

January 13, 2022

President Joe Fiordaliso
New Jersey Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Trenton, NJ 08625

RE: NJ Board of Public Utilities Docket QO22080481; New Jersey's Third Solicitation for Offshore Wind Renewable Energy Certificates (OREC)

President Fiordaliso:

On behalf of the undersigned organizations and the hundreds of thousands of New Jersey residents we represent, we strongly support Governor Murphy's continued leadership to accelerate responsible offshore wind development as a critical climate solution and essential resource for meeting the state's clean energy goals. We applaud the Board of Public Utilities' nation-leading actions to date to fulfill this vision, and we appreciate the opportunity to comment on the draft of New Jersey's Third Offshore Wind Solicitation Guidance Document.

Now is the moment to ensure that all projects built to power New Jersey are built responsibly with strong environmental protections and forceful commitments to benefit local communities in place. We urge New Jersey to continue its efforts to advance the responsible development of offshore wind power by ensuring a clear and effective project-selection process that prioritizes and advances these values.

Solicitation Size

We welcome the increase in size of this solicitation to up to 4,000 MW, or more at the Board's discretion. Awarding this volume of offshore wind contracts will help ensure that New Jersey continues to build momentum, driving investments in local port development and other necessary infrastructure. As states to the north and south also accelerate their offshore wind programs, it is essential that we provide certainty to the marketplace regarding New Jersey's long-term, large-scale commitment to buying offshore wind power.

Materials Required from Applicants

We support the Board's requirements for Applicants to submit audited financial statements and disclose in detail business bankruptcies, defaults, disbarments, investigations, indictments, or other actions against either the Applicant, its parent company, affiliates, subsidiaries, or any key employees identified above. In addition to these, we urge the Board to consider additional measures including but not limited to benefits and wages, diversity, corporate governance policies, labor disputes, workplace safety audits, and CEO/median pay ratio. Within the project description, Applicants should also be required to submit standards and procedures related to safety and training and their plans for operating within those standards, including oversight and enforcement.

Economic Development Plan

We deeply appreciate the Board's emphasis on supply chain and making New Jersey a hub for offshore wind within the solicitation guidance document. We believe these goals will be most effectively advanced by establishing a minimum domestic content preference for selected projects and a waiver process for cases where content is not available domestically or in the public interest. In addition, Applicants should be required to submit available information and data regarding emissions related to intended use of ports, in-state manufacturing, and transmission, and their plans for avoiding, minimizing, and mitigating emission impacts. These plans should include at a minimum consultation with impacted communities and exploration of a legally binding community benefits agreement (CBA).

We strongly advocate for the Board to add provisions that require Awardees to meet targeted hire requirements, minimum contracting with Disadvantaged Business Enterprises (DBEs) and to enter into enforceable CBAs that can maximize the public benefit from offshore wind projects. When the BPU and relevant agencies enter into contracts with offshore wind developers, manufacturers, and operators, these companies should commit to good jobs and equity measures to ensure existing and future workers and their communities also benefit with jobs and training opportunities.

CBAs are binding agreements between a private company and a coalition of community and labor groups. They outline commitments to a range of high-road job standards and equity measures including workforce training to meet the specialized needs of a relevant industry. CBA goals and commitments are up to the local community coalition and the company and often include union neutrality and at a minimum include commitments to diverse hiring, and a jobs pipeline with skills training. Companies benefit from the broad expertise of community, workforce, education, labor, and environmental partners to hire well-trained people from the local community, focusing particularly on supporting people of color, women, veterans, and returning citizens who face systemic barriers to manufacturing careers. CBAs allow coalitions of community-based groups, workforce development organizations, labor unions, and other social justice advocates to ensure even deeper equity commitments and high-road hiring practices and provide a means of oversight to ensure Awardees are delivering on the commitments in their bids.

The solicitation should require Applicants to submit information about training programs related to the jobs benefits they describe. This information should include strategies to provide equitable training access for a diverse workforce such as partnerships with unions, earn-while-you-learn registered apprenticeship and pre-apprenticeship programs, recruitment strategies such as establishing partnerships with community groups, retention strategies such as providing wrap-around services, and career development such as requiring job interviews upon completion of a training program.

The solicitation should also include minimum job quality standards including safety, union neutrality, prevailing wage, employee benefits, and project labor agreements (PLAs) or community workforce agreements (CWAs). At the very least, these job quality standards should be explicitly considered in the evaluation of projects. Job quality standards will benefit all New Jerseyans and ensure projects maximize the benefits they deliver to the state. PLAs specifically can reduce project cost for developers, save public funds in the long run, and result in increased economic benefits for the local economy. Reports indicate that PLAs decrease the significant gap between expected and realized energy savings in various energy efficiency measures, ensure use of a skilled workforce and often avoid labor disputes which allows for a

project to move forward with greater efficiency. Workers are also benefited by utilizing PLAs, even nonunion workers, because they ensure that wages and benefits are defined and protected as local standards. And, most importantly, PLAs often lead to safer working conditions as a result of a more skilled workforce. A recent report based on OSHA data found that union worksites are 19% less likely to have an OSHA violation and had 34% fewer violations per OSHA inspection than non-union worksites.

Union neutrality agreements are also essential for achieving greater benefits for workers outside of the construction sector. Union neutrality commitments ensure that workers have the free and fair choice to join a union without employer involvement. The Bureau of Labor Statistics reports that nonunion workers earn 83% of what unionized workers earn and that when workers have unions, wages rise for union and nonunion workers. Furthermore, a White House report, “Working Organizing and Empowerment” states that union approval is at its highest since 1965, with 68% of Americans approving of labor unions. Support rates increase to 74% for workers aged 18 to 24, 75% for Hispanic workers, 80% for Black workers, and 82% for Black women workers.

Stakeholder Engagement Plans

Effective stakeholder engagement reduces the burden of stakeholders and creates accountability for Awardees. We recommend that the Board require Awardees to submit a stakeholder engagement plan and provide quarterly updates made publicly available on its progress that includes measures taken to incorporate stakeholder feedback. We also recommend that the Board requires Applicants to describe their plans for reducing the burden of impacted stakeholders such as through setting expectations up front, letting stakeholders know how their input will be used, engaging stakeholders in setting priorities and measuring progress, and identifying what information or resources stakeholders might need to engage. Applicants should also be required to submit a target stakeholder engagement schedule that details the timeframe for engaging diverse groups at key stages of project development and why.

Environmental Protection Plan and Emissions Impacts

We commend the Board’s attention to monitoring and mitigation of impacts of offshore wind development throughout the Draft Solicitation Guidance. Collectively, these provisions set a high bar for environmental consideration for proposals, based on the most up-to-date science and understanding of potential impacts. Likewise, this guidance represents a significant improvement over the last round, with far more and more stringent up-front proposal requirements.

Specifically, we support the continuance of the \$10,000 per megawatt fee to fund wildlife and fisheries monitoring. We also support the requirement of a mandated Environmental Monitoring Plan, that includes provisions for data sharing and management in accordance with best practices, as well as instruction to coordinate with stakeholders such as the Regional Wildlife Science Collaborative. Furthermore, moving beyond an Environmental Protection Plan to also require an Adaptive Environmental Mitigation Plan recognizes the reality that our understanding of impacts of offshore wind development, including cumulative impacts, is ongoing and as such, developers should be prepared to adapt mitigation to changing science and circumstances.

Finally, the detailed minimum mitigation requirements in Attachment 6, covering issues that include but are not limited to habitat disturbance minimization and mitigation, cable burial requirements, visual lighting, bird and bat provisions, noise reduction, vessel strike avoidance measures, scour protection, and others offer a strong baseline of environmental protection.

Criteria for Evaluation of Applicants

Evaluation of Non-Price Considerations

We believe that economic impacts and strength of guarantees, and environmental and fisheries impacts should be weighted as two separate criteria at no less than 20% each. Section 4.2, which describes the evaluation of non-price considerations should include greater specificity that aligns with the Green Jobs for a Sustainable Future report and includes not just the number of jobs created, but information related to the quality of those jobs to ensure the creation of high-wage, family-sustaining careers with equitable pathways for a diverse workforce. We agree that guaranteed employment impacts should be given more weight than not guaranteed, and urge the Board to further clarify that high-quality jobs will be given more weight than low-quality. To the extent allowable by law, this section should also specify that high-quality jobs allow workers the free and fair choice to join a union, and that employers committed to union neutrality will be given more weight than those that do not.

Sincerely,

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