

**BEFORE THE
NEW JERSEY BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE OPENING OF
NEW JERSEY’S THIRD SOLICITATION
FOR OFFSHORE WIND RENEWABLE
ENERGY CERTIFICATES (OREC)

COMMENTS
DOCKET NO. QO22080481

**COMMENTS OF NEXTERA ENERGY TRANSMISSION
MIDATLANTIC HOLDINGS, LLC**

NextEra Energy Transmission MidAtlantic Holdings, LLC (“NextEra”) respectfully submits comments to assist the New Jersey Board of Public Utilities (“Board” or “BPU”)’s Third Solicitation (“Third Solicitation”) For Offshore Wind Renewable Energy Certificates (“OREC”). NextEra commends New Jersey and the Board for its leadership in the recent State Agreements Approach (“SAA”), which was a first of its kind solicitation proactively preparing the transmission grid for offshore wind in a cost-effective manner.

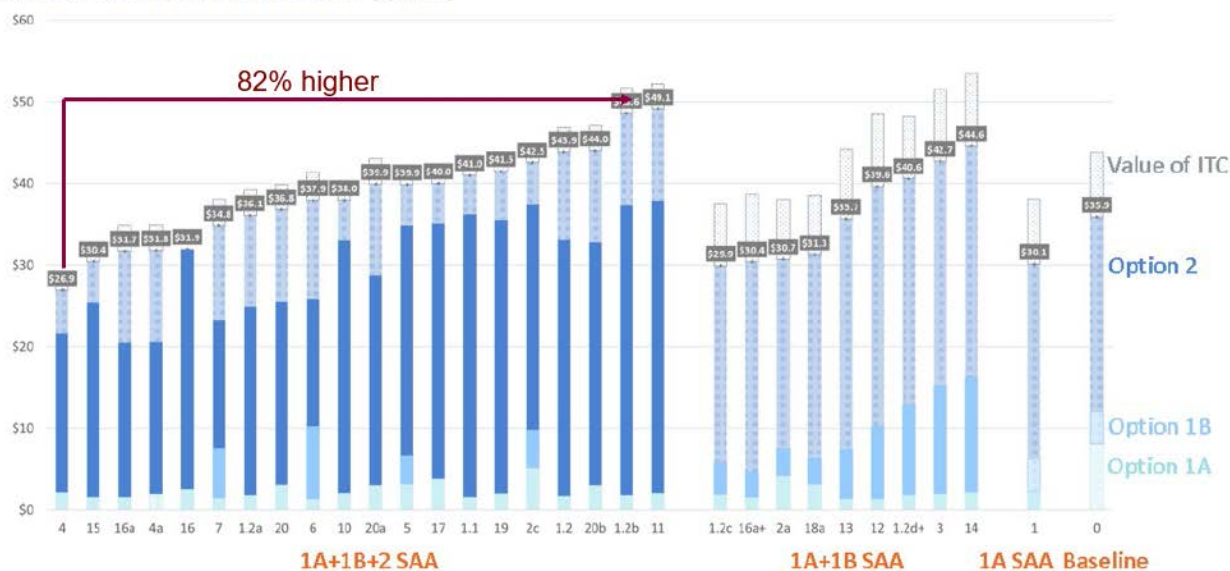
To ensure New Jersey ratepayers receive the most competitive pricing in the Third Solicitation, the BPU should modify the Third Solicitation to facilitate the comparison of transmission proposals to the OREC proposals. As illustrated in Figure 4, below, NextEra’s proposed modification includes BPU augmenting the Third Solicitation to include an SAA process to allow transmission companies to bid on the transmission export system, as defined in Figure 2 below. The Third Solicitation should also be modified to request offshore wind generators to provide separate OREC pricing for the offshore wind and/or the transmission export system in separate binding bids. The benefits of the modifications to New Jersey are significant, because they provide the foundation for reducing the costs of offshore wind and additional project execution certainty, which will increase the ability to achieve New Jersey’s goals of 11,000 megawatts (“MW”) of offshore wind by 2040.

1. Conducting a Transmission Request for Proposal will reduce costs to customers

Under the currently proposed structure of the Third Solicitation,¹ only the 6 companies who own offshore wind can bid.² In contrast, the first SAA process involved the participation of significantly more competitors, including 80 proposals from 13 different companies, which as explained below drove down pricing. Opening the Third Solicitation to both transmission companies and offshore wind generators will provide New Jersey significant competition on pricing, because it will increase the number of competitors, likely driving down their bid in price.

Figure 1: SAA Proposal Costs

FIGURE 5: SAA SCENARIO LEVELIZED COST (\$/MWH)



¹ New Jersey Offshore Wind Solicitation #3, Solicitation Guidance Document, page iv states that a qualified project is defined as “a Project that is approved by the Board to be funded through ORECs”.

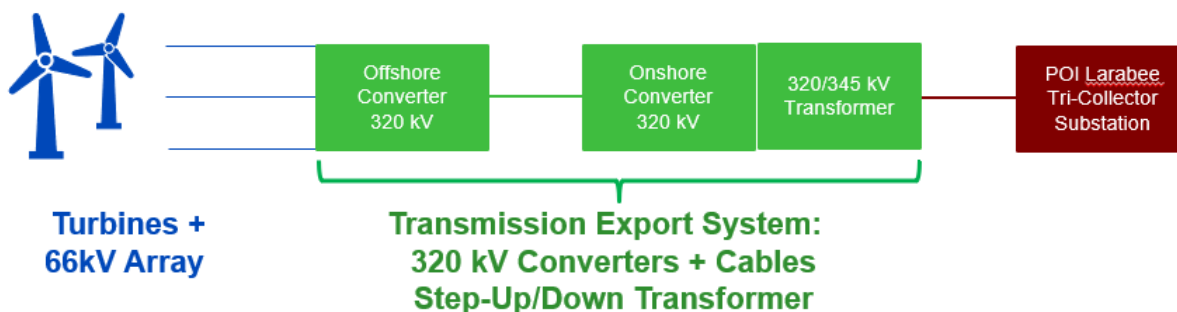
² Attentive Energy LLC, Vineyard Mid-Atlantic LLC, OW Ocean Winds East LLC, Community Offshore Wind, LLC, Invenergy Wind Offshore LLC, and Atlantic Shores Offshore Wind entities owned by EDF Renewables and Shell New Energies.

As shown in Figure 1³, bids in the first SAA process ranged up to 82% higher than the lowest cost option with significant spread between bidders demonstrating the benefits of competition. For example, the difference from proposal 4 and proposal 11 would have accounted for \$8 billion⁴ in additional customer costs. The SAA process has shown that when procuring contracts of this magnitude, soliciting more bids will greatly benefit customers.

2. A transmission proposal provides New Jersey lifetime access to major offshore wind transmission infrastructure

Further benefits to New Jersey of procuring transmission through an SAA process includes ownership of the transmission export system as depicted below in Figure 2.

Figure 2: Transmission Export System Ownership



At the end of the OREC contract of 20 years, the transmission export system belongs to the offshore wind generator. For New Jersey to utilize the system to transport offshore wind after expiration of the initial contract, another contract would need to be negotiated with the offshore wind generator. This can lead to New Jersey paying rates significantly in excess of the cost of the

³ Figure from New Jersey State Agreement Approach for Offshore Wind Transmission: Evaluation Report, Figure 5 on page 105.

⁴ The difference between proposal 4 and proposal 11 was calculated as \$/megawatt hour (“MWh”) levelized cost multiplied by the present value of the MWhs. The present value of MWhs was calculated by using the proposal MWs (proposal 4 at 6010 MW and proposal 11 at 6399 MW), 45% capacity factor for 50 years and present valued at a 6% discount factor.

system because offshore wind generators will be able to extract market priced contracts, not cost based contracts. Figure 3 below demonstrates the differences between the OREC construct and the transmission construct. Additionally, the costs for continued access to the system are unknown until a new contract is negotiated in the 2050 time period.

Figure 3: OREC and Transmission Construct Differences



Alternatively, under the SAA transmission construct, New Jersey has the right to utilize the export system for the life of the equipment and only pay the cost of the system through regulated rates. Additionally, with New Jersey potentially expanding the offshore transmission network in the future to accommodate an offshore grid, exclusive access to the transmission export system would be extremely important to achieving that goal.

3. Putting major transmission infrastructure in OREC contracts increases the risk of transmission infrastructure not being built

BPU has stated that ORECs are “...considered best-in-class in terms of ratepayer protections”⁵ and BPU’s offshore wind solicitations award an OREC contract for both the wind farm and the transmission export system. However, the contracts are not as firm as the BPU has believed as many offshore wind generators are canceling projects and/or renegotiating pricing of contracts including the below examples:

⁵ Order on the State Agreement Approach SAA Proposals, Docket No. QO20100630, 10/26/2022, pg. 45

- Commonwealth Wind filed a motion to cancel its contract with Massachusetts utilities, and plans to rebid the project in future solicitations;⁶ and
- Mayflower Wind asked Massachusetts Department of Public Utilities to renegotiate its contract.⁷

Put simply, an OREC does not prevent offshore wind developers from negotiating adjustments to the contract or abandoning the project altogether. Additionally, executing one contract for both the generators and transmission export system increases execution risk for New Jersey because if there are complications, unforeseen costs or financial distress of a company, both projects fail. New Jersey should procure transmission and generation separately to reduce the execution and financial risk for New Jersey customers.

4. The BPU should not limit competition by assuming transmission providers cannot access the Investment Tax Credit (“ITC”)

As stated in the SAA evaluation report, the Internal Revenue Service (“IRS”) has yet to specifically rule on the eligibility on equipment such as the transmission export system for the ITC. However, once property is determined to be qualified property by the IRS, the taxpayer that constructs or acquires the qualified property is entitled to the ITC regardless of whether that taxpayer owns other qualified property within the renewables project. There is no requirement that the taxpayer own the entire qualified investment credit facility in which the qualified property is used as an integral part. Rather, the guidance strongly suggests that each type of property listed in Treasury Regulation 1.48-9(e)(1) (such as power conditioning equipment) that function together to produce electricity from wind generation is entitled to the ITC on a standalone basis.

⁶ See Commonwealth Wind [Motion to Dismiss](#) in Massachusetts Department of Public Utilities Docket Nos. D.P.U. 22-70, 22-71, and 22-72 filed on December 16, 2022.

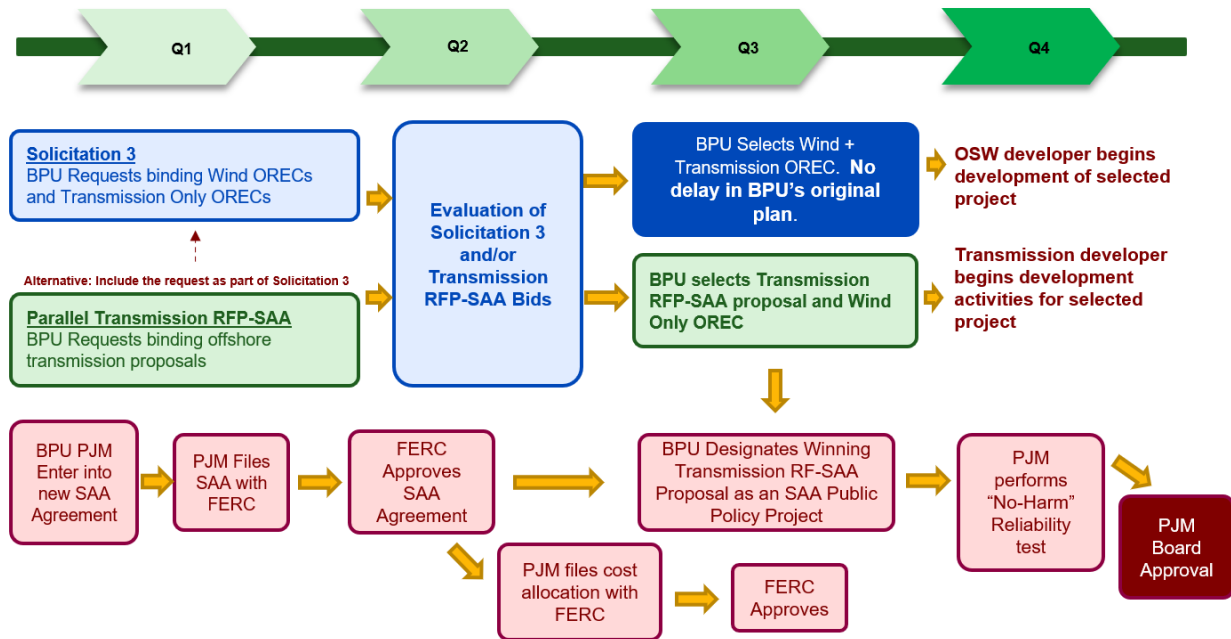
⁷ On October 27, 2022, Mayflower Wind filed an [Answer](#) in Massachusetts Department of Public Utilities Docket Nos. D.P.U. 22-70, 22-71, and 22-72 where it acknowledged that additional time “to discuss the potential for amendments to the PPAs to help establish sound economics and financeability of the respective Projects, in light of extraordinary economic conditions” is warranted.

Additionally, affiliates of NextEra have built and financed projects with equipment owned by different entities (*e.g.*, solar equipment owned separately from an attached storage project). In these instances, all the equipment (solar and battery) has been ITC eligible. The financing of these projects require major financial institutions fully vetting the separate ownership issue and obtaining favorable opinions on ITC eligibility from their tax counsel. In light of the ability of separate entities being able to own different parts of a project and be ITC eligible, the BPU should not assume ITC eligibility is limited to only offshore wind generators for purposes of evaluating bids.

5. A modified Third Solicitation can be streamlined to minimize delays to New Jersey's offshore wind procurement schedule

To support the continued progress on offshore wind, while also allowing New Jersey competitive pricing, the modification discussed herein can run in parallel with the SAA. Figure 4 outlines a timeline and options which allow the BPU to solicit more bids and potentially more competitive pricing. There are two notable differences that would make this type of SAA different than the SAA conducted in 2021: (1) BPU would conduct the competitive solicitation instead of PJM and subsequently designate a transmission proposal as an SAA public policy project; and (2) Transmission bids will utilize the same point of interconnection, the Larrabee Tri-Collector, streamlining bids and allowing BPU to quickly compare both OREC and SAA bids to select the lowest cost combination.

Figure 4: Modified SAA process



BPU should solicit transmission bids and conduct its own competitive process by requiring offshore wind developers to provide a binding OREC price for the transmission export system (see Figure 2) and for the wind component (turbines and array). This slight modification for OREC bids would allow BPU to compare the OREC pricing directly against the cost of transmission proposals and determine the best combination of transmission and wind to move forward with.

The proposed SAA process would also require all bidders to use the Larrabee tri-collector location, and, therefore, does not require PJM to perform extensive evaluation of the first SAA process. Rather, the BPU would conduct an evaluation focused primarily on cost to customers, since the electrical performance of all proposals going to the Larrabee Tri-collector would be identical. Upon completing its evaluation, BPU would then have the option of designating a proposal as a SAA public policy project.

Additionally, BPU can specify certain requirements as it relates to cost containment, standardizing assumptions related to location of offshore platforms for SAA proposals, MWs

desired, and cost adjustments to platform locations or MW sizing. This would allow BPU to quickly compare bids on an apples-to-apples basis and ensure that accurate and expedient decisions could be made when comparing OREC bids versus SAA bids.

In conclusion, NextEra respectfully requests that the BPU modify Third Solicitation. As discussed herein, the award of the Larrabee tri-collector allows for significant streamlining of the process and minimize delays to New Jersey's procurement schedule. In return, New Jersey would potentially realize billions of dollars in savings to achieve their offshore wind goals.

Respectfully Submitted,



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January 13, 2023