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October 7, 2022  
New Jersey Board of Public Utilities  
Secretary of the Board  
44 South Clinton Ave., 1st Floor  
PO Box 350  
Trenton, NJ 08625-0350

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via: [publicaccess.bpu.state.nj.us](http://publicaccess.bpu.state.nj.us)

RE: New Jersey Board of Public Utilities Docket No. QO22080481, In The Matter Of The Opening Of New Jersey's Third Solicitation For Offshore Wind Renewable Energy Certificates, Request for Information

Dear New Jersey Board of Public Utilities Staff,

Attentive Energy LLC ("Attentive Energy") respectfully provides the following responses to New Jersey Board of Public Utilities' ("NJBPU") Request for Information ("RFI") related to New Jersey's Third Solicitation for Offshore Wind Renewable Energy Certificates ("NJ3 solicitation").<sup>1</sup>

Attentive Energy is the wholly owned subsidiary of TotalEnergies Renewables USA, LLC and part of TotalEnergies, a global multi-energy company that produces and markets energies – with a 11GW offshore wind development portfolio globally and major interest in expanding within the U.S. market. TotalEnergies has an ambition to install 100GW of global renewable power generation by 2030 and reach carbon neutrality in global business operations by 2050.

As of May 2022, Attentive Energy is the leaseholder of the 84,332-acre lease area OCS-A 0538 in the New York Bight, establishing its long-term presence in the region and commitment to deliver a community-first approach following years-long stakeholder engagement.

In this submission, Attentive Energy addresses all subject areas included in the NJ3 solicitation RFI.

## **A. Project Design**

### **1. What are the benefits and challenges of the Board requiring submittal of minimum and/or maximum project capacity bid sizes?**

We applaud New Jersey's recent Executive Order No. 307 calling for an increased offshore wind target of 11 GW by 2040 – it is imperative that we work expediently to combat climate change, and offshore wind is a key tool to make meaningful progress. To achieve this goal, we encourage NJBPU

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<sup>1</sup> Portions of this response contain confidential, proprietary, and/or commercially-sensitive information. Attentive Energy has submitted a Confidential Copy of this response that should be treated as a non-public record that is exempt from disclosure to the extent permitted under applicable laws and/or as expressly set forth in the RFI. Attentive Energy has also submitted a redacted version of this response that should only be released to the public to the extent permitted under applicable laws and/or as expressly set forth in the RFI. All notices or other communications regarding the confidential nature of this response should be directed to Attentive Energy's Senior Legal Counsel Murray Greene, [murray.greene@totalenergies.com](mailto:murray.greene@totalenergies.com).

to increase the capacity targets of the remaining solicitations in the Offshore Wind Solicitation Schedule. [REDACTED]

[REDACTED] Developers<sup>2</sup> need the certainty of an OREC contract to progress development and commit to large-scale procurement contracts, especially when global supply chain bottlenecks require developers book supplier manufacturing slots multiple years in advance of the previous industry norm. [REDACTED]

[REDACTED]

[REDACTED]

- 2. Board Staff is considering project design nameplate submissions approximately equal to 1,200 MW, while preserving the need for flexibility in its evaluation of project nameplates that significantly diverge from the target nameplate of 1,200 MW. Is there an optimal project capacity size such that multiples of this installed capacity foster efficient OREC pricing, and if so, how is that optimal project capacity size determined?

[REDACTED]

[REDACTED]

<sup>2</sup> In this response letter, Attentive Energy uses the term “developers” to refer to offshore wind developers generally or to refer to those who may elect to respond to the NJ3 solicitation; these are sometimes also referred to as “applicants” in the RFI.

**3. What considerations should guide the determination of minimum and/or maximum project bid sizes?**

Please reference responses to question A.1, as well as to question 5 for further details on project sizing considerations.

**4. What technical, economic, or environmental considerations affect proposed project sizes?**

Proposed project sizes can be affected by various technical considerations, including:

- Transmission (i.e., HVAC or HVDC, number of offshore substations, number of export cables, etc.);
- Wind turbine spacing, which influences wind farm production (developers must consider optimal layout with respect to various factors, including number of turbine positions, wake effects, and more); and,
- Number of turbine positions, which can be affected by factors such as bathymetry and soil conditions.

Proposed project sizes can be affected by economic considerations, including:

- Economies of scale, which motivate developers to design a project to the highest capacity to which is technically and environmentally feasible; and,
- State-led policies that encourage/allow larger capacity projects to generally improve developer economics and therefore benefit ratepayers in the form of lower OREC pricing.

Proposed project sizes can be affected by environmental considerations, including:

- Number and location of WTGs and export cable routes are chosen and sited to minimize potential impacts on protected species, sensitive habitats, and navigation concerns;
- Onshore landfall locations are chosen, and routing is designed, to minimize potential impacts to coastal habitat and wetlands; and
- Height of WTGs with respect to Federal Aviation Administration or Department of Defense interests, as well as visibility concerns from the shore.

**5. What, if any, transmission technology constraints, such as cable or converter station capacity, would directly affect project size?**

[Redacted content]

[REDACTED]

[REDACTED]

[REDACTED]

6. What are the benefits and challenges of the Board allowing the inclusion of energy storage in applicant's projects?

[REDACTED]

[REDACTED]

[REDACTED]

- 7. If developers are encouraged or required to include energy storage in their proposal, specific guidance should be given on minimum design requirements and how energy storage will be evaluated and scored in the overall proposal evaluation. If energy storage is included in a proposal, should there be specific parameters in the SGD around how it should or must be interconnected, deployed, and operated to optimize grid reliability and economic benefits to New Jersey ratepayers?

[Redacted]

**B. Economic Impacts and Strength of Guarantees for Economic Impacts**

- 8. Board Staff is considering requiring deposits that are refundable if firm economic benefits guarantees are met - or a damages term if economic benefits are not met - that would be applicable to all applicants.

- a. What are the benefits or challenges of implementing such a requirement?

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

- b. How would such requirement affect the level of proposed economic benefits and guaranteed economic benefits applicants submit?

[REDACTED]

[REDACTED]

[REDACTED]

- c. Under such a framework, what deposit forfeitures or damages should be imposed if there are shortfalls relative to the firm economic benefits guarantees?

[REDACTED]

- d. Under such a framework, what is the difference between a deposit forfeiture or damages term that will facilitate meeting the firm economic benefits guarantees and those that are punitive?

[REDACTED]

- e. Under the deposit forfeiture framework, how should at-risk deposit amounts be guaranteed? Should the Board require a letter of credit from a creditworthy third party, or should parental guarantees be accepted?

[REDACTED]

- 9. Proposed economic benefits require pledges or guarantees from applicants to ensure timely realization. What are the practical limitations of such pledges or guarantees?

[REDACTED]

- 10. Is there a specific guidance to applicants that should be incorporated in the SGD to support the identification of benefits and impacts to Environmental Justice or Overburdened Communities, as identified in the 2019 New Jersey's Energy Master Plan and New Jersey's Environmental Justice Law, N.J.S.A. 13:1D-157?

Attentive Energy understands and appreciates the need for developers to minimize the projects' negative environmental impacts on and maximize the benefits to Overburdened Communities ("OBC"). [REDACTED]

[REDACTED]

An OBC, as defined by N.J.S.A. 13:1D-157, is any census block group, as determined in accordance with the most recent United States Census, in which:

- at least 35 percent of the households qualify as low-income households (at or below twice the poverty threshold as determined by the United States Census Bureau);
- at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or,
- at least 40 percent of the households have limited English proficiency (without an adult that speaks English "very well" according to the United States Census Bureau).

New Jersey's Environmental Justice Law requires the Department of Environmental Protection to evaluate the environmental and public health impacts of the following facilities on OBCs when reviewing specific types of permit applications:

- Major sources of air pollution (i.e., gas fired power plants and cogeneration facilities);
- Resource recovery facilities or incinerators;

- Sludge processing facilities;
- Sewage treatment plants with a capacity of more than 50 million gallons per day;
- Transfer stations or solid waste facilities;
- Recycling facilities that receive at least 100 tons of recyclable material per day;
- Scrap metal facilities;
- Landfills; or,
- Medical waste incinerators, except those attendant to hospitals and universities.

[REDACTED]

**11. How should Board Staff consider the benefits and impacts to Environmental Justice and Overburdened Communities when evaluating projects?**

[REDACTED]

**12. Is there specific guidance to applicants that should be incorporated in the SGD to support the dissemination of benefits to Environmental Justice and Overburdened Communities? For example, the suggestion or requirement to (1) engage with these communities on job training and supply chain opportunities, (2) define the benefits that applicant expects to provide to these communities, including potentially binding or voluntary job creation targets, and (3) explain how the applicant intends to deliver those benefits.**

The SGD should seek input from developers on information that will be provided to Minority and Women-Owned Business Enterprises (“MWBE”) businesses to seek pathways of opportunity in the sector. This might include informational sessions/fairs, business surveys, dissemination of materials through business organizations, and on the ground outreach to business owners. The SGD should include guidance on project labor agreements, as well as grants to MWBE and Service-Disabled Veteran-Owned Businesses (“SDVOB”).

[REDACTED]



[REDACTED]

**13. What are the potential benefits and impacts to Environmental Justice and Overburdened Communities associated with the construction and operation of offshore wind projects and the accompanying onshore infrastructure?**

The potential impacts to environmental justice and OBCs would mainly be temporary and associated with onshore construction activities, which will be regulated by local, state, and federal rules. Such impacts may include temporary road closures and construction noise. There might also be some instances of increased land disturbance if substation enlargement is required.

The potential benefits to these communities should be long-term and designed to be more long-lasting. The possible diversity of such benefits is expansive and could range from public health improvements such as green infrastructure, urban planning, and agriculture, to improved educational and job training opportunities, to increased avenues for direct employment.

**14. How should applicants be required to report on progress toward meeting their commitments to Environmental Justice and Overburdened Communities and engagement with these communities?**

[REDACTED]

[REDACTED]

15. Are there additional specific requirements, beyond those included in the Second Solicitation's SGD that should be considered for the Economic Development Plan?

[Redacted]

**C. Performance Guarantees**

16. What mechanism could be included in a Board Order to ensure that the proposed nameplate capacity of the Project is constructed as set forth in the Order?

[Redacted]

[Redacted]

17. What are the potential benefits and impacts of assessing a performance guarantee for failing to construct, or constructing less than, the proposed nameplate capacity?

[Redacted]

18. If performance guarantees are to be incorporated in the Board Order governing the delivery of ORECS, how could a completion guarantee be structured to irrevocably and unconditionally guarantee performance by a certain date?

[Redacted]

[REDACTED]

**19. Regarding protection of ratepayer interests:**

- a. How would the inclusion of a performance guarantee requiring performance by a certain date affect an applicant's OREC offer price?

[REDACTED]

- b. What measures could be taken to protect New Jersey ratepayer interests?

[REDACTED]

- c. Can the cost of a performance guarantee be laid off to a guarantor at good value from New Jersey ratepayer's standpoint? If not, why not?

[REDACTED]

**20. N.I.A.C. 14:8-6.6(b)(4) allows ORECs in excess of the Annual OREC Allowance in a given year to be carried forward to the next year if there are unmet ORECs in that year. How should the Board Order address a circumstance where there are persistent unmet ORECs of the OREC term?**

[REDACTED]

[REDACTED]

**D. Inflation/Deflation Adjustment**

**21. Please comment on your expectations for near-term (through 2025), medium-term (through 2030), and long-term (through 2050) inflation and the impact on OREC pricing and provide the basis for this outlook.**

[Redacted]

[Redacted]

**22. What are the benefits and challenges of including an inflation adjustment mechanism in the Third Solicitation to account for changes in commodity pricing and labor costs?**

[Redacted]

[Redacted]

**23. Describe how an inflation adjustment mechanism could affect OREC pricing.**

[Redacted]

[Redacted]

**24. If an inflation adjustment is included, what are the elements of residual inflation risk?**

[Redacted]

[REDACTED]

25. What are the advantages and disadvantages of a requirement to propose (a) a fixed OREC price without inflation adjustment and (b) an inflation adjustable OREC price, versus making one or both optional?

[REDACTED]

[REDACTED]

26. If an applicant offers both a fixed OREC price and an adjustable OREC price, and if the applicant's project is selected, what is the latest date that the pricing option could be chosen and why?

[REDACTED]

27. Describe how an inflation adjustment mechanism could affect the project development timeline and/or viability of an offshore wind project.

[REDACTED]

28. What are the benefits and challenges of (i) applying the inflation adjustment in lieu of an annual escalator on the OREC price or (ii) allowing bids with inflation adjustment to also include an escalator?

[REDACTED]

[REDACTED]

[REDACTED]

**29. Should the inflation adjustment mechanism be based on a single defined index or multiple indices?**

[REDACTED]

**30. What publicly available index or indices are most suitable to capture applicants' exposure to inflation during the project development period? Please explain the relevance of the index or indices you suggest. If the index is not publicly available, how would you suggest the Board meet its goal of transparency and openness?**

The Board should consider the Producer Price Index as well as the following indices for labor, copper, and steel, which provide relevant proxies for the commodity costs that developers face:

- Steel: U.S. BLS PPI, Data Series PCU331110331110
- Labor: U.S. BLS, Employment Cost Trends, Data Series CIU2020000000000I
- Copper: COMEX spot prices

**31. If multiple indices are used, please provide any suggestions on how they should be weighted for purposes of tracking key component costs, including calculation examples. Please identify suggested sources, either proprietary or public, that represent the best information source.**

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

**32. What are the benefits and challenges of applying the adjustment to all versus only a specific percentage of the OREC price?**

[Redacted]

[Redacted]

**33. What is an appropriate way to set the baseline value of the inflation index or indices at the time of bid submission, for example an annual average or discrete monthly value?**

[Redacted]

**34. Regarding the milestone for determining the price adjustment date:**

**a. What is the best milestone for determining the price adjustment date?**

[Redacted]

**b. What are the benefits and challenges of the milestone being a fixed calendar date versus the date of a defined event?**

[Redacted]

- c. Please explain your choice of milestone date and how it could be unambiguously defined.

[Redacted]

- d. If there is ambiguity, please explain why it should be considered.

[Redacted]

**35. Regarding the potential inclusion of a "deadband" (i.e., the amount that the OREC price is adjusted when the adjustment resulting from applying the change in index (up or down) exceeds a certain percentage of the OREC price):**

- a. What are the benefits and challenges of including a deadband in the inflation adjustment?

[Redacted]

- b. What are the benefits and challenges of a symmetric vs an asymmetric deadband?

[Redacted]

- c. What is a reasonable deadband percentage to apply and why?

[Redacted]

- d. What would be the impact on OREC pricing if there is a deadband on the adjustment and why?

[Redacted]



**36. What specific content in regard to the inflation adjustment factor in a Board Order awarding a project would strengthen an applicant's ability to execute binding agreements on a timely basis with primary original equipment manufacturers ("OEMs")?**

[Redacted]

**E. Environmental and Fisheries Mitigation Plan**

**37. Are there additional specific requirements, beyond those included in the Second Solicitation's SGD, that should be considered for the Environmental Protection Plan?**

The list of requirements is comprehensive, and no additional measures appear to be needed.

**38. Are there additional specific requirements, beyond those included in the Second Solicitation's SGD, that should be considered for the Fisheries Protection Plan?**

The list of requirements is comprehensive, and no additional measures appear to be needed.

**39. Please discuss opportunities for sharing environmental data collected prior to and during pre-construction surveys and baseline monitoring regarding the spatial and temporal presence of marine mammals, fish, aquatic invertebrates, sea turtles and avian species and bats, as well as benthic habitats, with the environmental community, including, but not limited to, the New Jersey Department of Environmental Protection ("NJDEP") and other state agencies and regional entities.**

Attentive Energy intends to share, as appropriate, the environmental data it collects prior to and during pre-construction surveys with NJDEP (as the lead and coordinating state agency), as it understands this information is important for multiple reasons. However, the timing of when certain environmental data will be shared can vary by the type of information. Some information might be important to share close to real-time – such as with real-time marine mammal monitoring – and some can be shared after it has been analyzed and submitted to BOEM with the Construction and Operations Plan ("COP") – such as wetland survey information. As a developer, we are bound to, and respectful of, the federal BOEM NEPA process. Hence, depending on the timing of the review process, sharing information with NJDEP and other state agencies can sometimes be difficult after a COP has been submitted. Attentive Energy recommends NJDEP work closely with BOEM to clarify if BOEM has concerns regarding a developer sharing environmental information with the State during the COP review and NEPA processes.

**40. What is the scope of environmental data that can or should be required to be shared, for example, pre-construction data that is included in the Construction and Operations Plan submitted to BOEM, all pre-bid data, or a sub-set thereof?**

The expectation should be that all data collected will be shared, unless it is confidential; however, the timing of when it should be shared varies by the type of data. Some environmental data are more time sensitive than other information and it might benefit multiple parties if it is shared real-time.

For example, if a developer chooses to conduct real-time passive acoustic monitoring for marine mammals, then there would be multiple benefits of that information being shared broadly as soon as possible. Other data, such as avian survey data, is probably best shared during BOEM’s NEPA process. It is at that stage when the information has been fully collected and analyzed and will be most valuable for the public and the State.

**41. Please explain the types of environmental data obtained prior to and during pre-construction surveys, during construction and during operation that applicants would consider to be proprietary and explain why.**

Data collected that indicates some specific project details, such as routing (e.g., wetland surveys) or layout (e.g., geophysical surveys), are proprietary and best shared during BOEM’s NEPA process. Other data are not necessarily proprietary, but may not be readily available (e.g., fully collected and analyzed) until the developer is just ready to submit their COP to BOEM. Once submitted, those data are reviewed and edited based on BOEM’s input. Therefore, sharing data prior to BOEM’s review may lead to confusion and inefficiencies.

**42. What delays may exist in making proprietary data available and why?**

The timing of when to share information is affected by when the data have been collected and analyzed, whether the COP has been submitted to BOEM, and whether BOEM has initiated the NEPA process. These timing steps apply to all environmental data, not just proprietary data.

**43. Please describe potential plans for collecting environmental, wildlife and/or fisheries data (through either pre-construction or operations-phase research and monitoring) that could be used to inform mitigation actions and/or decisions.**

[Redacted]

[Redacted]

44. What requirements for stakeholder review of mitigation and monitoring plans are reasonable and appropriate for the awarded project?

[Redacted]

45. NJDEP is interested in opportunities to collaborate with other Atlantic seaboard states to integrate data regarding the spatial and temporal presence of marine mammals, fish, aquatic invertebrates, sea turtles, avian species and bats, as well as benthic habitats. Discuss opportunities and potential barriers that may exist.

[Redacted]

46. What information is available about embodied carbon in applicants' proposed supply chains? What types of embodied carbon data can applicants report?

[Redacted]

**47. The Second Solicitation required a fee of \$10,000/MW to support regional research and monitoring. Is a similar fee to support regional research and monitoring reasonable and appropriate for the Third Solicitation? Why or why not?**

[REDACTED]

**F. Evaluation**

**48. Are there any criteria relevant to the evaluation of the Environmental and Fisheries Protection and Permitting Plans, as represented in Section 4.2 of the Evaluation Report for the Second Solicitation that should be added or any criteria that are not relevant and should be removed?**

The current criteria are reasonable and seem sufficient.

**49. Are there any criteria relevant to the evaluation of the "Likelihood of Successful Commercial Operation," as represented in Section 5 of the Evaluation Report for the Second Solicitation that should be added or any criteria that are not relevant and should be removed?**

The current criteria are reasonable and seem sufficient.

**Additional Comments**

We also offer some additional comments that are not directly in response to this NJ3 OREC RFI, but that cover important topics that we feel will help to create a more transparent, competitive, and responsible NJ3 OREC outcome.

[REDACTED]

[REDACTED]

**Stakeholder Engagement Section:** Attentive Energy recommends that NJBPU include a dedicated stakeholder engagement section in the SGD. We envision this section as a requirement that all applicants must respond to in their proposal narrative document. It is clear that early and active engagement with different communities and stakeholder groups is pivotal to the success of any large-scale energy project. This proposed new section would allow developers to describe stakeholder engagement activities undertaken to date, as well as planned commitments during all phases of their projects. In past NJ OREC solicitations, there did not appear to be a specific section dedicated to stakeholder engagement and outreach; however, Attentive Energy feels that this would be meaningful addition to this third OREC solicitation.

We again thank NJBPU for the opportunity to provide feedback, and ask questions, in response to NJ3 OREC RFI. We look forward to supporting New Jersey and its communities as a long-term partner. If you have any additional questions or seek clarification to any of our responses, please do not hesitate to contact me at [christen.wittman@totalenergies.com](mailto:christen.wittman@totalenergies.com) or (508) 272-6987.

Sincerely,



Christen Wittman  
Project Director