

December 10, 2020

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**PUBLIC COPY**

**VIA EMAIL**

Aida Camacho-Welch  
Board Secretary  
Board of Public Utilities  
44 South Clinton Ave.  
3rd Floor, Suite 314  
Trenton, NJ 08625-0350

**Re: In the Matter of the Board of Public Utilities Offshore Wind Solicitation for  
1,100 MW – Evaluation of the Offshore Wind Applications  
BPU Docket No. QO18121289**

Dear Secretary Camacho-Welch:

This firm represents Ocean Wind LLC (“Ocean Wind”) in connection with the above referenced matter.

Pursuant to N.J.A.C. 14:1-12.1 et seq., we hereby submit on behalf of Ocean Wind a Public Copy of a Petition for Determination as to Pro Forma OREC Price Adjustment Schedules (the “Public Copy”).

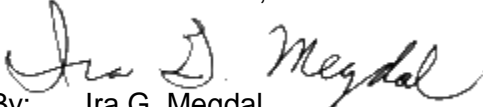
Under separate cover we are submitting to you a Confidential Copy of this letter, along with an Affidavit to substantiate the claim of confidentiality relative to the Petition.

The party designated to receive notices and other communications in connection with this matter is as follows:

Ira G. Megdal, Esq.  
Cozen O'Connor  
LibertyView, Suite 300  
457 Haddonfield Road  
Cherry Hill, NJ 08002

Sincerely,

COZEN O'CONNOR, PC

  
By: Ira G. Megdal

IGM:kn

Enclosure

LEGAL\49878366\1

BEFORE THE  
STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE BOARD OF :  
PUBLIC UTILITIES OFFSHORE WIND :  
SOLICITATION FOR 1,100 MW – :  
EVALUATION OF THE OFFSHORE : BPU DOCKET NO.: QO18121289  
WIND APPLICATIONS :  
:

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PETITION FOR DETERMINATION AS TO PRO FORMA OREC PRICE  
ADJUSTMENT SCHEDULES

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BEFORE THE  
STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE BOARD OF :  
PUBLIC UTILITIES OFFSHORE WIND :  
SOLICITATION FOR 1,100 MW – :  
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WIND APPLICATIONS :  
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PETITION FOR DETERMINATION AS TO PRO FORMA OREC PRICE  
ADJUSTMENT SCHEDULES

Ocean Wind LLC (“Ocean Wind” or the “Petitioner”) is the owner of a Qualified Offshore Wind Project (the “QOWP” or the “Project”) pursuant to N.J.S.A. 48:3-87.1, *et seq.* Ocean Wind is a Delaware limited liability company, with its principal office at 520 Pacific Avenue, Atlantic City, N.J. 08401. By this Petition Ocean Wind seeks a determination pursuant to N.J.S.A. 48:3-87.1, *et seq.* and N.J.S.A. 52:14B-8 and N.J.A.C. 14:1-5.1 that the Pro Forma schedules and supporting calculations attached to this Petition are appropriate and may be utilized in a future filing to be made with this Honorable Board (“Board” or “BPU”). In support of this Petition, Petitioner states as follows:

**I. PRELIMINARY STATEMENT**

1. This Petition arises in substantial part because of significant actions taken by Ocean Wind for the benefit of ratepayers. [REDACTED]

[REDACTED]

[REDACTED] As a result, Ocean Wind took steps intended to qualify the Project for the tax credit rates then in effect and in its QOWP application (the “Application”) anticipated utilizing 2019 credit levels. However, in December of 2019 the Disaster Tax Relief Act was signed into law. [REDACTED]

[REDACTED] In order to benefit ratepayers by

having incremental tax credits attributable to this legislative change (the “Incremental Credits”) to pass on to ratepayers, Ocean Wind took steps, including extensive renegotiations with suppliers, which are intended to qualify the Project for the Incremental Credits anticipated to be returned to ratepayers in this Petition.

2. In addition, Ocean Wind acquired Capacity Interconnection Rights (“CIRs”) which acquisitions were approved by the Board and were intended to decrease PJM Interconnection, LLC (“PJM”) system upgrade costs (the “Upgrade Costs”) and therefore provide further benefits to ratepayers.

3. This Petition is designed to allow for the smooth passing on to ratepayers of both the Incremental Credits and the ratepayer share of benefits from the CIRs, as well as to make adjustment for trueing up for actual Upgrade Costs.

## **II. NATURE OF THIS PETITION**

4. Ocean Wind hereby petitions the Board for determinations: (1) that the Pro Forma schedules attached to this Petition are in an appropriate format and use appropriate calculation methods such that they may be utilized in a future filing (the “Future Filing”) that seeks to adjust the Annual OREC Pricing Schedules (the “Pricing Schedules”), which comprised Attachment A to the Board’s Order in this docket dated June 21, 2019 (the “June 21 Order”) granting QOWP status to the Project; and (2) that certain line items contained in the Pro Forma schedules are fixed and shall not be adjusted in such Future Filing (the “Fixed Inputs”). The Pro Forma summary schedules are attached to this Petition as summary Schedule A-1, [REDACTED] and supporting Schedules B-1 and B-2 (for Upgrade Costs); [REDACTED] (i) a true-up for the Upgrade Costs in accordance with the provisions of the June 21 Order; and (ii) passing along the Incremental Credits that are expected to be greater than credits projected, in accordance with N.J.A.C. 14:8-6.5(a)5.iv. It is intended that the schedules containing actual data in place of the Pro Forma schedules will be filed with the Future Filing at a later date as detailed in this Petition.

5. The purpose of this Petition is to seek approval of the Board with the respect to the accounting and ratemaking methodologies and calculations to be used to determine the adjustments to the Pricing Schedules, so that OREC price adjustments can be expeditiously reviewed based on actual data, and approved, shortly before the Project reaches its Commercial Operations Dates (“CODs”), in order to comply with requirements and timing provided in the regulations as discussed below.

### **III. PROCEDURAL BACKGROUND**

6. Governor Murphy’s Executive Order No. 8 called upon the Board to fully implement the Offshore Wind Economic Development Act of 2010 (“OWEDA”) and to proceed with an initial Solicitation (the “Solicitation”) of offshore wind (“OSW”) capacity as a first step in meeting the State’s goal of 3,500 MW of OSW capacity by 2030 (now 7,500 MW by 2035).

7. Ocean Wind submitted the Application on December 28, 2018 in response to the Solicitation.

8. In the June 21 Order, the Board considered the applications received in the Solicitation and approved the Project, granting Ocean Wind QOWP status, and establishing Ocean Wind’s Annual OREC Allowance of 4,851,489 MWh.

9. The June 21 Order incorporated the Pricing Schedules. It also provided for a sharing of the Upgrade Costs between Ocean Wind and ratepayers (at p.18), with the Upgrade Costs mitigated by benefits from capacity interconnection right (“CIR”) acquisitions approved by the Board.

10. In the June 21 Order the Board accepted the following transmission system Upgrade Cost sharing proposal submitted by Ocean Wind and incorporated into the proposed Pro Forma schedules, as follows:

“For Ocean Wind's 1,100 MW project, the Applicant's revised transmission system upgrade cost sharing proposal is as follows:

- The Expected Case for transmission system upgrade costs is between \$36 million and \$130 million. Ocean Wind's Downside Case is up to \$174 million. Hence, Ocean Wind's revised transmission system upgrade cost sharing proposal is as follows:
  - First \$10 million -100% paid by Ocean Wind.
  - Between \$10 million and \$130 million - Ocean Wind pays 70% of costs incurred, with the remaining 30% recovered from ratepayers via the Upgrade True-Up.
  - Between \$130 million and \$174 million - Ocean Wind pays 50% of costs incurred, with the remaining 50% recovered from ratepayers via the Upgrade True-Up Costs.
  - Above \$174 million - 100% recovered from ratepayers via the Upgrade True-Up.” (at p.18)

11. The BPU established the standard for approval of any CIR acquisitions as follows: “The Board will review Ocean Wind's request on an expedited basis and will not unreasonably withhold its consent so long as the resultant cost of transmission system upgrades may be reasonably expected to be lower than would otherwise be the case absent the procurement of CIRs” (at p. 18).

12. The Board also recognized that Ocean Wind proposed that it would make CIR acquisitions which would mitigate the Upgrade Costs.

13. In this Docket on September 11, 2019 the BPU approved the acquisition by Ocean Wind of certain CIRs from Exelon Generation, LLC, and on March 27, 2020 the BPU approved the acquisition by Ocean Wind of certain CIRs from RC Cape May Holdings, LLC. In both cases the Board found that the resultant Upgrade Costs may be reasonably expected to be lower than would otherwise be the case absent the procurement of CIRs. As a result, the CIR acquisitions were beneficial to ratepayers.

14. The benefits of the two CIR acquisitions are reflected in the proposed Pro Forma schedules.

15. The BPU’s OREC application regulations require as follows: “The applicant shall demonstrate a commitment to pass along tax credits or other governmental benefits to

ratepayers that are greater than projected” (N.J.A.C. 14:8-6.5(a)5.iv). The Pro Forma schedules submitted herewith reflect the passing along to ratepayers of the Incremental Credits, which are greater than the projected 2019 levels as a result of Ocean Wind’s actions intended to qualify for the 2020 level of tax credits.

[REDACTED]

17. [REDACTED]

[REDACTED]

[REDACTED] However, that determination cannot be made at this stage of development of the Project, and must be made at a later date, once the Project has more complete information to assess the impact of each on the Project.

18. [REDACTED]

[REDACTED]

[REDACTED] However, because Ocean Wind believes that these data points will be known with some precision when the Future Filing is made, Ocean Wind is proposing that the OREC price adjustment be made on the basis of the Future Filing.

19. The June 21 Order directed Ocean Wind to submit its trued-up OREC price schedules to the Board upon the receipt of the final Upgrade Costs from PJM.

20. The CIR transactions have been consummated and the costs of both sets of CIRs are established. At this point Ocean Wind does not know the final amount of Upgrade Costs nor the final amount of tax credits with precision.

21. Ocean Wind proposes that it will submit the Future Filing to the Board and Rate Counsel (in lieu of the Pro Forma schedules) to adjust the Pricing Schedules at least 270 days prior to the first COD. At that time Ocean Wind believes that it will have sufficient data to supply schedules populated with data known at that timer and make an informed election as to ITC or PTC.

22. However, Ocean Wind requests that the BPU approve the format of the Pro Forma schedules in advance, so that at the time of the Future Filing, Ocean Wind can file in the approved format with data known at the time of filing and such OREC price adjustment filing can be considered in a timely manner. [REDACTED]

[REDACTED] Approval of the Pro Forma schedules at this time will provide clarity on the OREC adjustment process and ultimately permit a timely resolution of the OREC price adjustments prior to the CODs.

23. Ocean Wind intends to file the Future Filing on a date which is anticipated to be at least 270 days prior to the first COD. It is anticipated that the Future Filing will be subject to approval by the Board, and subject to review by Rate Counsel. It is anticipated that review of the Future Filing can then be completed within 80 days. Under Board regulations the Electric Distribution Companies (“EDCs”) must file tariffs to be effective 180 days prior to COD (N.J.A.C. 14:8-6.6(c)1). It is anticipated that the EDCs will then be able to incorporate the new OREC Pricing Schedule data into their tariffs which will have been previously approved, and meet the





28. Schedule B-2 then calculates the OREC price adjustment based on the output of Schedule B-1. In particular, [REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

31. Schedules C-2 and 3 then calculate the OREC price adjustment based on the output of Schedule C. [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

33. Schedules D-2 and 3 then calculate the OREC price adjustment based on the output of Schedule D-1. [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

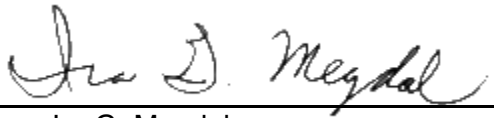
[REDACTED]

[REDACTED]

**VI. CONCLUSION**

35. For the reasons stated herein Ocean Wind requests the Board to approve pursuant to N.J.S.A. 48:3-87.1, *et seq.*, N.J.S.A. 52:14B-8 and N.J.A.C. 14:1-5.1 that the Pro Forma schedules and supporting calculations attached to this Petition are appropriate and may be utilized in the Future Filing to be made with this Honorable Board, which shall be updated for then-known costs and benefits for submission to the Board no later than 270 days prior to the Project's first COD; and that the Fixed Inputs will remain unchanged in such Future Filing.

COZEN O'CONNOR  
Attorneys for Ocean Wind LLC

By:   
Ira G. Megdal

DATED: October 26, 2020

Communications addressed to the Petitioner in this case are to be sent to:

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ATTACHED SCHEDULES

REDACTED IN FULL