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NOTICE

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

REQUEST FOR INFORMATION

[Docket No. QO22080481](#)

Staff of the New Jersey Board of Public Utilities ("NJBPU" or "Board") invites all interested parties and members of the public to provide written responses to the Request for Information ("RFI") contained in this Notice on New Jersey's third offshore wind solicitation.

BACKGROUND AND PROCEDURAL HISTORY

New Jersey Governor Phil Murphy signed Executive Order No. 8 on January 31, 2018¹ to reinvigorate the implementation of the State's Offshore Wind Economic Development Act ("OWEDA" or the "Act"), enacted in 2010.² To this end, Governor Murphy set a "goal of 3,500 MW of offshore wind energy generation by the year 2030."³ On November 19, 2019, Governor Murphy signed Executive Order No. 92, increasing the State's offshore wind energy generation goal to 7,500 MW by 2035.⁴ To date, the NJBPU has successfully completed two offshore wind solicitations, awarding three projects and a total of 3,758 MW of capacity.⁵

¹ Exec. Order No. 8 (Jan. 31, 2018), 50 N.J.R. 887(a) (Feb. 20, 2018).

² N.J.S.A. 48:3-87-1 et. seq.; L. 2010, c. 57, signed into law August 19, 2010.

³ Exec. Order No. 8, at 2.

⁴ Exec. Order No. 92, (Nov. 19, 2019), 51 N.J.R. 1817(b) (Dec. 16, 2019), at 3.

⁵ See In the Matter of the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,400 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 92; In the Matter of the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Atlantic Shores Offshore Wind Project 1, LLC, BPU Docket Nos. QO20080555 and QO21050824, Order dated June 30, 2021 (1,509.6 MW of capacity awarded); In the Matter of the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,400 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 92; In the Matter of the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Ocean Wind II, LLC, BPU Docket Nos. QO20080555 and QO21050824, Order dated June 30, 2021 (1,148 MW of capacity awarded); In the Matter of the Board of Public Utilities Offshore Wind Solicitation for 1,100 MW – Evaluation

On February 28, 2022, the NJBPU announced an updated offshore wind solicitation schedule to meet the State's 7,500 MW goal by 2035, with the Third Solicitation expected to be issued in Q1 2023 with an estimated target of 1,200 MW.⁶ The schedule for the Third Solicitation was revised to accommodate the integration of the Board's decision on the State Agreement Approach ("SAA") coordinated transmission solution and to allow the developers who successfully bid for new lease areas in the New York Bight sufficient time to further develop their proposed projects, including the establishment of stakeholder and supply chain relationships.

Board Staff is currently in the process of developing the Solicitation Guidance Document ("SGD") for the Third Solicitation and seeks stakeholder comments on the proposed language in Attachment 1 to this Notice regarding the requirement for Qualified Offshore Wind Projects⁷ resulting from the Third Solicitation to provide performance guarantees.

COMMENTS

The deadline for comments on this matter is 5:00 p.m. Eastern Time on March 2, 2022.

Please submit comments directly to the specific docket listed above using the "Post Comments" button on the Board's [Public Document Search](#) tool. Comments are considered public documents for purposes of the State's Open Public Records Act. Only public documents should be submitted using the "Post Comments" button on the Board's [Public Document Search](#) tool. Any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3. Due to the COVID-19 pandemic, certain rules requiring paper submissions have been temporarily waived. In addition to hard copy submissions, confidential information may also be filed electronically via the Board's e-filing system or by email to the Acting Secretary of the Board. Please include "Confidential Information" in the subject line of any email. Instructions for confidential e-filing are found on the Board's webpage, <https://www.nj.gov/bpu/agenda/efiling/>.

E-mailed and/or written comments may also be submitted to:

Carmen D. Diaz

Acting Secretary of the Board
44 South Clinton Ave., 1st Floor
PO Box 350 Trenton, NJ 08625-0350
Phone: 609-913-6241
Email: board.secretary@bpu.nj.gov

Please direct all questions on this matter to Andrea Hart at andrea.hart@bpu.nj.gov with the subject "In The Matter of the Opening of New Jersey's Third Solicitation for Offshore Wind Renewable Energy Certificates (OREC), Docket No. QO22080481."

of the Offshore Wind Applications, BPU Docket No. QO18121289, Order dated June 21, 2019 (1,100 MW of capacity awarded).

⁶ See NJBPU, [New Jersey Updates Schedule for Third Offshore Wind Solicitation](https://nj.gov/bpu/newsroom/2022/approved/20220228.html) (Feb. 28, 2022), <https://nj.gov/bpu/newsroom/2022/approved/20220228.html>.

⁷ Qualified Offshore Wind Project is a wind turbine electricity generation facility in the Atlantic Ocean and connected to the electric transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the Board pursuant to section 3 of P.L. 2010, c. 57 (N.J.S.A. 48:3-87.1) and N.J.S.A. 48:3-51.

Board Staff looks forward to receiving and reviewing your responses.

Carmen D. Diaz

Carmen D. Diaz
Acting Secretary of the Board

Dated: February 24, 2023

Attachment 1

Within 90 days after the effective date of the Board's order designating qualified offshore wind projects, each awarded Project shall make a compliance filing with the Board that binds the awardee, and their successors or assigns, to meeting any Tier 1⁸ infrastructure investment commitments approved by the Board ("Tier 1 Commitments"), Commercial Operation Date ("COD") as included in the Board's Order approving the Project, and any Prebuild Infrastructure Commitments.⁹ The compliance filing shall include, as relevant:

1. A schedule with specific dates for each of the Critical Milestones shown below, including the required expenditures to meet investment commitments associated with Tier 1 Commitments, COD, and/or Prebuild Infrastructure Commitments; and
2. A detailed description and copy of the proposed financial instrument(s) to be used to secure the Tier 1 Commitments, COD, and/or Prebuild Commitments, and project completion (together, "Commitment Security").

Any missed Critical Milestone that is not excused by the Board will result in the forfeiture of the total Commitment Security posted, multiplied by the percentage value assigned to each Critical Milestone, as set forth below.

Critical Milestones for Projects with Tier 1 Commitments or Prebuild Infrastructure

Critical Milestone 1: For Projects with Tier 1 Commitments, execution of a binding contract with the Original Equipment Manufacturer ("OEM") for component supply and funding expenditure deadlines for Tier 1 facility development.

Critical Milestone 2: Receipt of all necessary permits and approvals from relevant federal, state and local authorities for construction and operation of the Tier 1 facility and/or the Prebuild Infrastructure, provided that Projects with both Tier 1 Commitments and Prebuild Infrastructure Commitments will be required to establish that both milestones have been met before security is released.

Critical Milestone 3: For Projects with Tier 1 Commitments, delivery of the first component produced at commercial scale (i.e., not a prototype or one-off production process) from the Tier 1 facility to the Tier 1 facility's first customer.

Critical Milestone 4: Achievement of fifty percent (50%) of the construction phase of the awarded Project and/or the Prebuild Infrastructure, provided that Projects with both Tier 1 Commitments and Prebuild Infrastructure Commitments will be required to establish that both milestones have been met before security is released.

Critical Milestone 5: Achievement of the final phase COD of the qualified offshore wind project, and completion of the Prebuild Infrastructure.

⁸ Tier 1 is defined as the primary supplier who contracts directly with the qualified offshore wind project developer to deliver a major contract package.

⁹ The Board may, in its discretion, award a Project and its accompanying Prebuild Infrastructure ("Prebuild Developer") in this solicitation.

The compliance filing may define alternative Critical Milestones if other Critical Milestones better align with the realization of Tier 1 Commitments or Prebuild completion, subject to the approval of the Board.

Critical Milestones for Projects without Tier 1 Infrastructure Investment Commitments

Critical Milestone 1: BOEM approval of the Construction and Operations Plan (“COP”).

Critical Milestone 2: Start of Construction.

Critical Milestone 3: Achievement of fifty percent (50%) completion of the construction phase of the awarded Project.

Critical Milestone 4: Achievement of the final phase COD of the qualified offshore wind project.

The compliance filing may define alternative Critical Milestones if other Critical Milestones better align with the realization of project completion, subject to the approval of the Board.

Financial Commitment

Projects including Tier 1 Commitments or Prebuild Infrastructure shall be required to post Commitment Security in the amount of \$150,000 per megawatt of capacity awarded. Projects that do not include Tier 1 Commitments or Prebuild Infrastructure shall be required to post Commitment Security in the amount of \$75,000 per megawatt of capacity awarded. Projects are only required to meet one of the two Commitment Security amounts.

The Commitment Security may be in the form of: i) one or more parent company guarantees, if the parent is investment grade (defined as having one or more credit rating of BBB or above from Standard and Poor's or Baa3 or above from Moody's, or comparable alternative rating agency); ii) one or more letters of credit from an investment-grade third-party financial guarantor (defined as an institution with a rating of BBB or above from Standard and Poor's or Baa3 or above from Moody's); and/or iii) upon Petition to the Board, other financial instrument acceptable to the Board that provides a comparable level of security to ratepayers. In the case of a Project company with multiple parent companies or those that involve a joint venture, the awardee may request that responsibility for the Commitment Security be split between the partners equally or otherwise.

For a project with a Tier 1 Commitment or Prebuild Commitment, the required Commitment Security will be reduced as follows:

- For a project with a Tier 1 Commitment and no Prebuild Commitment, the required Commitment Security will be reduced by ten percentage points upon achievement of each of the five Critical Milestones.
- For a Project with a Prebuild Infrastructure and no Tier 1 Commitment, the Commitment Security may be reduced by 20 percentage points when the applicable Critical Milestones (including Critical Milestones 2, 4, and 5) are achieved.

Upon completion of the final Critical Milestone, the Commitment Security shall be closed if all applicable Critical Milestones have been achieved. Prior to that time the Commitment Security can only be terminated upon written approval of the Board. If a project misses a Critical Milestone, the project shall forfeit an amount equal to the total Commitment Security posted multiplied by the percentage value assigned to each relevant Critical Milestone, as set forth above.

The Project shall provide Board Staff with written notice, copying the New Jersey Division of Rate Counsel, of the achievement of each Critical Milestone within seven (7) days after that achievement, which notice shall include information demonstrating with reasonable specificity that such Critical Milestone has been achieved. Board Staff shall have forty-five (45) days to review the written notice in order to verify the reasonableness of such representation(s) before providing its recommendation to the Board, who will issue an order, within 90 days of Staff's review, allowing or disallowing the Commitment Security to be reduced. Staff may request additional information from the Project about its filing, including additional documentation, access to company personnel or other information. Any such request will restart the Staff review period after the Project supplies the requested documentation or clarification.

Not less than three months prior to each Critical Milestone, the Project may petition the Board to extend any of the Critical Milestone dates if, for good cause, the Critical Milestone cannot be achieved by the previously specified date; provided that the Project may request an as-of-right extension of a Critical Milestone by up to three (3) months upon request to Staff. Extension of Critical Milestone dates beyond the three-month extension period will be subject to Board approval.

For Projects with a Tier 1 Commitments and Prebuild Infrastructure Commitments, if the Project fails to make expenditures or deadlines associated with the Critical Milestones according to the schedule established in the compliance filing, as may be extended either by an as-of-right extension or with Board approval, the Board, in consultation with the New Jersey Economic Development Authority, may declare a forfeiture of the security associated with the Tier 1 Commitments or Prebuild Infrastructure. Any funds so forfeited will either be committed to development of offshore wind infrastructure or returned to ratepayers.

If a Project fails to satisfy the final Critical Milestone, the security not associated with the development of Tier 1 Commitments or Prebuild Infrastructure shall be returned to ratepayers.