forward.

As previously stated in Dr. Dismukes' testimony, the OREC Pricing Plan, even revised per Nautilus' rebuttal testimony, does not produce positive net benefits. Also, Nautilus'Application, rebuttal testimony and brief do not offer any explanation for acceptance of an **[Begin Confidential]**[redacted]**[End Confidential]**[14] This omission in the record should also be considered by the Board as further evidence that the Nautilus OREC Pricing Plan, as proposed, does not meet the requirements of OWEDA and should be rejected.

B. THE PROJECT USES A FLAWED ENVIRONMENTAL BENEFITS ANALYSIS

The Company's environmental benefits analysis is inconsistent with the EMP since the analysis is not based on market-based prices or costs. The prior Board Order denying the Company's first 2013 proposal could not have been clearer: "environmental benefits should be tied to market prices because that is a reasonable manner to ensure fair, just and reasonable ratepayer impact. This approach is also consistent with the EMP, which focuses on quantifiable, market-based gains that can be measured."[15] In its brief, the Company continues to criticize Dr. Dismukes for following the reasoning of the Board in its prior Order. However, the Board's reasoning was sound and there has been no convincing reason offered to change it.

The Company's avoided emissions benefits analysis also fails to follow Board precedent. Instead of using market prices, the Company again used societal values to estimate these benefits

[14] RC Brief, p. 11.
[15] 2014 Order, p. 24.

despite the Board's explicit rejection of that approach in the 2013 proceeding.[16] Dr. Dismukes reviewed the eGRID 2016 database and EPA's Regulatory Impact Analysis ("RIA") relied on by the Company and found that the use of non-market based approaches, such as "societal costs" have problems because they represent estimates, not reported data, and are also based on the premise that the current EPA regulations and clean air markets do not value air emissions appropriately.[17] Dr. Dismukes presented a chart, DED-18, showing a comparison of societal environmental externalities estimates for carbon emissions between 1982 and 2006. The comparison illustrates some studies showing societal costs for carbon emissions as high as nearly \$1,000 per ton of CO_2 emissions while others showed \$200 per ton or even \$0. So as the comparison shows a 200-fold range in values, it also shows why the Board was correct in finding that market based approaches should be used to value societal costs on an objective, not subjective, basis.[18]

In its rebuttal testimony, the Company provided a revised carbon analysis based on "further review."[19] There was an apparent spreadsheet error in calculating the average of cases from a U.S. Government Interagency report. However, Dr. Dismukes disagreed with that approach as "averaging empirical outcomes over different discount rates is simply not appropriate and is inconsistent with standard CBA practice."[20]

Dr. Dismukes utilized an alternative carbon value recommendation developed by CEEEP which utilized a valuation of three percent, the same valuation he recommended for measuring

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[16] Id.
[17] Dismukes testimony, JR-14, p. 37.
[18] Id. at pp.37-38.
[19] Rebuttal testimony of Steven Gabel, JR-19(f), p. 8.
[20] Surrebuttal testimony of Dr. Dismukes, p. 3 (Nov. 20, 2018).

the carbon emissions mitigation benefits of the Project.[21] As shown on his chart DED-SR-1, it was also the value that represented the "central tendency in terms of the distribution of benefits included in the Interagency Report."[22] As it is a measure of the central tendency itself, it does not need to be averaged further as incorrectly recommended by Mr. Gabel. To do so would misrepresent the fundamental results of the study and be inconsistent with CBA standards. [23] Dr. Dismukes also warns that to include carbon values in this proceeding will double count the potential carbon mitigation of this project as New Jersey will be rejoining RGGI and will "internalize" the costs of these carbon emissions through market-based mechanisms going forward.[24]

In 2014, the Board found that the "calculation of environmental benefits should be tied directly to the market prices because offshore wind is just one alternative to cutting emissions and its 'benefit' occurs if, and only if, it is less expensive than the alternative ways."[25] As the Company has not demonstrated a valid reason for deviating from this established precedent, its proposed Project should be rejected by the Board.

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[21] Id. at p. 4.
[22] Id.
[23] Id.
[24] Id. at 5.
[25] 2014 Order, p. 23.

CONCLUSION

For all of the foregoing reasons, the Board should reject the Nautilus Project and its revised OREC plan since they are not in the public interest, consistent with statutory requirements or demonstrate a net economic benefit to New Jersey ratepayers.

Respectfully submitted,

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By: Felicia Thomas-Friel

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cc: President, Joseph L. Fiordaliso (via hand-delivery)
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