STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

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

Comments of Deepwater Wind, LLC

May 18, 2018

Deepwater Wind, LLC ("Deepwater Wind") respectfully submits the following comments in response to the Notice titled *In the Matter of Offshore Wind Renewable Energy Certificate (OREC) Funding Mechanism* ("Notice") published by the Board of Public Utilities ("BPU") on April 27, 2018.[1] The Notice solicits comments from stakeholders in response to the Straw Proposal concerning the OREC funding mechanism as outlined by Staff of the BPU ("Staff").

Deepwater Wind submits these comments as the only company to have developed, financed, constructed and operated an offshore wind farm in America. Deepwater Wind has been active in the New Jersey offshore wind industry since 2007 and Deepwater Wind successfully developed the Block Island Wind Farm, the only offshore wind energy project in the US to achieve commercial operations to date, and the only offshore wind project in the world that successfully used tax equity for project finance. Deepwater Wind also currently holds contracts for two additional utility-scale offshore wind projects in the US. The South Fork Wind Farm, located in Deepwater Wind's Rhode Island – Massachusetts Wind Energy Area is contracted to provide approximately 90 Megawatts (MW) of power to the Long Island Power Authority in New York with a commercial operations date in 2022. The Skipjack Wind Farm, located within Deepwater Wind's Delaware Wind Energy Area, received an OREC award from the State of Maryland Public Service Commission to provide 120 MW and will achieve commercial operations in 2022.

The Governor's goal of 3,500 MW of offshore wind by 2030 is bold and attainable. The first 1,100 MW solicitation in 2018 sends a signal to both developers and the global supply chain for offshore wind that New Jersey will strongly compete for the economic, social, and environmental benefits of offshore wind. Deepwater Wind strongly supports the Governor's goal for offshore wind and plans to be actively involved in achieving this goal, starting with the procurement of the first 1,100 MW in 2018. Deepwater Wind has already begun to engage with coastal communities in New Jersey in anticipation of a successful project.

As a general statement, Deepwater Wind supports the framework described in the Straw Proposal and agrees that the proposed mechanism will successfully result in offshore wind constructed to serve New Jersey. Given Deepwater Wind's experience across US markets, we

[1] Docket No. QX18040466; April 27, 2018

offer additional comments on the Straw Proposal that, if adopted, would reduce ratepayer costs and maximize benefits realized to New Jersey through establishing a robust, competitive and sustainable market. From the perspective of a developer, the regulatory framework that will result in the least costs to ratepayers and the most net benefits is one that provides the greatest certainty in the OREC revenues. These principles should be reflected in the regulations enabling OREC funding and in the forthcoming consideration of the requirements for project eligibility, evaluation criteria, and other associated processes. This will result in increased project investor confidence and higher likelihood of project execution, which will reduce capital costs and thereby reduce ratepayer costs. With regard to the funding mechanism, Deepwater Wind proposes the adoption of the banking and borrowing of ORECs (described herein), and adoption of Staff's proposal that OREC pricing include generation, transmission and all other components of a project. Without these terms, the BPU risks unnecessarily higher ratepayer costs and risk of project failure.

Comments

1. **The critical importance of selected developers to qualify for the 2019 ITC, together with a strictly constrained deadline, supports further expeditious informal consultation prior to the publishing of a formal rule proposal.**

To qualify for the 2019 ITC, developers must have a fully-approved, mutually-acceptable, un-appealable OREC Order not later than August of 2019. To do so, we recommend that the BPU do two things: (1) prioritize the opening of an OREC application window as soon as possible in 2018, and (2) adopt the final rules addressing the OREC funding mechanism without delay. These actions are the critical path to save ratepayer costs and maximize economic benefits realized to New Jersey.

The ITC is important because it allows developers to offset a portion of eligible offshore wind project costs, saving substantial money for ratepayers. However, in order to be eligible for this program, project construction would be required to start by December 31, 2019 ("safe-harbor").[2] Based on its experience to safe-harbor the 2018 ITC, Deepwater Wind estimates that in order to satisfy the commence construction terms to safe harbor the 2019 ITC, the latest an OREC award can be granted would be in June 2019 with the assumption that an appeals period would be completed by August 2019. Given the BPU's authority to evaluate OREC applications up to 180 days, this would require OREC applications to be submitted by the end of 2018.[3] If the BPU does not open and close an OREC application window by the end of 2018, ratepayers would likely have to surrender the 12% ITC resulting in higher cost projects.

In addition to cost savings, any delay in offshore wind procurement could result in missed opportunities to capitalize on growing jobs and supply chain components in New Jersey. The

[2] Title 26 Internal Revenue Code USC § 48
[3] N.J.S.A. 48:3-87.1(d) ("OWEDA") grants the BPU up to 180 days to evaluate OREC applications

Commonwealth of Massachusetts, and States of New York, Connecticut and Rhode Island are all moving forward with offshore wind procurements in 2018, offering a time-advantage to establish supply chain providers and jobs. Governor Murphy's goal of 3,500 MW by 2030 offers a size advantage for suppliers to consider, but delay would reduce the ability of developers to make investments that would establish jobs and supply chain components in New Jersey that would provide net economic benefits within the state, putting the success of the program at risk.

These realities require that the rules establishing the OREC funding mechanism be adopted as soon as possible. In order to minimize the risk of a need for rule amendments that would require republication of the proposal, Deepwater Wind urges the BPU to institute additional informal consultation with stakeholder that would enable review and comment of the details of the rule beyond the topic headings provide by the Notice. This process can be informal and expedited and allow the staff and Commissioners to develop and approve a formal rule proposal as soon as next month. Deepwater Wind is committed to respond to such an opportunity and we believe all other active stakeholders will likewise commit to such an informal review process.

2. Deepwater Wind supports the terms outlined in the Straw Proposal and urges that provisions of the following comments be included in the formal rule proposal.

From the perspective of a developer, the most important factors in an OREC funding mechanism are: (i) that the quantity and price of the OREC awarded to a Qualified Offshore Wind Project do not change after the OREC Order; (ii) certainty that adequate funds will be collected in each OREC payment period; (iii) the creditworthiness of the payment agent and/or the OREC Administrator; and (iv) that the payment agent and/or the OREC Administrator are obligated to promptly disburse payment due to Qualified Offshore Wind Projects.

The Straw Proposal presents a thoughtful, robust mechanism for the funding of offshore wind projects in New Jersey. In general, the proposed terms provide reasonable revenue certainty and confidence for project developers and investors to recover costs. Deepwater Wind offers additional comments on the proposed terms below.

Deepwater Wind supports the use of Electric Distribution Companies (EDCs) as payment agents. This will provide confidence to developers and project investors. EDCs are well suited for this function as a core responsibility on behalf of ratepayers already. EDCs, in general, are also considered to be credit-worthy counterparties due to the authority granted by the BPU to collect ratepayer funds. Thus, the risk of non-payment for delivery of ORECs generated by a project will be adequately reduced. This reduced risk will translate into lower capital costs from investors, and thus lower costs to ratepayers.

In addition, Deepwater Wind supports the 20-year "initial term" proposed by Staff in topic 11 of the Notice. The 20-year term is a standard practice that is familiar to project developers and provides reasonable revenue certainty for most of a project's lifetime. However, Staff also proposes in topic 17 that the BPU determine the terms and conditions for an entity to operate the wind farm following the initial OREC period for an OSW project. Deepwater Wind proposes

that the BPU also allow OREC applications to offer an alternative initial term of up to 25 years. This would allow for developers to amortize any debt used to finance the project over a longer period of time, and thus resulting in lower OREC prices for ratepayers.

3. **The BPU should minimize risks presented in the terms of the funding mechanism, OREC application, project eligibility, and project evaluation. This will result in a higher likelihood of project success, lower capital costs and thus a lower ratepayer impact.**

The greatest barriers to realizing all of the opportunities of offshore wind are financial and not technical. In that context, the most significant threat to a successful project is uncertainty that will inhibit capital to support the development of projects and the maturation of a local workforce and local supply chain. The cost of capital required to build offshore wind projects will depend on, among others, the risk of terms defined by the BPU. Therefore, OREC application and award terms should be defined with the purpose of increasing investor confidence, decreasing risk and decreasing capital costs, and thus decreasing ratepayer costs.

One important topic that we believe is not discussed explicitly in the straw is the concept of banking and borrowing of ORECs. Staff describes in topic 16 that rules must address periods in which an offshore wind project experiences a period of insufficient demand. Likewise, rules should also take into account the variable nature of wind, and the likelihood that some periods may result in insufficient supply from an offshore wind project. Banking and borrowing is essential for a project to have a meaningful opportunity to obtain the full value of its OREC offer that is accepted by the state. With this mechanism, projects that over-produce would be able to "bank" excess ORECs and use them in periods of under production, and projects that underproduce would be able to "borrow" ORECs from future periods of over production. One method of ensure balance and operational excellence would be to require a "true-up" at certain intervals. This mechanism would provide additional certainty to project revenue by depending on the longer-term average production. This would effectively reduce capital costs and thus lower ratepayer costs while maintaining project reliability.

4. **Transmission Should not be separated from Generation.**

Deepwater Wind strongly supports topic 10 in the Straw Proposal, which requires OREC pricing to be based on "all-in" costs for the construction, operation, maintenance, inter-connection, upgrades to the grid, and decommissioning of an offshore wind farm. This structure allows developers to ensure deliverability of energy and will minimize "project-on-project" risk. The separate development of generation and transmission has led to significant delays and cost

overruns for projects in Germany at the expense of ratepayers.[4,5] Separation of these components, especially requiring separate development of transmission will place unnecessary and extraordinary risk on project development and will have a detrimental impact on offshore wind development in NJ both in terms of cost and ability to execute. Project investors would likely not provide capital for the generation unless the BPU took costly measures to provide revenue certainty in case the transmission was not ready to deliver energy.

Conclusion

Deepwater Wind recognizes and appreciates the Staff's diligence and focus on these issues. Staff's Straw Proposal is an excellent next step to achieving the first projects to serve New Jersey. Deepwater Wind urges Staff and the BPU to accept the comments herein that will result in the best projects and a robust industry. We look forward to engaging with the agency and other stakeholders throughout this process.

[4] Bloomberg; Brian Parkin; June 27, 2017; *World's Biggest Offshore Wind Developer Worries About Construction Delays in Germany*; https://www.bloomberg.com/news/articles/2017-06-27/dong-says-german-grid-delay-risks-confidence-in-offshore-wind

[5] Offshorewind.biz; March 12, 2013; *Germany: One Billion Euros in Compensation for Delays in Offshore Connections*; https://www.offshorewind.biz/2013/03/12/germany-one-billion-euros-in-compensation-for-delays-in-offshore-connections/