



Agenda Date: 10/25/23
Agenda Item: 8F

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE OPENING OF NEW)	ORDER REJECTING THIRD
JERSEY'S THIRD SOLICITATION FOR)	SOLICITATION PREBUILD
OFFSHORE WIND RENEWABLE ENERGY)	INFRASTRUCTURE
CERTIFICATES (OREC))	PROPOSALS AND
)	DIRECTING STAFF TO
)	DEVELOP A PREBUILD
)	SOLICITATION
)	
)	DOCKET NO. QO22080481

Party of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board”) rejects all of the prebuild infrastructure proposals submitted in response to New Jersey’s third offshore wind (“OSW”) solicitation (“Third OSW Solicitation”), and directs Board Staff (“Staff”) to develop a separate solicitation for the prebuild infrastructure only. These actions have no effect on the Third OSW Solicitation applications for approval as a Qualified Offshore Wind Project (“QWOP”).

BACKGROUND

On August 19, 2010, the Offshore Wind Economic Development Act (“OWEDA”) was signed into New Jersey law.¹ OWEDA directed the Board to establish a program for Offshore Wind Renewable Energy Certificates (“ORECs”) to support at least 1,100 megawatts (“MW”) of OSW generation capacity from QOWPs.²

¹ See OWEDA, N.J.S.A. 48:3-87.1 to -87.2, L. 2010, c. 57, eff. Aug. 19, 2010; amended by 2019 c. 440, §2, effective Jan. 21, 2020; 2021, c.178, §1, effective July 22, 2021.

² An OREC is defined as as “a certificate issued by the Board or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project.”

Within his first of month of taking office, on January 31, 2018, Governor Phil Murphy signed Executive Order 8 (“EO 8”), which directed the Board to fully implement OWEDA and begin the process of moving the State toward a goal of 3,500 MW of OSW by 2030.³ In late 2019, Governor Murphy more than doubled the State’s OSW goal, to 7,500 MW by 2035, when he signed Executive Order 92 (“EO 92”).⁴ In 2022, Executive Order 307 (“EO 307”) once again expanded the State’s goal to the current 11,000 MW of OSW by 2040.⁵

The Board has long recognized that limits on the existing transmission system, as well as the challenges associated with expanding or replacing transmission facilities, represent a major source of cost uncertainty and potential risk of delays in meeting the State’s OSW goals. Accordingly, New Jersey’s 2019 Energy Master Plan (“EMP”) recommended expanding New Jersey’s electric grid to accommodate New Jersey’s then-current goal of 7,500 MW of OSW by 2035.⁶ The EMP explains how “planned transmission to accommodate the State’s [OSW] goals provides the opportunity to decrease ratepayer costs and optimize the delivery of [OSW] generation into the [S]tate’s transmission system.”⁷ The EMP further states that “[c]oordinating transmission from multiple projects may lead to considerable ratepayer savings, better environmental outcomes, better grid stability, and may significantly reduce permitting risk.”⁸ The EMP envisions that the Board “should endeavor to collaborate with PJM [Interconnection, LLC] to ensure that transmission planning and interconnection rules accommodate [OSW] resources.”⁹ The EMP also recognizes that transmission must be planned and that the Board must exercise its regulatory authority to “actively engage in transmission planning.”¹⁰

The same week that Governor Murphy issued the EMP, he also signed legislation authorizing the Board to conduct one (1) or more competitive solicitations for open access OSW transmission facilities.¹¹ In this legislation, the New Jersey Legislature enshrined the concept of an “open access offshore wind transmission facility” into State law, defined as “an open access transmission facility, located either in the Atlantic Ocean or onshore, used to facilitate the collection of offshore wind energy or its delivery to the electric transmission system in this State.”¹² Further, the Legislature provided the Board the authority to “conduct one or more competitive solicitations for open access offshore wind transmission facilities designed to facilitate the

N.J.A.C. 14:8-6.1. For each MWh delivered to the transmission grid, an OSW project will be credited with one OREC.

³ See Exec. Order No. 8 (January 31, 2018), 50 N.J.R. 887(a) (Feb. 20, 2018). In 2018, the Legislature also directed the Board to establish an OREC program to support “at least 3,500 MW” of OSW generation by 2035. See OWEDA, supra note 1.

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

⁵ See Exec. Order No. 307 (September 21, 2022), 54 N.J.R. 1945(a) (Oct. 17, 2022).

⁶ EMP, Goal 2.2.1 (“Develop Offshore Wind Energy Generation”) at 114.

⁷ Id. at 117.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.; Goal 5.2.1 (“Exercise Regulatory Jurisdiction to Review and Approve the Need for Transmission Projects”) Id. at 182.

¹¹ N.J.S.A. 48:3-87.1(e).

¹² N.J.S.A. 48:3-51.

collection of offshore wind energy from qualified offshore wind projects or its delivery to the electric transmission system in this State.”¹³

Under this authority, and consistent with the findings and directives of the EMP, on November 18, 2020 the Board formally requested that PJM Interconnection, L.L.C. (“PJM”) incorporate the State’s then-current goal of 7,500 MW of OSW by 2035 into the PJM transmission planning process through the State Agreement Approach (“SAA”).¹⁴ Under this process, Staff worked with PJM to include the State’s OSW public policy requirement in a PJM Regional Transmission Expansion Planning (“RTEP”) window that PJM pre-qualified designated entities submitted competitive transmission proposals to PJM by the close of the New Jersey SAA 1.0 RTEP window on September 17, 2021.¹⁵

At the close of the SAA 1.0 proposal window on September 17, 2021, PJM received 80 project proposals from 13 pre-qualified designated entity applicants, providing a wide variety of detailed OSW transmission solutions, cable corridors, cost estimates, delivery dates, proposals to phase construction, and other project details (“SAA 1.0”). After a thorough review by Staff, PJM, and The Brattle Group (“Brattle”), the Board’s SAA 1.0 consultant, the Board awarded a series of projects to construct the onshore transmission facilities necessary to successfully deliver 7,500 MW of OSW to the electric transmission system in this State.¹⁶ The savings New Jersey ratepayers will realize from the selection of these transmission projects was estimated to be approximately \$900 million, compared to the estimated cost of transmission facilities that otherwise would be necessary to achieve New Jersey’s then-current 7,500 MW of OSW energy goal in the absence of the SAA 1.0 solicitation.¹⁷

The Prebuild Infrastructure

As part of the SAA 1.0 project awards, the Board gave special attention to the duct banks and associated access cable vaults that would be installed in a single construction effort for use by subsequent QOWPs (“Prebuild Infrastructure” or “PBI”).¹⁸ The PBI would be constructed between the landing point identified in SAA 1.0, the Sea Girt National Guard Training Center (“Sea Girt NGTC”) and the awarded Point of Interconnection (“POI”) with the PJM high-voltage electric grid, the Larrabee Collector Station (“LCS”). The PBI would minimize environmental and community

¹³ N.J.S.A. 48:3-87.1.

¹⁴ In the Matter of Declaring Transmission to Support Offshore Wind a Public Policy of the State of New Jersey, BPU Docket No. QO20100630, Order dated November 18, 2020 (“November 2020 Order”).

¹⁵ See PJM Competitive Planning Process webpage at <https://www.pjm.com/planning/competitive-planning-process>.

¹⁶ In the Matter of Declaring Transmission to Support Offshore Wind a Public Policy of the State of New Jersey, BPU Docket No. QO20100630, Order dated October 26, 2022, at Appendix A (“October 2022 Order” or “SAA 1.0 Order”).

¹⁷ For a more in-depth discussion, see id. at 61.

¹⁸ Id. at 65-66. “Duct banks” are the concrete structure between cable vaults that house the necessary number of physically separate conduits (empty pipes) in which transmission cables can be installed (pulled through, from one point to another). “Cable vaults” are physically-separate, underground vaults (accessible through manhole covers), located at certain distances along the onshore cable route of the PBI, to allow each QOWP to install and maintain its own transmission cables without impacting other QOWPs’ transmission cables.

impacts by utilizing a single shore crossing and a single, or limited, onshore corridor(s) to the POI. The PBI facilities were originally envisioned as part of the “Option 2” facilities identified by the November 2020 Order and included in the SAA 1.0 solicitation. Option 2 facilities were designed to include offshore transmission proposals, which would necessarily include the onshore transmission corridors needed to reach the POI.

The ongoing consideration and evaluation of multiple pathways to procure the PBI stems naturally from the structure of PJM’s competitive procurement process for transmission and the initial SAA 1.0 solicitation. As a result of PJM’s “sponsorship” model of procurement (i.e., where the proposer and designer of a transmission project also is selected as the designated entity for construction), a wide range of innovative designs were submitted, with no two (2) bidders proposing identical routes and design details. On the basis of these designs, and additional consideration during the evaluation process, Staff sought to expand the potential PBI options through use of clarifying questions in the SAA 1.0 solicitation, including confirming “whether such transmission developers would be willing to construct the Option 1b-only portion of their Option 2 proposals.”¹⁹ Under such an Option 1b build, a transmission developer would build onshore transmission corridors that would be used by multiple offshore wind generation facilities – the PBI.

However, even with similar requests from Staff to each SAA 1.0 bidder, the widely varied submitted designs limited the available comparisons between proposals. Some proposers declined to offer Option 1b-only designs altogether. Bidders that did elect to provide Option 1b-only designs only provided those designs structured to the design of their specific project, and not the Sea Girt NGTC to LCS design that the Board ultimately determined to be the preferred solution and location for the start and end point of the PBI.

As a result, the SAA 1.0 project awards contemplated that the PBI would be procured in a subsequent generation solicitation, later determined to be New Jersey’s Third OSW Solicitation.²⁰ However, the Solicitation Guidance Document (“SGD”) for the Third OSW Solicitation (“Third OSW Solicitation SGD,” “Solicitation 3 Guidance Document,” or “SGD”) indicated that the SAA might be later modified to include the PBI.²¹

On March 6, 2023, the Board approved and issued the Third OSW Solicitation SGD.²² The SGD required each applicant to submit a separate application for the construction of the PBI in accordance with the requirements contained in the SGD, and required that all Third OSW Solicitation applicants utilize the PBI. The SGD required that cost recovery for the PBI would be through the OREC funding mechanism, and as a result, the SGD also stated that the PBI project, if awarded by the Board, could only be awarded to a Third OSW Solicitation bidder who also received an award as a QOWP. Applications for the Third OSW Solicitation projects and the PBI

¹⁹ SAA 1.0 Order at 53.

²⁰ Id.

²¹ Solicitation 3 Guidance Document, <https://njoffshorewind.com/third-solicitation/solicitation-documents/Final-Solicitation-Guidance-Document-with-attachments.pdf>, at A10-2 (“The Board and Board Staff will notify Applicants, as early as possible, if the SAA Project is chosen to develop the Prebuild Infrastructure”).

²² In re the Opening of New Jersey’s Third Solicitation for Offshore Wind Renewable Energy Certificates (OREC), BPU Docket No. QO22080481, Order dated March 6, 2023 (“March 6, 2023 Order”).

were to be submitted by June 23, 2023. On June 7, 2023, the Board extended the Third OSW Solicitation application due date to August 4, 2023.²³

On August 4, 2023, applications were received from four (4) OSW developers for OSW generation projects, and separate applications were received from each of the four (4) OSW developers for the PBI in accordance with the SGD (“Third OSW Solicitation PBI Proposals”).

STAFF RECOMMENDATIONS

Staff has reviewed the Third OSW Solicitation PBI Proposals. Staff finds that the proposed cost of the PBI, utilizing the OREC funding mechanism and subject to the requirement that the PBI could only be awarded to a developer who also receives an award as a QOWP, represents an unreasonable burden for New Jersey’s ratepayers. In addition, requiring that the PBI cost recovery be through the OREC funding mechanism necessitates that the PBI be constructed by a QOWP chosen in the Third OSW Solicitation, which introduces additional risk because the PBI cost recovery would be tied to the successful completion and operation of the QOWP – risks that were likely born in the proposed costs of the PBI bids. Staff recognized the potential that utilizing the Third OSW Solicitation to develop the PBI could be unacceptable to ratepayers by including the requirement in the Third OSW Solicitation SGD that the SAA may be “modified to include the Prebuild infrastructure.”²⁴

As a result, Staff recommends that the Board reject all Third OSW Solicitation PBI Proposals. Since the Third OSW Solicitation SGD was structured such that the generation project applications and the PBI applications were to be separate and not dependent upon each other, rejecting the Third OSW Solicitation PBI Proposals will not affect the generation component of the Third OSW Solicitation applications for approval as a QOWP.

Staff has continued to explore regulatory avenues to pursue the stated goals of the Board (increasing competition, reducing permitting/land acquisition requirements, coordinating access to the POIs²⁵), while maximizing opportunities for further ratepayer cost savings. The SAA 1.0 solicitation demonstrated the benefits of receiving proposals from multiple qualified developers to enable the Board to harness and focus the benefits of competition, maximize ratepayer benefits and minimize risk and costs.

Staff recommends that the Board open a competitive solicitation for the PBI (“PBI Solicitation”). Staff further recommends that the PBI Solicitation be open to all PJM pre-qualified designated entities, including those that would become pre-qualified at the time proposals in this PBI Solicitation would be submitted, thus allowing Third OSW Solicitation bidders to re-submit a PBI proposal should they so choose. Staff further recommends that consistent with the approved cost allocation provisions associated with the SAA, the costs of any selected PBI project through this PBI Solicitation be recovered through PJM Schedule 12.²⁶

²³ In the Matter of the Opening of New Jersey’s Third Solicitation for Offshore Wind Renewable Energy Certificates (OREC), BPU Docket No. QO22080481, Order dated June 7, 2023 (“June 7, 2023 Order”).

²⁴ Solicitation 3 Guidance Document, supra note 23.

²⁵ SAA 1.0 Order at 54.

²⁶ See 181 FERC ¶ 61,178 (2022).

Finally, Staff recommends that the PBI Solicitation include provisions for a binding cost containment commitment and the timely delivery of the PBI.

DISCUSSION AND FINDINGS

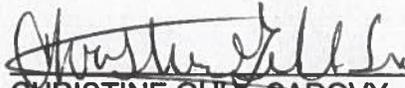
After giving thorough consideration to Staff's recommendations, the Board **HEREBY FINDS** that procuring the PBI in the Third OSW Solicitation, funded through the OREC and subject to the requirement that the PBI could only be awarded to a developer who also receives an award as a QOWP, represents an unreasonable burden for New Jersey's ratepayers. The Board agrees with Staff that this structure presents additional project risk where PBI cost recovery would be tied to the successful completion and operation of the QOWP. As such, the Board **HEREBY REJECTS** all of the Third OSW Solicitation PBI Proposals in the best interest of the public and ratepayers. The Board **HEREBY FINDS** that this action has no effect on the Third OSW Solicitation applications for approval as QOWPs, and **HEREBY DIRECTS** Staff to continue to evaluate those applications.

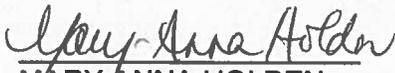
The Board **FINDS** that opening a PBI Solicitation that would be open to all PJM pre-qualified designated entities is in the best interest of the public and ratepayers. The PBI Solicitation will allow for greater competition, reduce project on project risk, and with the rejection of the Third OSW Solicitation PBI Proposals, allow for equitable comparison of all proposals received. The Board **HEREBY DIRECTS** Staff to develop a solicitation guidance document for a PBI Solicitation and present it to the Board for consideration within the next 30 days .

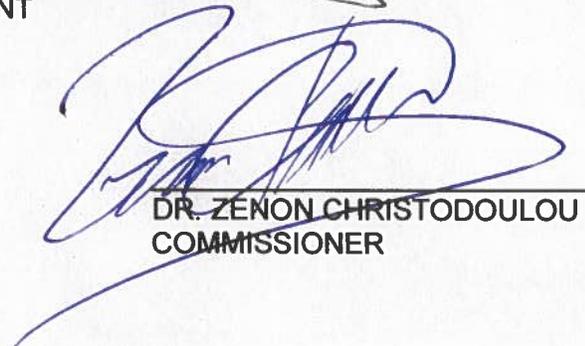
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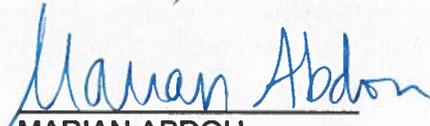
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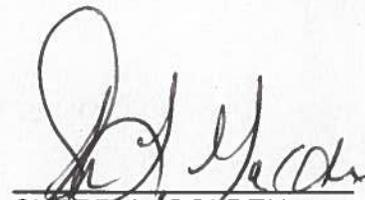
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ATTEST: 
SHERRI L. GOLDEN
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

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

DOCKET NO. QO22080481

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