

North Atlantic Clam Association

David H. Wallace

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August 10, 2020

Re: Comments from North Atlantic Clam Association for New Jersey BPS on

NJ Wind Energy Strategic Plan

Offshore Wind Solicitation Guidance Document

Governor Murphy's comments on Offshore Renewable Energy

"The development of New Jersey's offshore wind infrastructure will create thousands of high-quality jobs, bring millions of investment dollars to our state, and make our state a global leader in offshore wind development and deployment. The Offshore Wind Strategic Plan is a critical blueprint that will guide us toward our goal of 7,500 megawatts of offshore wind power by 2035 and help us achieve 100 percent clean energy by 2050."

North Atlantic Comments:

The surfclam and ocean quahog along with the rest of the offshore fishing industry are not being treated fairly in the development of off shore wind. In both the New Jersey Wind Energy Strategic Plan and the second Offshore Wind Solicitation documents fishing is addressed but in such general terms that the developers only give the fishing industry lip service and then do as they please. **Neither the federal nor state governments do anything to protect the offshore fisheries by implementing two times two NM turbine spacing and transit zones requirements in their power purchase agreements.**

Because the states do not want the offshore wind near land the leases are being placed in the offshore fishing grounds. The fishing industry has been supported verbally by Governor Murphy but the requirements on the wind farm developers is so lax that they are taking thousands of square miles of fishing grounds from the fishermen. This document is to comment on the proposed Strategic Plan and the Offshore Wind Solicitation Document. They both have the same problem, they do not protect the fishing industry and the New Jersey fisheries will be badly hurt. The surfclam and ocean quahog fishery will be hurt the worst. That is because the leases are placed in the areas that the fishery actively works. It is also, where in most years, there are good sets of young clams. Clams unlike finfish do not move, so they cannot swim out of the area in which they live. However, the developers want to place their turbines close to each other making it difficult if not impossible to work safely once the wind farm (s) are built. The clam fishery has asked the developers many times to spread out their turbines, but they always say that it is too expensive and it would reduce their income. The developers could care less that they are cutting out those boats that fish for clams, which provide their income in the lease area. It is outrageous to have European companies take over U.S. fishing grounds and put American vessel owners and crews out of business in their own country with no consideration.

The developers do not want boats or fishermen in their wind arrays, as they have in Europe where in most cases no boats of any kind are allowed within their array except their vessels. All of the developers are working to make sure that they get the same outcome here. If the facts were known, they would not want any vessels working in their array or transiting through it.

The 7500 MW of wind energy is a miss representation of the facts to the ratepayers of New Jersey (NJ). Since ocean wind turbines are at best less than 40 percent efficient, the obvious conclusion is unless the state want to be in darkness, there must have other power sources to keep the states operating for the other 60 percent of the time when wind turbines are down. One power source that may not be helpful is solar, it produces power about 50 percent of the time, and it is more predictable than wind, but still short of being a base power supplier. There are two options to deal with the wind and solar down times. They are a storage system or on line power generator such as nuclear power plants that can carry the load 24/7 when necessary. It may be possible to import nuclear power from outside sources or build more nuclear power plants. The reality is that if NJ were to contemplate that a storage plan like pumping water up hill and then releasing it through a turbine when to wind and solar cannot carry the load, they need more than 200 percent of the turbine/solar capacity to power the grid and at the same time recharge the storage source. No one would design a system that is so inefficient as to require 200 plus percent of the electric power demand because wind and solar only function less than 50 percent of the time. The fact is that conventional power plants must be on line all the time. Plus, in most cases system must have surplus capacity above maximum demand so when one power source is down the other sources can carry the load. The state and grid operator understand the situation, why do not they say it. **Windmills and solar arrays are not the solution, they are the problem.**

According to the Strategic Plan, the chart found on page 73, Figure 6-2 the estimated power demand for the next 30 years is as follows:

FIGURE 6-2: ELECTRICITY GENERATION, LEAST COST SCENARIO, sources of electric supply and demand for 2020 at about 75 TWh, then 120 TWh by 2035 and 160TWh by 2050, where is the power going to come from?

For 2020 Demand 75TWh

Nuclear 33%
Fossil Fuels 62%
All others 5%

For 2036 Estimated Demand 120TWh

Nuclear 24%
Fossil 26%
NJ Solar 25%

Off shore wind 10%
PJM Grid Imported 15%

For 2050 Estimated Demand 160TWh

Nuclear 15%
Bio Fuels and Misc. 5%
NJ Solar 30%
Off shore wind 30%
PJM Grip Imported 20%

According to the chart, in 2020 nuclear makes up about 33%, fossil fuels make up over 62% with 7% to other sources for about 75TWh demand. Nuclear is estimated to be flat at about 25 TWh until 2050 which means that the lights will be out often when the solar is off in the dark and the wind drops out there will not be enough production to keep the state supplied without importing large amounts of electric. If the chart on page 73 is correct in 2050 the demand will be about 160+TWh with a constant supply of about 25 TWhs from nuclear and a few TWh from bio fuels. All the rest is scheduled to be provided by solar and wind production, which is high variable. The additional requirements must be imported wind, solar and other sources of power from other areas and possibility from fossil fuel power plants. The lack of rules on wind developers is not going to solve this problem but it surely will affect negatively on the fishing industry if something is not done.

The point is that except for nuclear power plants, there is no other available carbon free power source at this time that can carry one hundred percent of the electric load 24/7. All of the power companies including the ocean wind developers know this, but they will not say it because the developers cannot justify their policy of harming all of the other ocean users. Climate change is a problem, wind turbine farms and solar arrays are not the solution.

The fishing industry has met with the wind developers for years. They take our names and put them on a list, of who they have talked too. They do not report to BOEM or the states what the fishing industry is stating that the fisheries need to maintain reasonable access to their fishing grounds. There is not one thing that the developers have done to help protect the fishing industry. **Governor Murphy said that the wind farm developers and the other users of the ocean need to coexist, that is not happening.** Therefore, the wind developers should not be issued a power purchase agreement until they have transparently put fourth an acceptable agreement with the fishing industry and other ocean users. Here are U.S. companies with their crews and other employees, which are Americans. The developers are all from Europe and most of their key people are Europeans. Therefore, the ratepayers from New Jersey get huge increased electric bills and the fishing industry get shut out of the fishing their grounds. And, because the developers will not agree to transit zone all of the U.S. vessels must steam miles out of their way to avoid thousands of wind turbines put so close together that vessels cannot safely transit through the arrays so the developers can get the most power out of their lease. The developers say about their concession, "we moved the turbines out from .6 to 1.0 NM because the fishing industry want room to

fish and transit lanes.” What they do not say is they moved the turbines further apart because they now are installing much larger turbines than originally planned. The larger the turbines have longer wakes therefore they need to spread the turbines out to be efficient. The other thing they do not say is that with the larger turbines that can produce more power from the lease than they had originally planned. It had nothing to do with make concessions to the other users. The fishing industry demanded having the turbines, two miles apart, in straight lines and set into the tide, which would allow fishing within the wind farm. This would be enough space to safely fish and navigate through the array in good weather. The developers are greedy and their deceitful actions regarding the fishing industry are dishonest, outrageous and unfair. Therefore, all Americans including the electric ratepayers, fishermen, shipping operators are the losers in this ill thought out concept of 100 percent renewable energy.

This section below was taken directly out of the Proposed Strategic Plan to show that the fishing is not being protected. These wind farms development should not be allowed until the other industries and fisheries, habitat and ocean science studies are done and analyzed. There are no base line studies, but it is suggested that studies be made after construction of the wind farm. However, good science have a preconstruction base line and then the monitoring to see the changes. Without the preconstruction data collection and analyzation the monitoring is for the most part worthless because there is no way to know what changed.

Commercial and recreational fishing in New Jersey constitute a significant part of the economy and are a cultural heritage. Offshore wind represents a once-in-a-generation opportunity to embark on a new industry that is poised to create jobs and economic growth for decades to come as well as address important environmental challenges by offsetting emissions through the creation of clean energy. The commercial and recreational fishing industries are critical, and offshore wind development should consider methods to minimize conflicts while enhancing both industries.

Meeting New Jersey’s goal for offshore wind development will help mitigate the impacts of climate change, which threatens New Jersey’s fisheries. Strategic recommendations and next steps related to commercial and recreational fisheries include:

- Ensure continuation of data collection efforts off the East Coast in support of New Jersey state and regional fisheries management decisions and to form the basis of a long-term marine monitoring program for assessing potential cumulative impacts associated with offshore wind development. Determine what survey methodology changes and/or project siting recommendations could be implemented to maintain the continuity and long-term consistency of assessment programs.
- Collaborate with other states, academic, and environmental entities, and use regional, multistate, and multisector collaborations to develop and conduct regional fisheries monitoring and data sharing.
- Leverage existing commercial and recreational fisheries that currently provide valuable information on existing conditions to conduct ecological monitoring in support of construction and operations of offshore wind farms.
- Utilize the New Jersey Offshore Wind Environmental Resources Working Group to continue engagement between the state and the commercial and recreational fishing community throughout each project’s life cycle and request that developers and the state identify fishing industry liaisons. Establish cooperative research initiatives to provide a means for commercial and recreational fishers to become involved in the collection of important fisheries information to support the development and

evaluation of fisheries management. COMMERCIAL AND RECREATIONAL FISHERIES STRATEGIC
RECOMMENDATIONS NEW JERSEY OFFSHORE WIND STRATEGIC PLAN 50

- Implement harbor management plans²⁴ for facilities located in areas with significant commercial fishing operations to determine any impacts on dock access, fuel access, or other activities that may interact with fishing operations.
- Enhance communication and coordination between fishing communities and state and federal agencies through the Offshore Wind Environmental Resources Working Group.
- During project design and layout, assess the need for one or more fairways in lease areas for commercial and recreational fishing vessels.
- To the extent practicable, make choices that maintain access to and transit through wind energy areas by the users who currently rely on them, including fishing and transit without compromising project safety and efficiency.
- Ensure that interconnect and transmission cables are buried to a depth sufficient to avoid interaction with benthic fishing gear and inspect them regularly to ensure adequate cover.
- To the extent practicable, incorporate habitat enhancements to attract commercially targeted species and provide long-term benefits to commercial and recreational fisheries.

As you can see there is nothing in this section that helps or supports the fishing industry.

Thank you for considering the North Atlantic Clam Association's comments.

Sincerely,

David H, Wallace,

For,

North Atlantic Clam fishery,



Responsible Offshore Development Alliance

August 19, 2020

New Jersey Board of Public Utilities
Joseph Fiordaliso, President
44 South Clinton Avenue, 9th Floor
Port Office Box 350
Trenton, New Jersey 08625-0305

**Re: New Jersey BPU Solicitation #2 Draft Guidance Document - Section 10:
Fisheries Protection Plan**

Dear President Fiordaliso;

The Responsible Offshore Development Alliance (RODA) submits the following comments regarding the Fisheries Protection Plan in the New Jersey BPU Solicitation #2 Draft Guidance Document.

RODA is a membership-based coalition of fishery-dependent companies and associations committed to improving the compatibility of new offshore development with their businesses. Our approximately 170 members are comprised of major fishing community groups, individual vessels, and shoreside dealers operating in federal and state waters of the New England, Mid-Atlantic, and Pacific coasts.

We commend the inclusion of a Fisheries Protection Plan (FPP) as a required portion of the application solicitation for offshore wind projects. In particular, RODA supports the scientifically rigorous plan to detect impacts to marine resources and measures to avoid, minimize and mitigate potential impacts on fish, and on commercial and recreational fisheries required in the application. As voiced numerous times by the commercial fishing industry, the impacts to this industry should not be overlooked, nor addressed at the last minute in the development process.

Gathering “scientifically rigorous” information takes a significant amount of time, and it is unclear whether this is a one-time requirement to collate information known at the time of application, or how errors or omissions in a plan will be addressed post-procurement. Moreover, the FPP does not clarify who will be reviewing submissions to determine whether they are indeed scientifically rigorous. RODA recommends the addition of an external review panel for the FPP portion of the solicitation. It is critical that such reviewers have extensive technical and scientific experience specific to New Jersey and regional fisheries.

A working group that reviews and scores submitted FPPs could advise the BPU on fisheries issues regarding which BPU does not have relevant in-house expertise. At a minimum, the NJ Department of Environmental Protection should hold ultimate authority to determine the merits of FPP proposals. Ideally, independent external reviewers would be included. The New Jersey Marine Fisheries Council could be an initial starting point for the review of the FPP as the group already advises the commissioner on policies and planning relating to marine resources. The NJ Offshore Wind Environmental Resources Working Group could also serve this role, as could a new purpose-built review panel. Regardless of which group leads on the evaluation of effectiveness of FPP’s, we

strongly encourage the use of public hearings and citizen panels for holistic inclusion of all potentially impacted parties including the large range of the state's at-sea and shoreside fishing-dependent businesses.

Thank you for your consideration of these submitted comments. Please feel free to reach out with any clarifying questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lane Johnston".

Lane Johnston, Programs Manager

A handwritten signature in blue ink, appearing to read "Annie Hawkins".

Annie Hawkins, Executive Director
Responsible Offshore Development Alliance



New Jersey Board of Public Utilities

44 S. Clinton Avenue

Trenton, NJ 08625

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Re: Draft Guidance Document Comments

Atlantic Shores Offshore Wind, LLC (Atlantic Shores) congratulates you on the recent issuance of the Draft Guidance Document for New Jersey's Second Offshore Wind Solicitation (Second Solicitation), its ambitious 1,200 to 2,400 MW procurement target and the quality of its contents.

Our team is particularly satisfied with your consideration of our previous feedback and resulting improvements on the Round 1 Solicitation, and we commend the NJBPU for your thoughtful Stakeholder outreach process. Building on this process, and per the NJBPU's offer to provide written comments by August 19, 2020, we have put together the following comments. We hope they will provide valuable insight to improve the quality of submissions.

- **Timeline:** We appreciate the opportunity to comment on a draft version of the Solicitation before the final Solicitation is issued in September. We suggest the NJBPU consider an extension of the OREC Application Submission Deadline if any significant changes are included between the draft and the final document in order to ensure these changes may be incorporated by Applicants in a reasonable timeframe.
- **Section 1:** Section 1 of the draft Solicitation Guidance Document refers to a number of factors that could influence the timing and quantity of OREC awards, which could differ from the schedule set forth in Table 1. One factor notes the possibility of awarding ORECs between 1,200 and 2,400 MW for this solicitation. We suggest that the NJBPU clarify the circumstances where these factors might be applied. Clarification allows Applicants the ability to put forth their strongest effort in achieving a maximum award in their Application by providing a better sense of what the ultimate award might be for this solicitation.
- **Section 1.1:** N.J.A.C. 14:8-6.6(f) of the OREC Funding Mechanism, which is referred to in Section 1.1 and Attachment 5 of the Solicitation Guidance Document, provides for a three-month holdback of PJM revenues. In the event of an EDC failure to pay, the three-month holdback gives security for Project finance investors to make full and timely payment of ORECs up to the OREC allocation pursuant to the Board Order. The NJBPU should consider how to increase the amount of the holdback (absent a lengthy regulatory amendment process) in the event the EDC failure to pay is of such a

magnitude that a three-month holdback is insufficient to cover scheduled OREC revenue (ex: petition to waive the applicable regulation) to help reduce uncertainty on the offtake structure and seek better financing terms, which should ultimately benefit the ratepayer.

- **Section 1.2:** Section 1.2 states that “The Board reserves the right to select less than 1,200 MW or more than 2,400 MW, if circumstances warrant.” Footnote 20 states that “Projects greater in size than 2,400 MW will be accepted if the addition of the final turbine results in a total nameplate capacity greater than 2,400 MW.” The Final Solicitation Document should confirm if there are other circumstances, beyond where the final turbine results in a total nameplate capacity of greater than 2,400 MW, where the Board would consider a project in excess of 2,400 MW.
- **Section 1.2:** NJBPU’s approach to phased commercial operation provides for a realistic scheduling of construction activities. We suggest that the NJBPU clarify what constitutes Commercial Operation, i.e. what will trigger the first OREC payment of a given project phase. For example, will COD be 'approved' and OREC payment start as early as testing / commissioning of any turbine, or only once a certain number of MWs (phase 1 total MWs) are fully operational? In the latter case, it would be helpful to understand whether the NJBPU expects any market revenues associated with production during testing / commissioning be returned to the ratepayer.
- **Section 2.3:** The Solicitation Guidance Document should specify the format in which the Project Narrative must be uploaded (i.e., discrete uploads section by section, or a single file with the entire narrative) and the largest file size that can be accommodated for upload.
- **Section 2.4:** Following up in writing on a question asked by our Development Manager Doug Copeland in the August 5 Stakeholder meeting, we would appreciate if NJBPU could provide clarity on (1) which State agencies or representatives Applicants are allowed to reach out to between now and the close of the Solicitation period (we note that NJBPU encourages applicants to provide Rate Counsel and NJDEP regular updates); (2) whether the close of the Solicitation period is the Submission deadline or the OREC Order issuance; and (3) whether virtual outreach is acceptable where our COVID-19 Health & Safety Policy does not allow us to participate in in-person meetings.
- **Section 2.5:** As the NJBPU uses an irrevocable Board Order approach for the OREC award, as opposed to an approach utilized by other states with a negotiated power purchase agreement, we suggest providing successful Applicants with a draft Board Order to review and provide comments on before a final Board Order is issued. As there can be no draft order prior to award in a competitive solicitation, we recommend the process be broken up into a two-step Board Order (initial Board Order regarding award and reasoning underlying the decision for award, and a second Board Order, whereby a draft is provided to the successful Applicant, dealing with parameters of the Award – this could be more efficient in the long run as it should minimize the successful Applicant from seeking technical or minor adjustments to the Order). Moreover, the two-step

process allows for separate Board Orders per successful Applicant, if applicable, on the second Board Order – see additional Section 2.5 comment below.

- **Section 2.5:** In addition to the previous question, due to the OREC Board Order structure differing from the standard negotiated power purchase agreement, it would be beneficial for Applicants to understand how the NJBPU will govern right of default. Clarity on different types of default, cure periods and remedies, as well as any mechanism short of entitlement termination for a successful Applicant to work through a Board Order default would help reduce uncertainty on the offtake structure and seek better financing terms, which should ultimately benefit the ratepayer.
- **Section 2.5:** Section 2.5 of the Solicitation Guidance Document refers to a final Board Order. Can the NJBPU please clarify if more than one Applicant receives an award, will there be separate Board Orders? This is relevant because Section 3c of OWEDA requires any Board order modification to be agreed to by all parties, which would be difficult across successful Applicants. In addition, investors in projects typically require approvals to be specific to the deal being financed. The theoretical possibility of cross default among unrelated projects may be unworkable, and at a minimum adds unnecessary risk and cost.
- **Section 3.1:** With regards to the requirement that “The Applicant shall disclose, in detail, any prior business bankruptcies, defaults, disbarments, investigations, indictments, or other actions against either the Applicant, its parent company, affiliates, subsidiaries, or any key employees identified above (N.J.A.C. 14:8-6.5(a)(1)(iv)),” we suggest the final Solicitation Guidance Document limit such disclosure requirements to those that are material and that such disclosure be limited to the applicable project company and the entities in the direct ownership chain. Otherwise, the question becomes extraordinarily difficult for companies with varying levels of interest in numerous “affiliates,” and bankrupt remote project companies, which have no bearing on the resources of the Applicant project company or direct up stream members.
- **Section 3.7:** We encourage NJBPU to clarify whether the Project Nameplate Capacity is the aggregate of wind turbine nameplate capacities or the capacity delivered at the Point of Interconnection.
- **Section 3.8:** As NJBPU is well aware, establishing manufacturing facilities typically requires a significant book of orders. Considering the offshore wind procurement targets of NJ as well as its neighboring states, and to ensure NJ presents the best case as an offshore wind hub, NJBPU should consider NJ-produced components supplied to projects delivering energy to other States as NJ economic benefits. In this situation, these NJ economic benefits should be eligible whether they are supplied to an affiliate of the Applicant / project or to third parties in other States.
- **Section 3.8:** We appreciate NJBPU’s requirement, “To avoid double-counting [of Economic Benefits], Applicants affiliated with prior awardees must ensure that economic

impacts associated with the prior award are excluded,” as it levels the playing-field for all Applicants in the second Solicitation. We suggest the NJBPU alternatively require any such economies of scale be clearly identified and passed on to the ratepayer as they will ultimately benefit from economies of scale across a portfolio of projects delivering to NJ.

- **Section 3.8:** The NJ Wind Port (NJWP) presents a formidable opportunity for Applicants to submit projects with high NJ economic benefits. We do note the government website states three items that will be perceived as risks for Applicants interested in incorporating the NJWP in their Application:
 - The \$300-\$400M State financing is not in place yet;
 - The NJWP plans 2 phases of construction, with different timing for marshalling and manufacturing facilities (2023 v. 2024-2026); and
 - The NJWP may be available for out of State offshore wind, in addition to NJ’s 7.5 GW, but lists no priority for NJ projects.

We encourage the NJBPU to provide clarity on (1) how they will evaluate Applications that include an Economic Development Plan relying on the NJWP, (2) how the NJBPU will ensure that Applicants are not adversely prejudiced on the economic development evaluation criteria should the NJWP-related facts change from the time of submission prior to OREC award; and (3) how the NJBPU may provide relief for Applicants awarded an OREC Order which parameters are dependent upon the NJWP if the port development is delayed or otherwise impacted.

- **Section 3.14:** Although we understand that the NJBPU is seeking Applicants with solid Operations and Maintenance experience and a mature project, it is unclear in Section 14 (N.J.A.C. 14:8-6.5(a)(7)(vi)) whether the requirement for Applicants to deliver a proof of insurance refers to the Operations and Maintenance phase (which will only be available around Commercial Operation) or the current project phase.
- **Section 3.15:** In view of the amount of the associated commitment and its impact on project economics and risk profile, the NJBPU should consider providing additional information on the timing and form of the segregated decommissioning funds that shall be required per N.J.A.C. 14:8-6.5(a)(9)(ii).
- **Section 3.16:** Reduction in fossil fuel dependence is listed in the OWEDA as one of the benefits to NJ of procuring offshore wind. Beyond the environmental benefits there is a potential economic benefit (energy security, price stability) to the state. We encourage the NJBPU to provide clarity as to how these factors will be included in the evaluation of net benefit of a project.
- **Section 4:** We appreciate the inclusion of the diversity criteria giving the NJBPU, “the ability, but not the requirement, to reflect in its evaluation the diversity of selected Applicants, technology types and wind resource locations.” We suggest that the NJBPU clarify further by (1) providing context to Applicants as to when the NJBPU may or may


not use such criteria in its evaluation and (2) confirming whether the NJBPU would, if applicable, apply these criteria within a single procurement, or across the 7.5 GW sought by the offshore wind program, or both.

- **Section 4:** We appreciate the NJBPU's transparency on providing weighted criteria and a detailed view of the selection process. We encourage the NJBPU to provide additional detail on (1) the role of the ratepayer advocate in qualifying a reasonable ratepayer impact in the eyes of the NJBPU (not mentioned) and (2) sub-weighting for these criteria that are combined in Table 3, namely OREC Purchase Price and Ratepayer Impacts, and Economic Impacts and Strength of Guarantees for Economic Impacts.


Atlantic Shores Offshore Wind appreciates the opportunity to provide comments regarding the Draft Guidance Document for New Jersey's Second Offshore Wind Solicitation and looks forward to continuing to work with New Jersey as we proceed towards the realization of these ambitious offshore wind goals.

Sincerely,


Chris Hart,
Managing Director and President

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Comments on NJBPU Second Solicitation Guidance Document

Prepared by the Rutgers University Center for Ocean Observing Leadership (RUCOOL)

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Report prepared by Rutgers University.

Last Updated 18 August 2020

The comments contained herein are in response to the NJBPU call for public comment on the draft NJ OSW second solicitation guidance document and attachments released in July 2020. Specific to this request, Rutgers University provides comment given our expertise in atmospheric science, ocean science, and fisheries science. Rutgers, The State University of New Jersey, is a leading national research university and the state of New Jersey's preeminent, comprehensive public institution of higher education.

Formed in 1992, the Rutgers Center for Ocean Observing Leadership (RUCOOL) focuses on understanding the interactions between physics, chemistry, and biology in the world's ocean and the corresponding impact on human society. At its core, RUCOOL operates a suite of ocean and atmosphere observing technologies including coastal meteorological stations, satellite based remote sensing, surface based radars, a fleet of unmanned ocean going robots, and ocean and atmosphere numerical modeling systems. These technologies now serve a wide range of applied users by providing open access high quality real time spatial data of the marine environment. The broad user community that includes private industry, state and federal government, and the general public, demonstrates the wide range of research and service that RUCOOL provides. Research results of the center have been published in leading academic journals including Science, Nature and the Proceedings of the National Academy of Sciences. Publications span fundamental research, engineering, education, and social science journals. Consistent with the Rutgers mission as a land grant institution, RUCOOL seeks to translate this science-based research in a way that informs applications, decision-making, and management of ocean resources.

Rutgers faculty are also engaged in the entire breadth of fisheries science from the wild fish or invertebrate population, to the recreational fishers and commercial fishers and processors who harvest and sell fish, and the managers who regulate fisheries for sustainability. We have experience performing collaborative fisheries research in Mid Atlantic shellfish fisheries including the lucrative commercial surfclam, ocean quahog and sea scallop fisheries. At the Haskin Shellfish Research Laboratory, faculty contribute annually to research priorities in the oyster fishery stock assessment, participate in the annual NJ oyster stock assessment, and have been a member of the federal Working Groups for the surfclam and Ocean Quahog assessments for nearly a decade. Faculty at Haskin and the Marine Field Station in Tuckerton also contribute to important work on habitat use and assessment of important recreational and commercial benthic-oriented species on the shelf, such as summer and winter flounder, black sea bass, striped bass, Atlantic croaker, weakfish, and others, as well as the connection between ocean spawning and estuarine nursery habitat.

Summary of the main point:

- We recommend the arrays of offshore platforms be utilized as an infrastructure to provide direct ocean and ecological observations throughout the water column as a required part of the submitted environmental and fisheries monitoring and impact mitigation plans (addressed in Sections 3.9 and 3.10 of the draft guidance document).

Instrumentation on Offshore Platforms

The preparation for and construction of offshore wind turbines provides a large number of offshore platforms which could be instrumented to collect oceanographic data. While wind energy developers would likely classify wind measurements as proprietary data, oceanographic and ecological data could be provided to the public, which would greatly benefit the scientific community, and ocean stakeholders in general. The types and spacing of instruments which could be deployed, and how this could be done in partnership with developers, should be assessed.

The surface ocean off the New Jersey coast and surrounding continental shelf areas is observed regularly via satellite and shore based remote sensing. However, information on subsurface conditions is incredibly sparse. Significant challenges to real time data collection include limited power supplies for marine instruments and lack of communication for data telemetry. Offshore wind platforms provide a unique opportunity to collect critical ocean and environmental data from structures that could allow for easy access to instrument power supplies and communications. These data should be encouraged as an important component of both the Environmental Protection Plan (Section 3.9) and the Fisheries Protection Plan (Section 3.10). In addition to the direct value these observations would provide the developers and state agencies to monitor anticipated environmental and fisheries impacts, these data would also serve a much larger stakeholder community throughout the state and region. Below we summarize a representative set of variables among many others that can support developer, state, and stakeholder needs with deployment across the proposed offshore infrastructure arrays.

An array of offshore platforms provides an infrastructure to support various stakeholders in the region with direct ocean observations throughout the water column. In brief, the oceanographic variables with the broadest impact include:

- *Bottom Temperature, Salinity, and Pressure:* Given the intense variability in the seasonal ocean conditions highlighted by a strong summer thermocline, there is need to fill the gap in subsurface observations of these basic ocean parameters. While satellite based sensors provide expansive maps of ocean temperatures across the region, these observations are limited to the surface. During the intense summer stratification, the colder bottom temperatures are not observed. Low cost hydrographic sensors deployed near the seafloor on the offshore wind platforms would provide the research and stakeholder community with real-time bottom ocean measures. These data would map the evolution of the seasonal cold pool, providing critical data that will support storm intensity forecasting (Glenn et al., 2016), research, fisheries management, and the commercial and recreational fishing industry.
- *Water Column Velocity* While significant information on surface currents is available via HF Radar there are currently no real time measurements of subsurface currents on the continental shelf of the Mid Atlantic. In summer when the water column is highly stratified, bottom currents are de-coupled from surface measurements and little is known about their forcing mechanisms or their impacts on the local hydrography or ecosystems. Real time measurements from platform mounted acoustic Doppler current profilers would allow for increased understanding of the climate system, improved measures of the coastal ocean response to hurricanes and winter storms, and critically where subsurface pollutants or sediments might be dispersed.
- *Surface Waves:* One of the most critical measurements for safety at sea are surface wave conditions. Real time measurements of wave conditions can support broad stakeholder

priorities for marine operations, including the offshore wind industry itself. Wave measurements in the proposed wind energy areas are severely lacking. Acoustic Doppler current profilers used for current measurements are also highly effective at measuring surface wave properties. These measurements would help all maritime industries as well as provide research information for sediment resuspension and transport in the region.

- *Dissolved Oxygen*: The coastal ocean is a highly variable system with processes that have significant implications on the hydrographic and oxygen characteristics of the water column. The spatial and temporal variability of these fields can cause dramatic changes to water quality and in turn the health of the ecosystem. While low Dissolved Oxygen (DO) concentrations are not uncommon in the coastal ocean, what is less understood is how the location and size of these low DO regions vary and what impact that variability has on ecosystem health. Both the U. S. Environmental Protection Agency (EPA) and the New Jersey Department of Environmental Protection (NJDEP) have prioritized monitoring the coastal waters off New Jersey in their long-term strategic plans as an essential component of the decision-making process. Offshore platforms would allow for continuous measures of DO across the mid-shelf within the bottom layer isolated from the atmospheric oxygen sources above.
- *Surface and near-bottom pH and $p\text{CO}_2$ (concentration of carbon dioxide in seawater)*: Measurements of pH and $p\text{CO}_2$ are critical to monitor the variability and trends of ocean acidification in the Mid-Atlantic Bight. The data produced from these sensors have the capability of serving a wide range of users including academic and government scientists, monitoring programs including those conducted by OOI, IOOS, NOAA and EPA, water quality managers, and commercial fishing companies (shellfish and finfish). Additionally, the potential of open accessible, automated near real-time data would provide a warning system that would assist scientists studying ecological processes, water quality managers and conservationists to monitor impacts, and commercial operators to implement adaptive strategies.

Simultaneous measures of the overlying ecology would complement the above ocean variables. The coincident ecological measurements would empower the research and management communities with a wealth of data to understand and model the coupled marine ecosystems. These variables include:

- *Fish Telemetry and Tracking*: Animal telemetry is a rapidly growing field that can provide information on the distribution of animals and, in combination with observing technologies, oceanographic conditions the animals inhabit. Inexpensive receivers deployed on the offshore platforms would provide an unprecedented resolution that would enable high resolution monitoring of tagged fish behavior within the offshore wind area and the seasonal and inter-annual variation of migratory passage through it. These data would inform fishery and conservation efforts.
- *Passive Acoustics*: Digital acoustic monitoring systems (DMONs) have been demonstrated to detect vocalizing right whales and other marine mammals as well as numerous species of vocalizing fishes. To date they have been deployed on fixed buoys on mobile platforms including gliders and on cabled observatories (Mann and Grothues 2009). If deployed on offshore turbines, these data could support ecological monitoring and decision-making

during the construction phase of offshore wind farms, enabling construction to occur on a 24-hour cycle.

- *Active Acoustics*: Possibilities include a moored or glider-mounted echo sounder (Acoustic Zooplankton and Fish Profiler, AZFP from ASL; or Simrad equivalent) to examine zooplankton and fish characteristics that will enable academic, state, and federal researchers and fisheries managers to quantify total biomass, identify zooplankton and fish species, quantify taxon-specific abundance and individual size, and examine the distribution and behavior of both fish and zooplankton. This will thereby improve understanding of distribution patterns and ecological relationships between these two major trophic levels in the ecosystem.

To ensure these data serve the entire stakeholder community, we further recommend that these data be distributed through existing regional data dissemination infrastructure and data visualization portals. The Mid-Atlantic Ocean Data Portal is supported by the Mid-Atlantic Regional Council on the Ocean (MARCO), and was developed with input and participation from BOEM and other federal, state, and not-for-profit data partners. Data present in the portal have been used to facilitate stakeholder participation and ocean planning efforts to enhance Mid-Atlantic Regional Ocean Action Plan and various federal agency initiatives in concert with the National Ocean Policy (Lathrop et al., 2017). The OceansMap portal supported by the Mid-Atlantic Regional Association Coastal Ocean Observing System (MARACOOS) allows users to access, visualize, and interpret a broad range of environmental data from around the globe, including both real-time observations and model forecasts, all with just a few simple clicks. OceansMap web portals combine sophisticated data visualization and analysis tools with an intuitive, map-based interface designed to facilitate data exploration and discovery. From maritime planning to water quality monitoring to operational search-and-rescue, regardless of your application, OceansMap makes met-ocean data easy.

References

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Mann, D. and T. M. Grothues. 2009. Short-term upwelling events modulate fish sound production at a Mid-Atlantic observatory. *Marine Ecology Progress Series* 375:65-76

Participating Organizations

- Alliance for a Living Ocean
- American Littoral Society
- Asbury Park Fishing Club
- Atlantic Highlands Arts Council
- Bayshore Regional Watershed Council
- Bayshore Saltwater Flyrodders
- Belford Seafood Co-op
- Belmar Fishing Club
- Beneath The Sea
- Bergen Save the Watershed Action Network
- Berkeley Shores Homeowners Civic Association
- Cape May Environmental Commission
- Central Jersey Anglers
- Citizens Conservation Council of Ocean County
- Clean Air Campaign, NY
- Clean Water Action
- Coalition Against Toxics
- Coalition for Peace & Justice/Unplug Salem
- Coastal Jersey Parrot Head Club
- Communication Workers of America, Local 1075
- Concerned Businesses of COA
- Concerned Citizens of Bensonhurst
- Concerned Citizens of COA
- Concerned Citizens of Montauk
- Eastern Monmouth Chamber of Commerce
- Environment NJ
- Fishermen's Conservation Association, NJ Chapter
- Fishermen's Conservation Association, NY Chapter
- Fishermen's Dock Cooperative, Pt. Pleasant
- Food and Water Watch, NJ
- Friends of Island Beach State Park
- Friends of Liberty State Park, NJ
- Friends of the Boardwalk, NY
- Garden Club of Allenhurst
- Garden Club of Bay Head and Mantoloking/Seaweeders
- Garden Club of Brielle/Bayberry
- Garden Club of Englewood
- Garden Club of Fair Haven
- Garden Club of Long Beach Island
- Garden Club of RFD Middletown
- Garden Club of Morristown
- Garden Club of Navestick
- Garden Club of New Jersey
- Garden Club of New Vernon
- Garden Club of Oceanport
- Garden Club of Princeton
- Garden Club of Ridgewood
- Garden Club of Rumson
- Garden Club of Sea Girt/Holly
- Garden Club of Short Hills
- Garden Club of Shrewsbury
- Garden Club of Spring Lake
- Garden Club of Terra Nova
- Garden Club of Washington Valley
- Great Egg Harbor Watershed Association
- Green Party of Monmouth County
- Green Party of New Jersey
- Highlands Business Partnership
- Hudson River Fishermen's Association
- Jersey Shore Captains Association
- Jersey Shore Parrot Head Club
- Jersey Shore Partnership
- Junior League of Monmouth County
- Keyport Environmental Commission
- Kiwanis Club of Shadow Lake Village
- Leonardo Party & Pleasure Boat Association
- Mantoloking Environmental Commission
- Marine Trades Association of NJ
- Monmouth Conservation Foundation
- Monmouth County Association of Realtors
- Monmouth County Audubon Society
- National Coalition for Marine Conservation
- Natural Resources Protective Association, NY
- NJ Beach Buggy Association
- NJ Environmental Lobby
- NJ Friends of Clearwater
- NJ Marine Education Association
- Nottingham Hunting & Fishing Club, NJ
- NYC Sea Gypsies
- NY Marine Education Association
- NY/NJ Baykeeper
- Ocean Wreck Divers, NJ
- PaddleOut.org
- Piscataway Saltwater Sportsmen Club
- Raritan Riverkeeper
- Religious on Water
- Rotary Club of Point Pleasant
- Rotary District #7540—Interact
- Saltwater Anglers of Bergen County
- Sandy Hook Bay Anglers
- Save Barnegat Bay
- Save the Bay, NJ
- SEAS Monmouth
- Shark Research Institute
- Shark River Cleanup Coalition
- Shark River Surf Anglers
- Sierra Club, NJ Shore Chapter
- Sisters of Charity, Maris Stella
- South Monmouth Board of Realtors
- Staten Island Tuna Club
- Strathmere Fishing & Environmental Club
- Sunrise Rod & Gun Club
- Surfers' Environmental Alliance
- Surfrider Foundation, Jersey Shore Chapter
- Surfrider Foundation, South Jersey Chapter
- TACK 1, MA
- Unitarian Universalist Congregation/Monm. Cnty.
- United Boatmen of NJ/NJ
- Viking Village
- WATERSPIRIT
- Women's Club of Brick Township
- Women's Club of Keyport
- Women's Club of Long Branch
- Women's Club of Merchantville
- Women's Club of Spring Lake
- Zen Society, NJ



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August 19, 2020

Aida Camacho-Welch
Secretary of the Board
State of New Jersey
Board of Public Utilities
44 South Clinton Ave
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RE: Docket No. QO20070478 – Draft New Jersey Offshore Wind Second Solicitation Guidance Document

Dear Secretary Camacho-Welch:

Clean Ocean Action (“COA”) thanks the New Jersey Board of Public Utilities (“NJBP”) for the opportunity to provide comments on the Draft New Jersey Offshore Wind Second Solicitation Guidance Document (“Draft Guidance Document”). COA is committed to ensuring offshore wind energy is developed in the most environmentally responsible manner possible and understands the importance that the Draft Guidance Document plays in the future of offshore wind energy development in the New York/New Jersey region.

COA is a New Jersey-based regional environmental non-profit organization focused on protecting and enhancing the marine and coastal environments of New York and New Jersey. COA consists of a broad-based coalition of over 125 active boating, business, community, conservation, diving, environmental, fishing, religious, service, student, surfing, and women's groups. COA has been actively following offshore wind developments in the New York/New Jersey Bight for the past decade. Over the past several years, COA has actively engaged with NJBP, the New Jersey Department of Environmental Protection (“NJDEP”), and other state and federal agencies regarding offshore wind development. This includes serving as a stakeholder on the NJDEP’s Offshore Wind Environmental Resources Working Group.

COA supports the environmentally responsible development of offshore wind energy, and advocates for a balanced approach that recognizes the urgency of developing affordable and reliable renewable energy in the context of the numerous potential negative impacts offshore wind development may have. COA believes offshore wind can and must be developed while acknowledging in a way that addresses the potential impacts by stipulating policies to avoid, and reduce negative impacts, and ensure meaningful mitigation of the unavoidable. Overall, COA is encouraged by the level of detail outlined in the Draft Guidance

Document and appreciates the requirements that are forward-looking in terms of ensuring a clean resilient energy grid. This includes the requirements that the applicants address whether the project will include energy storage capabilities, and information related to the developer's intent to use technologies aimed at reducing peak demand electric generation. These are just some of the key aspects that illustrates New Jersey's commitment to ensuring offshore wind development is done right.

However, COA urges NJBPU to include the following requirements outlined in these comments in the Final Solicitation Guidance Document to further ensure that the development of offshore wind does not come at the expense of New Jersey's marine and coastal ecosystems. These include added obligations for developers in the Environmental Protection Plan, Fisheries Protection Plan, Economic Development Plan, Interconnection Plan, and Operation and Maintenance Plan. Additionally, and most importantly, COA objects to the current structure of the Criteria for Evaluation. Specifically, the weighted evaluation system which gives insufficient attention to environmental impacts. While the solicitation does require assessment of environmental concerns if the NJBPU does not give this adequate consideration in the evaluation of applications, it is a false premise and environmental protections will be severely undermined.

I. Section 3.9 – Environmental Protection Plan & Section 3.10 – Fisheries Protection Plan

The Environmental Protection Plan and the Fisheries Protection Plan described in sections 3.9 and 3.10, respectively, are essential to ensuring the responsible development of offshore wind energy off the coast of New Jersey. Together, these plans outline the details, information, and commitments prospective offshore wind developers must provide to NJBPU as part of their application. Therefore, it is critical that these plans include robust, meaningful mandates to establish that the applicants' prospective projects do not cause harm to either the marine and coastal habitats and ecosystems, or the commercial and recreational fishing industries. Thus, COA urges NJBPU to include the following requirements in the Environmental Protection Plan and Fisheries Protection Plan: (1) a requirement that the applicant include a cumulative environmental impact assessment, (2) a requirement for the applicant to address impacts to navigation and transit, and (3) a requirement that the baseline and monitoring data collected by the chosen applicant be made publicly available.

A. Requirement for a Cumulative Environmental Impact Assessment

COA urges NJBPU to include an explicit requirement for applicants to address the cumulative impacts to both the environment and the commercial and recreational fishing industries. Offshore wind development is not occurring in a vacuum and the applicants must address not only the impacts from their proposal, but from their proposal in combination with existing offshore development, and reasonably foreseeable and anticipated developments. It is not enough for the applicant to simply address the prospective environmental impacts from their project alone. As the state moves to meet the goal of 7,500 MW of offshore wind capacity by 2035, potential offshore wind projects must be understood in context of this larger goal. This includes understanding the impacts of the specific project in relation to already permitted projects, as well as areas for prospective development. Therefore, NJBPU must require the applicant to develop a plan for a cumulative impact assessment which will focus on the

environmental impacts from the applicant’s proposed project in relation to future offshore wind developments in the New York/ New Jersey Bight including: (1) existing offshore wind farms, and (2) future offshore wind developments indicated by areas that have been leased or finalized as Wind Energy Areas by the Bureau of Ocean Energy Management.

COA understands and appreciates the challenge that a cumulative impact analysis of this scope and magnitude requires. However, the necessary information to effectively undergo this evolution is readily available and others have already begun providing cumulative analyses elsewhere in the U.S. for offshore wind development.

Within the next several months, both Orsted’s Ocean Wind project and Equinor’s Empire Wind project are expected to release their Construction and Operation Plans, which detail all essential information related to those developments. This includes specific details on the number of turbines, points of interconnection, cable routes, turbine configuration and spacing, operation and maintenance plan, and environmental impacts. Moreover, NJBPU has finalized the solicitation schedule, outlining how New Jersey will reach its goal of 7,500 MW by 2035. The solicitation schedule contains key information such as the number of future offshore wind projects, timelines for these projects, and capacity requirements. This information, when combined with an understanding of the current lease areas and wind energy areas within the study area of the recently published New Jersey Offshore Wind Strategic Plan, provides a strong foundation from which to develop a meaningful cumulative impacts assessment for offshore wind development.

Furthermore, the recent publication of the Supplemental Environmental Impact Statement (“SEIS”) for the Vineyard Wind Project in Massachusetts illustrates that cumulative impact assessments for offshore wind can and must be performed. In July of 2020, the Bureau of Ocean Energy Management (“BOEM”) published the SEIS, which exclusively focused on cumulative impacts from the project in relation to others in the same geographical area. The SEIS, analyzed “reasonably foreseeable effects from an expanded cumulative activities scenario for offshore wind development.”¹ The results of the SEIS detailed the importance of early planning and a robust cumulative impact analysis. The SEIS concluded that the proposed action, as well as all six alternatives, would result in “major impacts” to both commercial and recreational fishing as well as navigation.² The previous project-specific Environmental Impact Statement found that, individually, Vineyard Wind would only result in “minor” to “moderate” impacts to these industries.³ The SEIS and cumulative impact analysis illustrates how the impacts change when viewed in relation to the surrounding developments and outlined why it is essential that regulators engage in cumulative impact analyses that focus on the development of the offshore wind industry holistically, as well as on an individual project-by-project basis.

For these reasons, COA urges NJBPU to mandate as part of the Final Guidance Document, that applicants provide a detailed plan describing how they will evaluate, analyze,

¹ Bureau of Ocean Energy Management, Vineyard Wind – Supplemental Environmental Impact Statement, Docket No. BOEM 2020-025, at 1-1. (Hereinafter “SEIS”).

² SEIS, at ES-5.

³ Bureau of Ocean Energy Management, Vineyard Wind – Draft Environmental Impact Statement, Docket No. BOEM 2018-060, at ES-8.

and plan for cumulative impacts in light of reasonable foreseeable offshore wind projects in the New York/New Jersey Bight. If the State of New Jersey is truly committed to the environmentally responsible development of offshore wind, cumulative impacts must be addressed.

B. Requirement for Applicant to Address Impacts to Navigation and Transit

Additionally, COA petitions NJBPU to require as a component of both the Environmental Protection Plan and the Fisheries Protection Plan that the applicant address the impacts and threats to navigation and transit routes. The development of offshore wind resources will undoubtedly have impacts on navigation and transit in the New York/ New Jersey Bight, and as currently written the Draft Guidance Document does not require the applicants to address these impacts.

New Jersey is a hub for marine commerce with several ports of significance, including the Port of New York and New Jersey (“Port of NY/NJ”). The Port of NY/NJ handles over 10,000 deep draft vessels each year, making it the third largest port in the United States, and the largest on the east coast. There is concern that offshore wind development will displace traditional navigation and transit routes, resulting in increased vessel density – the amount of ships operating within the same sea space, within a now narrower corridor. The displacement would create a funneling effect, constricting traffic between turbine arrays and thereby increasing the number of ships operating in other transit lanes. The impacts from this are threefold.

First, it may result in increased vessel collisions either with turbines or other vessels. As more vessels operate within the same space, the risk of accidents from collisions will increase. The risk of collision creates an increased risk of spillage, which extremely troublesome when you consider the materials the Port of NY/NJ handles. The Port of NY/NJ is the largest petroleum products port in the nation, and deals with other products such as chemicals, plastics, and pharmaceuticals, that would be devastating if spilled into the marine environment.

Second, increased vessel density, as well as the overall increase in transit from construction and operation of the wind farm, may increase the risk of collisions with marine mammals, such as the critically endangered North-Atlantic Right Whale. The North Atlantic Right Whale has an estimated global population of only 450-500 individual animals. The species has failed to recover from whaling despite a 77-year-old international ban. Given the whales’ endangered status, and the known impacts that collisions cause, including injury and mortality to the species, additional precautionary measures are necessary for their protection. These additional protective measures include an evaluation of impacts to navigation from offshore wind development. As more vessels are funneled into a smaller space, there is potential for increased collisions with wildlife.

Third, the changes in navigation patterns may disrupt commercial fishing activities by blocking existing transit routes, thereby creating barriers to historical fishing grounds. Moreover, even if access is still available, increases in transit time to and from fishing areas will impact the commercial and recreational fishing industries.

The Draft Guidance Document must include a requirement to address impacts to navigation and transit to ensure that the full scope of impacts from the development are documented, and ultimately avoided or mitigated.

C. Requirement that Baseline and Monitoring Data be Publicly Available

COA also urges NJBPU to require that the monitoring data the applicant collects pursuant to N.J.A.C. 14:8-6.5(a)(16) be made publicly available. The environmentally responsible and successful development of offshore wind requires an essential commitment of transparency from both the State and offshore wind developers. Transparency is the gateway to meaningful and considered public involvement, which is critical for the success of the offshore wind industry in New Jersey.

Currently, the offshore wind industry is in its infancy in the United States. Therefore, the full range of environmental impacts associated with the development of offshore wind energy from construction through decommissioning are not fully understood. The initial offshore wind projects will be vital to closing data gaps, identifying trends associated with marine life, and documenting potential negative impacts. As such this information must be used to inform and strengthen all future solicitations and developments. As such, the monitoring data related to impacts to the marine environment must be made publicly available so elected officials, commercial and recreational fishermen, environmentalists, and academics can utilize their specific expertise and ensure environmental protections throughout the process of the development and decommissioning of offshore wind facilities in the New Jersey area.

II. Section 3.8 – Economic Development Plan

The Economic Development Plan requires the applicant to address the expected economic development impacts on New Jersey communities, including any plans to use offshore wind infrastructure already planned for New Jersey, such as the New Jersey Wind Port, as well as any plans to use alternative infrastructure located in New Jersey or elsewhere.

COA supports NJBPU's requirement that applicants address the ability to use wind infrastructure already planned for the New Jersey. However, COA urges NJBPU to be more forceful. Specifically, the NJBPU should include as a requirement of the Economic Development Plan that the applicant demonstrate, to the extent technologically and economically feasible, a commitment to utilizing the New Jersey Wind Port and/or Port of Paulsboro for project manufacturing, marshalling, and assembly. The State has committed to investing significant economic resources into the development of these ports at a time of economic distress resulting from the COVID-19 pandemic; developers should prioritize these facilities to provide a return on the investment by the State. NJBPU should require applicants to demonstrate, to the extent technologically and economically feasible, a commitment to utilizing the New Jersey Wind Port and/or Port of Paulsboro for project manufacturing, marshalling, and assembly. This requirement will not only have economic benefits for the state but will also ensure that the industrial components of offshore wind development are centralized in strategic locations, and not sprawled throughout the state. As a coastal state with the highest population density in the United States, there is significant concern about the level of coastal development necessary to support the emerging offshore wind industry and supply chain and how these coastally dependent

developments will impact the marine and coastal environment. While offshore wind development will be critical to cutting greenhouse gas emissions and minimizing future climate impacts, the development needed for the industry is coming at a time where the Jersey Shore is under threat from climate impacts. Sea level is rising more rapidly in New Jersey than anywhere else in the U.S. According to NJDEP's most recent report, sea level in New Jersey could rise 1.1 ft. by 2030, 2.1 ft. by 2050, and 6.3 ft. by 2100.⁴ These higher water levels will have significant impacts such as erosion, coastal flooding of low-lying areas, and increased salinity of estuaries and aquifers. Moreover, storms are expected to increase in both frequency and intensity. New Jersey must drastically change how it views coastal development and begin preparing for existing and anticipated climate impacts. This includes working to centralize water-dependent coastal development like offshore wind infrastructure. Requiring applicants to show a commitment to utilizing pre-established offshore wind ports will centralize development and help limited industrialization of the Jersey shore.

Additionally, COA petitions NJBPU to expand the Economic Development Plan to require the applicant to consider secondary impacts from the influx in employment in centralized areas that will follow the development of the offshore wind industry. The US offshore wind market is expected to expand rapidly, creating short-term and long-term jobs, including offshore wind-specific occupations that are not yet established in the United States. To accommodate this influx of workers, as well as migration of intrastate workers as we develop a localized workforce, significant infrastructure investments will be needed in the concentrated areas of offshore wind development, such as the New Jersey Wind Port, Port of Paulsboro, and various operation and maintenance ports. These secondary impacts must not be overlooked and issues related to housing needs, mass transit constraints, emergency services, as well as access to sewer, water, and electricity must be evaluated. The Final Guidance Document must have the applicant address and plan for these secondary impacts.

III. Section 3.12 – Interconnection Plan

COA urges NJBPU to include a requirement that the applicant address impacts to benthic resources from cable installation. Specifically, applicants must be required to demonstrate: (1) the ability to use minimally invasive techniques where practicable, and (2) achieving sufficient burial depths to avoid interference with fishing gear and to minimize impacts to burrowing species. Priority should be given to projects and cable access routes where the applicant can establish the ability to avoid hard bottom habitats and submerged aquatic vegetation.

Additionally, applicants must be required to address the potential for cable exposure over the lifetime of the project. The subsea terrain can shift in as little as six months and ocean currents can move sand away from the cable leaving previously buried assets exposed, increasing the risk of damage and corrosion. In the Netherlands, several case studies show that mobility of seafloor sediments and sand re-exposed previously buried cables. In response, developers created

⁴ Kopp, R.E., C. Andrews, A. Broccoli, A. Garner, D. Kreeger, R. Leichenko, N. Lin, C. Little, J.A. Miller, J.K. Miller, K.G. Miller, R. Moss, P. Orton, A. Parris, D. Robinson, W. Sweet, J. Walker, C.P. Weaver, K. White, M. Campo, M. Kaplan, J. Herb, and L. Auermuller. New Jersey's Rising Seas and Changing Coastal Storms: Report of the 2019 Science and Technical Advisory Panel. Rutgers, The State University of New Jersey. Prepared for the New Jersey Department of Environmental Protection. Trenton, New Jersey.

calibrated models of movement of sand waves that can be used to predict the risk at locations along the transmission route.⁵ COA recommends that all offshore wind developers assess the potential for cable exposure by (1) performing bathymetric surveys to identify sand waves, (2) sampling the benthic soils to assess particle size and potential distribution, and (3) assessing seabed currents.⁶ Moreover, several approaches to limit potential re-exposure have been developed such as increased burial depths in areas of expected sand waves, sweeping the seabed flat prior to installation where environmentally appropriate to do so, and avoiding areas with high currents causing significant sediment movement.⁷ Where studies indicate potential impacts from sand waves and ocean currents, these approaches must be used. COA therefore urges NJBPU to require all applicants to address the likelihood of exposure and develop plans for reburial that minimize impacts to benthic resources.

IV. Section 3.14 – Operation and Maintenance Plan

Section 14 requires that the applicant address information related to the operation and maintenance of the proposed offshore wind project. COA urges NJBPU to expand the requirement that the applicant “identify the primary risks to built infrastructure” and how these “shall be mitigated” to include an explicit requirement that all built infrastructure be made climate resilient to handle expected climate impacts. It must also consider priority protection and consideration of existing natural shoreline areas which currently serve as buffers. Studies have shown natural systems are better able to handle storm impacts. They are also critical for stormwater management.

As explained above, climate change is already impacting New Jersey, and the impacts are expected to increase in severity. The development of the offshore wind industry is an investment in the future of the State from both an energy and economic perspective. Therefore, onshore infrastructure, such as operation and maintenance ports, must be built and managed to withstand climate impacts. Applicants must be required to identify suitable locations for operation and maintenance ports that account for the area’s exposure to climate impacts such as coastal flooding, storm surge, and sea level rise. The applicant must also address the vulnerability of the infrastructure to be developed to these impacts. Preference should be given to development plans that reduce impacts by locating assets and new port development in areas that are less exposed to climate hazards, and by making the development better able to cope with climate impacts as and when they materialize. The development of this infrastructure should also consider the impacts elsewhere, such as the potential contribution to flood risk resulting from increases in paved surfaces.

The State of Massachusetts took steps to create climate resiliency with its offshore wind infrastructure by including a hurricane barrier in its design for the New Bedford Marine Commerce Terminal. The Hurricane Barrier stretches across the water from the south end of New Bedford to the Town of Fairhaven. The barrier’s 150-foot opening closes during hurricane conditions and coastal storms and makes the Harbor one of the safest hubs on the eastern

⁵ See, Bureau of Ocean Energy Management, *Offshore Electrical Cable Burial for Offshore Wind Farms on the OCS*, Project No. 671. (November, 2011).

⁶ *Id.* at 72.

⁷ *Id.* at 64.

seaboard. New Jersey should continue to illustrate its leadership by requiring applicants to address climate change by mandating climate-resilient built infrastructure.

Additionally, COA urges NJBPU to explore ways to centralize operations and maintenance developments, and mandate centralization where feasible. The current solicitation schedule breaks the 7,500 MW goal into six distinct projects. To avoid the over-industrialization of the Jersey Shore, efforts should be made to avoid the need for project specific operation and maintenance facilities. COA urges NJBPU to include in the Final Guidance Document a requirement that the applicant demonstrate steps to minimize the overall footprint of operation and maintenance facilities. These steps may include: (1) updating existing port facilities for offshore wind operation and maintenance readiness as opposed to new port development, (2) avoiding development on essential climate buffers and public lands, and (3) pursuing agreements with other offshore wind developers, where feasible, to share access to operation and maintenance ports to minimize the need for project specific port development.

V. Criteria for Evaluation

Finally, COA seeks clarity on the criteria for evaluation and urges NJBPU to give more consideration to the Environmental Impacts component, as well as include consideration of the impacts to commercial and recreational fishing interest.

Currently, the Draft Solicitation Guidance Document does not include any consideration of the impacts to the commercial and recreational fishing communities in its criteria for evaluation. The document makes clear that only six criteria are considered: OREC purchase price, economic impacts, ratepayer impacts, environmental impacts, and strength of guarantees of economic impacts. It is unacceptable that impacts to the fishing industry are not addressed in the evaluation of applications. The NJBPU must consider the impacts proposed offshore wind development will have on the commercial and recreational fishing industries to protect these pre-existing ocean uses that provide economic benefits to the state. Furthermore, if no weight is given to the impacts to the fishing industry, and the industries that depend on them such as restaurants, the purpose of the Fisheries Protection Plan becomes unclear.

Furthermore, COA disagrees with NJBPU's current weighted evaluation of the criteria, as the current structure gives insufficient attention to environmental impacts. The offshore wind industry is still in its infancy and there are significant unknowns and data gaps relating to the scope and impact the development will have on the marine and coastal environment. Furthermore, the initial projects in the area must develop the supply chain and ancillary industries, which will require significant industrial development throughout the state. Therefore, the NJBPU should not overlook the environmental impacts and thus must afford more weight to the applicant's ability to demonstrate net positive impacts, as well as avoidance and reduction of environmental harm.

VI. Conclusion

Thank you for the opportunity to submit comments on the Draft Solicitation Guidance Document. COA is committed to ensuring that the offshore wind industry is developed in the most environmentally responsible manner possible and appreciates NJBPU's efforts to evaluate

the environmental impacts of the prospective offshore wind projects. The recommendations outlined in these comments seek to strengthen the solicitation process by increasing the assurances from offshore wind developers to ensure they meet New Jersey's high standards of environmental protection.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Peter Blair", is positioned to the left of a vertical line.

Peter Blair, Esq.
Policy Attorney
Clean Ocean Action

August 19, 2020
VIA ELECTRONIC DELIVERY

New Jersey Board of Public Utilities
44 S. Clinton Avenue
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Osw.Stakeholder@bpu.nj.gov

Re: EnBW NA Comments to New Jersey Second Solicitation Guidance Document

Dear President Fiordaliso:

EnBW North America, Inc. respectfully submits the following comments and recommendations concerning the New Jersey Board of Public Utilities' ("NJBPU") draft guidance document for New Jersey's second solicitation to procure offshore wind in 2020, released on July 22, 2020.

EnBW North America is a subsidiary of EnBW AG, a German utility and leading offshore wind developer with a portfolio of nearly 1,000 MW of offshore wind projects operating in Europe and more than 3,000 MW under development globally. EnBW AG, which built Germany's first commercial scale offshore wind project in 2011 and recently finished commissioning Germany's largest offshore wind project, is also developing a 900 MW offshore wind project in the North Sea that will not require any government subsidies.

EnBW North America has established offices in Jersey City and Boston to pursue offshore wind opportunities in the Northeast. On the West Coast, EnBW North America is the majority owner of Castle Wind, the nation's first proposed floating offshore wind project off Morro Bay, California. EnBW North America, on behalf of our project company East Wind LLC, herein submits its comments and recommendations in response to and in support of NJBPU's draft guidance document regarding offshore wind procurement in 2020.

New Jersey's ambitious clean energy and climate goals are leading the nation and have set a policy north star for other states looking to establish renewable energy and CO₂ reduction targets in the decades ahead. We are committed to be a part of the State's offshore wind future, and we plan on actively contributing to the local economy, job growth, and development of a strong and diverse supply chain.

Wait to Procure More Offshore Wind until after BOEM New Jersey / New York Bight Offshore Wind Lease Auction

EnBW North America endorses and supports NJBPU's moves towards a second solicitation to successfully meet these State targets, but we respectfully recommend that NJBPU pursue a more limited solicitation in 2020, in line with Governor Murphy's offshore wind procurement schedule announced in February 2020, and wait until after the BOEM New Jersey / New York Bight offshore wind lease auction in 2021 to hold a more significant solicitation.

By waiting until after BOEM's New Jersey / New York Bight lease auction in 2021, New Jersey will be able to take advantage of the benefits of a more competitive offshore wind market, including:

1. Additional market participants competing to deliver the best project proposals at the most competitive price;

2. Optionality for New Jersey to choose projects that best meet local needs and interests;
3. Likelihood of reducing costs for ratepayers due to greater competition;
4. Expectation that multiple offshore wind supply chain companies will have established operations in the Northeast thereby reducing costs; and
5. Prevent the formation of monopolies that could stifle competition in the offshore wind market.
6. Lastly, with an increased potential of a federal investment tax credit being extended in 2021 it would allow for more participants to utilize the incentive and thereby translate into additional savings for New Jersey ratepayers.

Also, solicitations post-2020 will take advantage of several important efforts that the State is currently undergoing this year to reduce costs and environmental impacts, and to grow local investments in ports and a supply chain.

Waiting until after the BOEM Auction will provide more time for offshore wind developers to understand the development and capacity of the New Jersey Wind Port.

We appreciate that New Jersey needs to continue issuing solicitations for offshore wind in order to meet its 7.5 GW target to combat the climate change emergency; however, we believe that the benefits in terms of competition, cost, economic benefits, and transmission planning, all point towards a 1,200 MW solicitation as planned by Governor Murphy in 2020 and a larger solicitation after the BOEM lease auction in 2021. We also want to acknowledge the statement in the draft guidance document which states that "The Board reserves the right to select less than 1,200 MW," and would urge the NJBPU to not select projects that are not competitive given the high likelihood for additional market participants in the years ahead.

Thank you again for taking comments and recommendations as New Jersey plans and adapts their offshore wind priorities over the coming year. If you need any additional clarity on our responses or have other questions, please do not hesitate to contact me at (617) 415-4111 or w.white@enbw.com.

Sincerely,



William H. White
President & CEO
EnBW North America, Inc.

CC: Board.Secretary@bpu.nj.gov

**Environment New Jersey • GreenFaith • Jersey Renews
National Resources Defense Council • National Wildlife Federation
New Jersey Audubon • New Jersey League of Conservation Voters
New Jersey Sustainable Business Council • NJ Work Environment Council
Regional Plan Association**

August 19, 2020

President Joe Fiordaliso

New Jersey Board of Public Utilities

44 South Clinton Avenue, 9th Floor

Post Office Box 350

Trenton, NJ 08625

Re: Draft New Jersey Offshore Wind Second Solicitation Guidance Document

Submitted electronically to: OSW.Stakeholder@bpu.nj.gov

Dear President Fiordaliso:

On behalf of the undersigned organizations and the hundreds of thousands of New Jerseyans they 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 goal of 100% clean energy by 2050. We applaud the Board of Public Utilities' nation-leading actions to date to fulfill this vision, including the recently released Draft Offshore Wind Strategic Plan which outlines the state's roadmap for responsibly scaling up this industry at this key moment. We appreciate the opportunity to comment on the Draft New Jersey Offshore Wind Second Solicitation Guidance Document, as this next step in our offshore wind story is pivotal for signaling to the booming global industry that New Jersey is serious about building offshore wind power and doing so in a manner that brings maximum value to the state by protecting our natural resources and driving significant local investment and job creation in an equitable way.

Now is the moment to ensure that all projects built to power New Jersey are built responsibly with strong environmental protections and commitments to benefit local communities in place. We urge New Jersey to continue its nation-leading 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. The following comments provide recommendations for how New Jersey can ensure that the bidding and contracting process for this Second Solicitation aligns with the vision of OWEDA and Governor Murphy's Executive Order 8.

Solicitation Size & Timeline

We welcome the increase in size of this solicitation of up to 2,400 MW, as awarding this volume of offshore wind contracts will spark significant near-term investments in local port development and other infrastructure needed to launch this new industry. As states to the north and south of New Jersey also accelerate their offshore wind programs, it is increasingly important that we provide certainty to the marketplace regarding New Jersey's long-term, large-scale commitment to buying offshore wind power. We have no time to waste in scaling up climate solutions as swiftly as their responsible development allows, and a more aggressive offshore wind solicitation schedule allows New Jersey to

more quickly begin accessing the many benefits of powering our homes, businesses, and much-needed economic recovery with clean, local offshore wind power.

Application Requirements

We support the approach outlined in the Guidance for bidders to provide detailed project descriptions with their bids to assist the BPU in evaluating their options. In this highly competitive marketplace, it is essential that the state has enough details about each bid to be able to evaluate its compliance with OWEDA and overall likelihood of success in the many federal and state permitting forums ahead for the project and all associated development activities. Specifically, the Economic Development Plan (EDP - Section 3.8), the Environmental Protection Plan and Emissions Impacts (EPP - Section 3.9), and the Fisheries Protection Plan (FPP – Section 3.10) can enable the state to evaluate the different approaches bidders plan to take in these areas, which are critical for securing and maintaining public support over the long term.

While we recognize that projects may be in different stages of the development process at the time bids are submitted, each developer should be required to provide the state with clarity regarding the specific actions it commits to take in building each project responsibly. As this component of the offshore wind contracting process continues to evolve, we support increasing the specificity of the information required in these plans so that the Solicitation sends a very clear signal to the industry and interested stakeholders regarding expectations of every project built for New Jersey.

Environmental Protection Plan (EPP) & Emission Impacts:

We strongly support the excellent provisions of the EPP that are outlined as necessary for the Board to review bids, including requiring: a comprehensive assessment of potential impacts from the project; a plan to address those impacts, including any innovative measures to be deployed; a description of baseline and monitoring data to be collected and made available; and plans to engage stakeholders and address concerns throughout the lifetime of the project. The information provided by bidders in these critical areas will help the state determine if developers have sufficient plans factored into their bid price and timeline to address these issues critical to a project's success.

Additional specificity regarding expectations by the state for each of these areas could greatly enhance the role of the EPP in helping New Jersey's awarded projects remain on track for responsible development. For example, we recommend New Jersey keep pace with New York in advancing responsible offshore wind development through its procurement process by clarifying, where appropriate, specific mitigation practices that will be required of all selected projects. NYSERDA's recently announced solicitation for 2,500 MW includes several firm commitments for wildlife, including an important prohibition on nighttime pile-driving to protect marine mammals (which Maryland has also placed on its awarded projects) as well as a new provision that would require awarded projects to contribute funds for regional research needed to assess and avoid potential impacts to fish and other wildlife.^[1] This research is critical for helping stakeholders and regulators evaluate project proposals, and for driving innovations within the industry to advance solutions that can avoid or minimize impacts.

Looking forward, New York has implemented a condition for offshore wind contracts of \$10,000 per MW contribution to regional wildlife and fisheries research needed to assess potential impacts and effectiveness of mitigation strategies. New York's Environmental Technical Working Group, which includes project developers as well as conservation organizations, supported the inclusion of these measures in the procurement process.^[2] This is a major precedent and we sincerely hope that New

Jersey, with its major commitment to offshore wind, will similarly step up and help ensure sufficient resources are marshaled to advance the research needed to address regional obstacles that could prevent this critical climate solution from reaching its full potential. Further, we recommend that New Jersey continue to evolve the role of the DEP Environmental Resources Offshore Wind Working Group in advising the state of regarding recommended research and mitigation measures, as well as engaging in ongoing dialogue with selected projects to ensure the implementation of each EMP remains aligned with New Jersey's vision of responsible development.

Economic Development Plan (EDP):

The EDP offers a critical opportunity for New Jersey to evaluate the local economic and community impacts in each bid and select those that maximize the many benefits a project can deliver. And similar to the EPP, the state could provide further details in the Solicitation regarding specific actions that must be included in order to consider an EDP plan sufficiently complete. For example, selected developers should be required to commit to paying prevailing wage, to accept union neutrality agreement, and to participate in a community benefit agreement that includes a commitment to local hiring, as well as skills training for local people.

Priority should be given to companies developing a regional, low-carbon supply chain that goes beyond final fabrication and assembly and includes Buy American provisions. COVID -19 has highlighted the strategic importance of creating domestic supply chains. Supply chain composed of companies whose business practices most closely reflect the values and principles upon which Governor Murphy's vision of a stronger, fairer economy is based. Those companies whose corporate governance policies and business practices are geared toward creating long-term value for all stakeholders, rather than primarily maximizing shareholder profits, should be recruited and incentivized. This includes investing in workforce development, paying a living wage and benefits and a clear path towards career advancement. There also needs to be improved access for women, BIPOC, disabled people, and others traditionally left out of the clean energy workforce.

To ensure that each project solicitation results in the selection of a company that will bring the greatest local benefits, we also recommend the creation of an oversight committee, including labor and community representation, to monitor each bid process. We request a labor group made up of stakeholders is developed and has the same role and responsibilities similar to the DEP Environmental Working Group.

Evaluation Criteria

We appreciate that the Guidance includes new clarity regarding how projects will be evaluated, including specific criteria and transparency regarding how each factor will be weighted in the selection process. This sends an important signal to bidders regarding the importance of factors beyond price to New Jersey in considering project proposals, providing a powerful incentive for bidders to similarly prioritize these areas of project development.

In conclusion, we appreciate the steps New Jersey is taking to become a leader in responsibly developed offshore wind. It is critically important for the state to establish a fair and thorough solicitation process, early on in the expansion of the industry, which is in line with the vision of OWEDA and Governor Murphy's Executive Order 8. The protocols and projects developed at this stage will set key precedents

for future development, and based on the draft guidance, our state is on the right track. We hope that our recommendations will help to further ensure that New Jersey's offshore wind industry meets its potential to benefit our residents, our environment, and the economy. Thank you for your consideration.

Sincerely,

Environment New Jersey

Doug O'Malley, Director
domalley@environmentnewjersey.org

GreenFaith

Rev. Fletcher Harper, Executive Director
fletcher@greenfaith.org

Jersey Renewals

Berenice Tompkins, Coalition Organizer
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Regional Plan Association

Rob Freudenberg, VP Energy & Environment
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^[1] New York State Energy Research and Development Authority – 2020 Offshore Wind Solicitation: <https://www.nyserda.ny.gov/All-Programs/Programs/Offshore-Wind/Focus-Areas/Offshore-Wind-Solicitations/2020-Solicitation>

^[2] April 2020 Memo to NY Public Service Commission re: Recommendations of the NY Environmental Technical Working Group: https://a6481a0e-2fbd-460f-b1df-f8ca1504074a.filesusr.com/ugd/4b9f26_54ce70c6cba54158a9ebc3ddcd248a4b.pdf?index=true



August 19, 2020

New Jersey Board of Public Utilities
Mr. Joseph Fiordaliso, President
44 S Clinton Ave
P.O. Box 350
Trenton NJ 08625-0350

RE: New Jersey BPU Solicitation #2 Draft Guidance Document

Dear President Fiordaliso;

On behalf of Garden State Seafood Association GSSA I ask that the following comments be considered regarding the New Jersey Solicitation #2 Draft Guidance Document. We appreciate the BPU providing this opportunity to provide our comments and concerns associated with the guidance, and are very pleased that the document requires a fisheries protection plan.

The Garden State Seafood Association is a statewide organization of commercial fishermen and fishing companies, land based processors, related businesses and individuals working in common cause to promote the interests of the commercial fishing industry and seafood consumers in New Jersey. The Association's primary goal is to assure that our marine resources are managed responsibly and that all of the people in New Jersey, whether as anglers or as seafood consumers, will be able to enjoy the bounty of New Jersey's rich coastal and offshore waters for generations. It is also worth noting that we are not only concerned about our access to marine fishery resources, however, our land based processing facilities are large consumers of power, and we are equally concerned about the potential cost increases associated with these projects on our operations.

General Comments

We believe the guidance document should request some broader considerations for the development community. One being that any new submission should include required consideration of cumulative impacts of pre-approved development as well as the proposed additional solicitations. Specifically impacts such as environmental, fisheries, port access, and transmission will all be compounded as numerous NJ and competing state projects are

developed. This analysis would also identify where existing jobs, training and infrastructure already exist to minimize costs, as new supporting industries may not need to be redeveloped. Each project will not be starting from scratch. The solicitation should include a cumulative analysis to help minimize the cumulative impacts and identify ways to minimize them on New Jersey rate payers, environmental resources and fisheries.

Additionally, we believe the BPU should include in the solicitation guidance, a requirement for safe spacing between competing lease locations. Without this requirement developers may push lease boundaries impacting previous projects by placing layout nearly on top of a neighboring adjacent lease. Additionally this spacing, and we would propose a minimum of 4 nautical miles between projects, would allow additional transit lanes, and provide a safety buffer during construction and decommissioning operations of competing projects.

3.9 Environmental Protection Plan and Emission Impacts

This section we believe specifically should consider cumulative impacts of the projects on our environment. Additionally fisheries and fish should be more clearly included in this sections analysis for ecological impacts. Many fish are also ecologically significant and as such the whole environmental food web and the potential impacts should be considered.

Emissions should also include an analysis of increased emission resulting from vessels transiting around the project if specific transit lanes are not included in the project design.

The bullet on top of page 20 on identified impact should specifically include noise mitigation in construction, operation and decommissioning

The Environmental analysis must consider the effect of windmill projects on the seasonal cold pool of the mid-Atlantic region. This unique environmental resource/event must be protected and the Environmental Protection Plan for this projects should clearly state how their design and operation will insure zero impact on the cold pool.

3.10 Fisheries Protection Plan

Again, we believe there should be a clear requirement for cumulative impact of projects on fisheries.

There needs to be requirement for the developers to include what specific marine navigational aids and beacons will be included in their design and development.

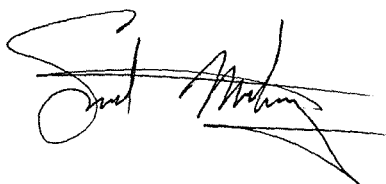
We believe “reasonable accommodations” is too nebulous. Specifically we request at least two 2nm transit corridors, one for shore bound traffic and the other ocean bound traffic and as data suggests two-directional offshore traffic transit lanes along existing fishery transit routes, be required in each design using historic transit data from NJ ports.

The economic analysis should also consider the impact on land based supporting industries, such as seafood processors, freezers, canner and other value added businesses. These NJ businesses

have invested millions of dollars to maximize the value of our environmental resources to the betterment of our State and economy. They should not be overlooked. This should also include an impact analysis of recreational bait and tackle shops as well as restaurants.

Again, we thank you for this opportunity to provide these comments and would be happy to discuss any questions that might arise during your deliberations.

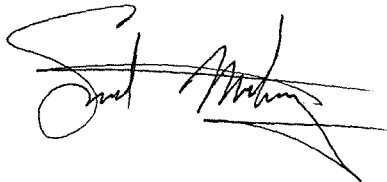
Sincerely,

A handwritten signature in black ink, appearing to read "Scot Mackey". The signature is stylized with a large initial "S" and a long horizontal stroke extending to the right.

Scot Mackey
Executive Director

Thank you for considering these comments and I am happy to address any questions stemming from these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Scot Mackey". The signature is stylized with a large initial "S" and a long horizontal stroke extending to the right.

Scot Mackey
Executive Director

August 19, 2020

State of New Jersey
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350

Re: Draft New Jersey Offshore Wind Second Solicitation Guidance Document

Submitted electronically to OSW.Stakeholder@bpu.nj.gov and Board.Secretary@bpu.nj.gov

Dear Commissioners,

Thank you for the opportunity to provide comments on the State of New Jersey's Draft Offshore Wind Solicitation Guidance Document (Draft Guidance Document). The Nature Conservancy in New Jersey strongly supports Governor Murphy's goal of 7,500MW of offshore wind power for the State of New Jersey and welcomes the opportunity to work with the Governor, the Board of Public Utilities (NJBPU) and Department of Environmental Protection (NJDEP) to ensure that this goal is met in a manner that adequately and equitably balances environmental protection with the need for clean, renewable sources of energy.

The Nature Conservancy (TNC) is one of the leading conservation organizations in the world, with a presence in all 50 states and over 70 countries worldwide. Our mission is to conserve the land and waters on which all life depends by working in a collaborative, science-based manner with a variety of partners. In New Jersey, TNC has helped to protect over 60,000 acres of open space habitat for biodiversity, restored riverine and coastal habitats, and promoted at the state and local levels the use of nature-based solutions to the impacts of climate change. As New Jersey experiences the increasing impacts of climate change, we are working to help ensure equitable carbon neutrality by 2050; that New Jersey's iconic forests, rivers, and coasts are healthy, resilient and connected; that New Jersey has invested in the health of our coastal habitats to benefit millions of residents and visitors; and that our cities are climate-resilient, livable and healthier.

TNC strongly supports the emphasis placed on the protection of environmental and natural resources within the Draft Guidance Document, as reflected in the required elements of an Environmental Protection Plan (EPP) and Fisheries Protection Plan (FPP). We commend the improvements over the first solicitation guidelines, most notably the additional elements required in the EPP; the inclusion of the weighting of the evaluation criteria, which weights environmental protection at 20% of the total score; and the additional requirement for a separate, detailed FPP. As the state evolves this piece of the offshore wind contracting process, we support increasing the specificity of the information required in these plans. This would send a very clear signal to the industry and interested stakeholders that every project built in New Jersey carries high expectations by the State. *We offer the following additional recommendations for inclusion in the final Guidance Document.*

Board of Trustees

Mark DeAngelis, Chair Anne Jacobson, Vice Chair
Glenn Boyd, Susan Dunn, Aaron Feiler, Vanita Gangwal, R. Jay Gerken,
Amy Greene, Arnold Peinado, Margaret Post, David A. Robinson, Ben Rogers,
Geraldine Smith, Dennis Toft, Kenya Travitt, Lisa Welsh, Robert D. Wilson



Develop robust local and regional monitoring data

To reinforce the importance of robust local and regional monitoring data, *we urge the NJBPU to require developers contribute funds for the regional research needed to assess and avoid impacts to marine wildlife.* This research is critical for helping stakeholders and regulators evaluate project proposals, and for driving innovations within the industry to advance solutions that can avoid or minimize impacts. New York set a great example: developers building projects in that state will provide \$10,000 per MW for regional-scale wildlife and fisheries monitoring and research to help illuminate potential area specific and cumulative impacts to inform adaptive management as projects get built out over the next decade or more. Research and monitoring aimed at understanding and then avoiding, minimizing and mitigating negative impacts to marine fish and wildlife is essential for successful build-out of offshore wind energy at a scale that will meet New Jersey's renewable energy goals and the offshore wind energy procurement goals of our neighboring states. New York's Environmental Technical Working Group (ETWG), which includes project developers, conservation organizations, and federal and state agency representation, including NJDEP and NJBPU, supported the inclusion of these measures in the procurement process.¹ This is a major precedent, and we strongly recommend that New Jersey, with its major commitment to offshore wind, require the same provision.

Large-scale monitoring is essential to track both environmental and human features of the ecosystem that overlap multiple planning areas and leases. Developers are already coordinating with the entities that have been, or are being, developed to steer and fund research that will contribute to the regional-scale analyses of population-level change and cumulative impacts across the geographic range of the North Atlantic Right Whale and other affected species. TNC has been working closely with state and federal agencies, environmental organizations and offshore wind developers to establish the Regional Wildlife Science Entity² (RWSE), which would support research and monitoring of wildlife and offshore wind energy. The RWSE will fill a void that has been identified by state and federal agencies, developers, academic researchers, environmental protection advocates, and many other stakeholders.

Add Specificity for Mitigation Measures

We strongly support the provisions of the EPP as necessary for the Board to review bids, including requiring: a comprehensive assessment of potential impacts from the project; a plan to address those impacts, including any innovative measures to be deployed; a description of baseline and monitoring data to be collected and shared; and plans to engage stakeholders and address concerns throughout the lifetime of the project. The information provided by bidders in these critical areas will help the state determine whether developers have adequate plans factored into their bid price and timeline to address these issues critical to a project's success. Additional specificity regarding expectations by the state for each of these areas could greatly enhance the role of the EPP in helping New Jersey's awarded projects remain on track for responsible development.

TNC supports the extensive list of avoidance and minimization measures provided within the Draft Offshore Wind Strategic Plan released in July 2020. However, as we recommended in our August 17, 2020 comment letter, we believe that some mitigation measures should be required by the state (overseen by NJDEP) to ensure effective protection of our natural resources. For example, NYSERDA's recently announced solicitation for 2,500 MW includes several critical protections for wildlife, including

¹ April 2020 Memo to NY Public Service Commission re: Recommendations of the NY Environmental Technical Working Group: https://a6481a0e-2fbd-460f-b1df-f8ca1504074a.filesusr.com/ugd/4b9f26_54ce70c6cba54158a9ebc3ddcd248a4b.pdf?index=true

² <https://www.nyetwg.com/regional-wildlife-science-entity>

an important prohibition on nighttime pile-driving to protect marine mammals (which Maryland has also prohibited on its awarded projects). In addition, developers should be required to monitor and transparently disseminate information about efficacy of avoidance and mitigation measures in a timely fashion in order to adaptively manage the construction and operation of offshore wind farms.

The environmental non-governmental agencies on New York's ETWG recently recommended the following measures to be included in its recent solicitation request. TNC requests that NJBPU consider them for inclusion in its Guidance Document or give preferential scoring to those proposals that include the following:

- Restrictions on construction activities and geophysical surveys with noise levels that could harass or injure vulnerable marine mammals in locations and during periods with higher exposure exposure, as identified by the establishment of a Dynamic Management Area (DMA) or Seasonal Management Area (SMA), detection (via passive acoustic monitoring) of species of concern in the vicinity, or other means.
- Commitment that pile driving and geophysical surveys with significant noise levels (*i.e.*, RMS sound pressure levels > 180 dB re 1 uPa at 1 meter for equipment that operates between 7 and 35 kHz) will not commence when visual monitoring of exclusion zones is not feasible (*e.g.*, at night and during poor visibility conditions such as fog, heavy rain, poor sea state conditions).
- Monitoring the clearance zone for marine mammals for a minimum of 60 minutes prior to the initiation of pile driving activity and 30 minutes prior to the initiation of survey work with significant sound levels using a multi-method approach, such as Passive Acoustic Monitoring (PAM), Protected Species Observers (PSOs) approved by the National Marine Fisheries Service, and other proven technologies.
- Use of trained crew members as lookouts to reduce risk of collisions with marine mammals. On vessels operating at greater than 10 knots during high risk periods, designated crew lookouts should be used to help reduce risk of vessel-mammal collisions in instances where PSOs for visual monitoring are not employed due to technical or logistical feasibility or human safety concerns.
- Reduce artificial lighting during all phases of development to the extent possible while maintaining human safety and regulatory compliance.
- If avian monitoring indicates a need for perch-related deterrents, mitigation measures should be implemented and fully detailed in the EPP required by the solicitation guidelines.

In order to meaningfully inform the rapid progression of projects anticipated in New Jersey, the developers also should be required to report on and analyze construction monitoring data every six months for the first three years of a project. We recognize that this rapid reporting will be a significant burden for the developer, and state agencies should similarly invest time and other resources to assess the data and adapt future solicitation and development activities accordingly. Given the rapid development of offshore projects over the next several years, a process should be in place so that what is learned in the early stages of development is applied at the later stages.

Preferentially score the use of quiet foundations

Finally, we request the NJBPU give preferential scoring credit to projects that commit to adopting quiet foundations (*any technology that does not require pile driving*). Incentivizing this technology could help advance the offshore wind industry while avoiding a serious environmental impact. Pile driving noise

during the construction phase has been identified as a stressor of high concern for marine wildlife.³ The loud impulsive sound from pile driving that propagates through the water column and substrate impacts marine mammals, sea turtles, fish, and invertebrates, some of which support economically valuable fisheries. Potential impacts of unmitigated exposure to pile driving noise include physical injury, hearing impairment, disruption of vital behaviors such as feeding, breeding, and communication, habitat displacement, stress, and other health effects.⁴ Avoiding, minimizing, and mitigating exposure of marine wildlife to pile driving noise unequivocally represents the mitigation hierarchy of “best practice.”

The mitigation hierarchy should serve as the foundational framework used by NJBPU and NJDEP for considering how to make all stages of offshore wind energy development compatible with marine life and existing human uses; following the hierarchy, it is more advantageous to avoid an impact than to minimize or mitigate it. Fortunately, commercially available options exist for the construction of offshore wind turbines that do not require pile driving, and thus avoid the noise impacts stemming from this activity. These options, referred to here as “quiet foundations,” currently include various designs of suction bucket and gravity-based foundations. Sediment conditions along the Atlantic OCS appear to be generally conducive to the use of quiet foundations.⁵ Indeed, the 800+ Megawatt *Empire Wind* project demonstrates the viability of these technologies through the proposed use of gravity-based foundations. We strongly encourage further research on the potential for and expansion of quiet foundations for next generation wind turbines across as broad a set of sea floor conditions as possible.

Thank you again for the opportunity to comment on the Draft NJ’s Offshore Wind Second Solicitation Guidance Document. We appreciate the steps New Jersey is taking to establish a transparent, fair solicitation process.

Yours in conservation,

Patricia Doerr

Patricia Doerr
Director of Coastal and Marine
Programs

³“New York State Offshore Wind Master Plan Environmental Sensitivity Analysis. Final Report.” NYSERDA Report 17-25. Prepared for New York State Energy Research and Development Authority by Ecology and Environment Engineering, P.C., New York, New York, (November 2017). Available at: <https://www.nyserda.ny.gov/-/media/Files/Publications/Research/Biomass-Solar-Wind/Master-Plan/17-25i-Environmental-Sensitivity.pdf>.

⁴ See, e.g., Weilgart, L. “The Impacts of Anthropogenic Ocean Noise on Cetaceans and Implications for Management,” *Canadian Journal of Zoology* 85, no. 11 (2007): 1091-1116; Weilgart, L. “The Impact of Ocean Noise Pollution on Fish and Invertebrates,” *OceanCare* and Dalhousie University (May 2018). Available at: https://www.oceancare.org/wpcontent/uploads/2017/10/OceanNoise_FishInvertebrates_May2018.pdf.

⁵ Williams, S.J., Arsenault, M.A., Poppe, L.J., Reid, J.A., Reid, J.M. and Jenkins, C.J., “Surficial sediment character of the New York-New Jersey offshore Continental Shelf region; a GIS Compilation.” U.S. Geological Survey Open-File Report 2006-1046 (2006). Available online at <http://pubs.usgs.gov/of/2006/1046>.

August 19, 2020

Comments of Orsted on the Draft Solicitation Guidance Document for Second Offshore Wind Solicitation

Orsted Wind Power North America LLC (Orsted) appreciates the opportunity to file these comments and recommendations on the BPU's Draft Solicitation Guidance Document for the second offshore wind solicitation (Draft Guidance Document or Draft).

Orsted is very supportive of the efforts of the BPU and the Murphy Administration to make New Jersey a leader in offshore wind power, so New Jersey can capitalize on the energy, environmental, economic development, and jobs benefits of this new American industry.

Orsted is the owner of the Ocean Wind, the project that received a designation by the BPU in 2019 to develop, construct and operate New Jersey's first offshore wind project, and is currently in the development phase of that project.

Orsted is the global leader in offshore wind and has deep experience in procurement processes around the world and supports the BPU's efforts to conduct an open, competitive, and transparent process for selecting its projects. The terms of the Solicitation will provide a structure for selection of the project or projects that meet the Board's stated public policy objectives; namely, to assure that the selected projects maximize the jobs and economic development benefits to New Jersey, advance environmental stewardship, and protect ratepayers. In that context, Orsted applauds the BPU efforts to secure up to 2400 MW of capacity in this second solicitation.

The approach used by the BPU in the first solicitation was an effective approach to procurement of offshore wind projects, which included clear instructions and an efficiently operated process. The adjustments provided for in the Draft are likewise appropriate and in furtherance of selecting project(s) through a competitive and transparent process that are in the best interest of the State of New Jersey. Orsted looks forward to participating in the solicitation process and helping New Jersey achieve its goals of creating economic development and environmental benefits at a while delivering high value for ratepayers.

Orsted recommends that the Staff and BPU consider one adjustment relative to the treatment of "merit order benefits". The Draft does not specifically recognize the "merit order benefit" of a project on wholesale energy and capacity prices (i.e. that the project will reduce wholesale prices to the benefit of all ratepayers, by injecting lower cost energy or capacity into the grid and thereby reducing the clearing price in the supply stack). Wholesale prices are reduced by the injection of offshore wind power into the grid; these benefits can be significant and accrue to all New Jersey ratepayers. These merit order benefits are recognized in the BPU's energy efficiency reviews (where they are known as demand reduction induced price effects) and are recognized by Rate Counsel in that arena, so they should be recognized for offshore wind as well. While including this calculation does not have much impact between the comparison of different bids - although it does help projects with higher production per MW - it does allow projects (and the BPU) to more accurately represent the full overall benefits of a project.

Inclusion of merit order benefits will enable the BPU to communicate rate impacts to the public in a way that is more accurate, since these merit order benefits will reduce the overall rate impact of a project. Accordingly, the Draft should be revised to require that applications include merit order benefits in a project's benefits and overall rate impacts.

Orsted appreciates the opportunity to file these comments and looks forward to working with the BPU on the development of an offshore wind industry that is highly beneficial to New Jersey.

Contact information:

Sunny Gupta t: 917.691.9881
Orsted U.S. Offshore Wind e: sugup@orsted.com



August 13, 2020

New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625

RE: Comments on the draft Guidance Document for the 2nd
OSW Solicitation

To Whom it May Concern:

Anbaric Development Partners (ADP) welcomes this opportunity to offer comments on the Offshore Wind Solicitation draft guidance document released for public comment on July 22, 2020. We thank the New Jersey Board of Utilities for the thoughtful work that resulted in this document, incorporating stakeholder feedback from the first solicitation, and continuing New Jersey's offshore wind industry's rapid growth.

Anbaric Development Partners is a transmission development company, having helped spearhead the development of the Hudson and Neptune lines, and now pursuing opportunities in land-based and offshore wind transmission. As ADP noted in our comments on the draft OSW Strategic Plan, it is clear that New Jersey recognizes the tremendous opportunities that offshore wind presents, and the challenges that achieving utility-scale transmission presents. Among the most significant challenges is planning for the transmission infrastructure that can efficiently and reliably deliver the power to the terrestrial grid at a low cost while protecting the environment. While we recognize that the Board has made the decision to proceed with this solicitation with a bundled generation and transmission model, we are encouraged by the inclusion of language regarding future transmission integration as a requirement in this solicitation. As the amount of wind delivered to shore increases, we think that the merits of planned, open-access transmission become more and more attractive. This recognition of the need to plan for the future transmission needs of the entirety of the state's current and potential future OSW goals demonstrates the State's continued insightful planning in building a successful industry.

As we can learn from lessons of the European offshore wind industry, and terrestrial wind projects here in the United States, a well-planned transmission system is key to ensuring the on-time delivery of wind power at the thousands of megawatts scale. As stated in the Strategic Plan draft released earlier in July, the State must evaluate transmission infrastructure scenarios to consider the impact that the transmission infrastructure will have on the marine environment and marine life, sensitive habitats and historic areas, as well as the impact on the fishing and maritime industries. Paramount among the considerations that must be considered when planning for transmission is protecting the ratepayer.

ADP offers the following benefits of planned transmission for consideration:

- Planning to maximize the utilization of each onshore point of interconnection or POI. These POIs are scarce and those that can absorb thousands of megawatts should use the full amount of headroom without leaving any unused capacity.
- Planning can minimize the number of cables necessary to deliver power to shore, therefore reducing disruption to ocean and terrestrial ecosystems and impacts to communities and commercial and recreational fishing.
- Planning can create the infrastructure which enables long-term, predictable procurements for the offshore wind industry, which New Jersey is working so hard to anchor in the state, to eliminate concerns regarding project completion risk, as well as establish a financing structure for the procurement of OSW transmission.
- Finally, planning can increase and focus competition on the both the generation and transmission components which can lead to reduced costs for ratepayers.

ADP thanks the NJBPU for the opportunity to submit these comments on draft guidance for New Jersey's second offshore wind solicitation.

Sincerely,



Janice Fuller
President, New Jersey
Anbaric Development Partners



August 18, 2020

Transmittal electronically to Osw.Stakeholder@bpu.nj.gov

Mr. Jim Ferris
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor Trenton
New Jersey 08625-0350

RE: Draft New Jersey Offshore Wind Second Solicitation Guidance Document Comments (Docket No. QO20070478)

Dear Mr. Ferris,

EDP Renewables (EDPR) commends the New Jersey Board of Public Utilities (NJBPU) on the issuance of the Draft Solicitation Guidance Document for the Second Offshore Wind Solicitation (Draft Guidance Document) for up to 2,400 MW of offshore wind energy capacity. NJBPU's commitment to moving the State closer to meeting Governor Phil Murphy's goal of 7,500 MW of offshore wind energy by 2035 fosters confidence for investors like EDP Renewables (EDPR).

EDPR is a global leader in the renewable energy sector and the world's fourth-largest wind energy producer. As a company, we are committed to the principles of sustainability and to the goals of the Paris Climate Agreement which calls for the decarbonization of society critical to the future health of our oceans and ecosystem. With a sound development pipeline, first class assets, and market-leading operating capacity, EDPR has undergone exceptional development in recent years and is currently present in 14 markets worldwide and active in offshore wind markets in the United States, Europe and Asia. Currently, EDPR owns and operates over 2,000 MW of wind generation inside the PJM Interconnection LLC (PJM) control area. In New England, EDPR is part of a joint-venture currently developing the Mayflower offshore wind project (Lease OCS-A 0521) with a potential installed capacity of over 1.6GW. EDPR has other investments in offshore wind in the United States as well as around the world, including Windfloat Atlantic, the first operational floating offshore wind farm located off the coast of Portugal.

EDPR is actively seeking opportunities to help advance New Jersey's climate protection and economic development goals through the development of offshore wind. The Guidance Document includes information on the timeline and mechanisms of the second solicitation, the application requirements, and the criteria for evaluating applications. Overall EDPR finds the solicitation document very

informative and well structured. We do not have further comments at this time but appreciate the opportunity to participate in future discussions and stakeholder meetings on offshore wind.

We look forward to working with the New Jersey team in building a clean energy future for New Jersey's residents and ratepayers.

Sincerely
for EDPR Offshore North America LLC,

Enrique Alvarez-Uria

Enrique Alvarez-Uria
Manager

Cc Aida Camacho-Welch, Secretary of the Board
Board.Secretary@bpu.nj.gov



State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL
P.O. Box 003
TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

STEFANIE A. BRAND
Director

August 19, 2020

VIA ELECTRONIC MAIL

Honorable Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: Rate Counsel's Comments on the Board of Public Utilities' Draft New Jersey
Offshore Wind Second Solicitation Guidance Document
BPU Docket No.: QO20070478**

Dear Secretary Camacho-Welch:

Please accept for filing the enclosed comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in response to the Draft New Jersey Offshore Wind Second Solicitation Guidance Document ("Guidance Document") circulated by the Staff of the Board of Public Utilities for comment on July 22, 2020 with a corresponding Public Notice noticing stakeholders of a public webinar to address the Guidance Document on August 5, 2020. Rate Counsel reserves its right to supplement these comments as the stakeholder process continues. In accordance with the Notice, an electronic copy will be emailed to osw.stakeholder@bpu.nj.gov.

Please acknowledge receipt of these comments.

Thank you for your consideration and attention to this matter.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

By: /s/ Henry M. Ogden
Henry M. Ogden
Assistant Deputy Rate Counsel

Enclosure

cc: osw.stakeholder@bpu.nj.gov
Paul E. Flanagan, BPU
Kelly Mooij, BPU
Stacy Peterson, BPU
Abe Silverman, BPU
Pamela Owen, ASC, DAG

New Jersey Offshore Wind Second Solicitation Guidance Document

BPU Docket No.: QO20070478

Comments of the New Jersey Division of Rate Counsel

August 19, 2020

Introduction

The Division of Rate Counsel (“Rate Counsel”) thanks the Board of Public Utilities (“Board” or “BPU”) for the opportunity to provide comments on the draft Solicitation Guidance Document for the second offshore wind solicitation released by the Board’s Division of Clean Energy (“DCE”) on July 22, 2020.¹ A virtual public meeting to discuss the draft and accept public input was held on August 5, 2020.² The meeting consisted of a brief presentation by BPU Staff recapping the State of New Jersey’s offshore wind (“OSW”) goals and activities to date, as well as background on the requirements of the Offshore Wind Economic Development Act (“OWEDA”)³ and Executive Orders No. 8 (“EO8”) and No. 92 (“EO92”).⁴ A presentation outlining the content of the draft Guidance Document was also given. Comments by stakeholders and members of the public were also invited.

¹ <https://www.bpu.state.nj.us/bpu/newsroom/2020/approved/20200722.html>

²

<https://www.bpu.state.nj.us/bpu/pdf/publicnotice/OSW%20Solicitation%202%20Guidance%20Document%20Stakeholder%20Meeting%20Notice%20-%202019-22-20.pdf>

³ N.J.S.A. 48:3-87d(4) to -87.2.P.L. 2010, c. 57, signed into law August 19, 2010.

⁴ Executive Order No. 92, signed by Governor Murphy on November 19, 2019, changed the State’s OSW goal to 7,500 MW by 2035.

On November 19, 2019, Governor Murphy signed EO92, which more than doubled New Jersey's previous offshore wind energy generation goal from 3,500 megawatts ("MW") to 7,500 MW by 2035. And on February 28, 2020, Governor Murphy announced the offshore wind solicitation schedule to meet the 7,500 MW goal.⁵ In April 2020, the BPU retained Levitan & Associates to assist in developing the Solicitation Guidance Document for the State's second solicitation targeting 1,200 MW to 2,400 MW. The Solicitation Guidance Document includes information on the timeline and mechanics of this second offshore wind solicitation as well as application requirements and the criteria for evaluating applications. Rate Counsel offers the following comments on select topics and issues raised by the Guidance Documents.

Costs and Ratepayer Impacts

Rate Counsel wishes to emphasize the importance of assuring that all guidance documents, which outline the evaluation criteria that will be used to select winning OSW bids, underscore the importance of costs above all other considerations, particularly during the current pandemic. New Jersey households, businesses, and industries are being stretched to the limit under the current pandemic's economic and financial toll. While the winning OSW project will likely receive a contract for a twenty-year time-period, the importance of assuring the lowest potential cost resource today, and across the life of the project, is crucial. Ratepayers across all customer classes need relief from continued rate increases now, and over the next several years as the New Jersey economy attempts to pull itself out of what is likely one of its worst economic recessions in history. It will take many years to recover from what is already a twenty percent unemployment rate in the state and the guidance documents need to reflect this concern.

⁵ 3 State of New Jersey, "Governor Murphy Announces Offshore Wind Solicitation Schedule of 7,500 MW through 2035," February 28, 2020. <https://www.nj.gov/governor/news/news/562020/20200228a.shtml>

Rate Counsel appreciates and strongly supports the proposed weighting scale that places an important weight (50 percent) on OREC costs and ratepayer impacts.⁶ This is an improvement over the prior solicitation. Rate Counsel suggests that the Board consider, at least for this solicitation, increasing this weight to 70 percent given current economic circumstances. As time progresses, and the New Jersey economy begins to show signs of improvement, this weight can be re-evaluated relative to other policy concerns and priorities.

OSW Project Scoring and Transparency

Rate Counsel strongly supports the proposed project scaling being proposed by Board Staff in the OSW Guidance documents. This scaling was missing in the last solicitation and represents an important improvement. The scoring criteria proposed by the Board is clearly defined and objective and should improve confidence in the OSW bidding process. This type of transparency is important since a higher level of confidence in the process, other things being equal, can help increase bidding which, in turn, can increase the competitiveness of the process, and hopefully the delivered cost of OSW resources to New Jersey ratepayers.

As noted above, the Guidance documents recommend a weight at 50 percent for OREC costs/rate impacts. Rate Counsel strongly agrees with making rate impacts the highest weighted category. However, Rate Counsel also recommends that, at least for the upcoming solicitation, this weight be increased to 70 percent given the current concerns about affordability and economic sustainability concerns for ratepayers during the current pandemic. The remaining three evaluation criteria should receive a 10 percent weight, respectively.

Cost Benefit Analysis (CBA)

Rate Counsel requests that bidders be notified that electronic versions of all proposed OSW project financing modeling and CBAs will be made available to Rate Counsel and its

⁶ "Criteria for Evaluation of Applications", Solicitation pp. 28-30.

consultants for review (under confidentiality agreements).⁷ Rate Counsel has a statutory obligation to protect ratepayer interests in New Jersey. It is difficult to fulfill this mandate if the required documentation to review what will be rather large ratepayer costs are not provided to Rate Counsel for additional review and due diligence analysis. Thus, Rate Counsel requests that Board Staff recognize this in the Guidance documents and make the necessary arrangements to pass this information along to Rate Counsel in a timely fashion given the expedited time frames for bid review and approval.

OSW Project Output Projections

Rate Counsel requests that the second solicitation Guidance documents require additional information from bidders regarding the projected output from their proposed OSW projects. This additional information should include, but not be limited to:

- A detailed explanation regarding the methodology used to estimate project output.
- An explanation of how the methodology used to estimate proposed OSW project output differs or is similar with other bidder (a) active OSW projects or (b) other proposed OSW projects.
- A discussion of how and when a bidder may change OSW output projections and examples of how a bidder's corporate decisions on overall OSW project management impact OSW output modeling decisions.

⁷ Solicitation §2.5 "Confidentiality of Applications", p.7.

- Clear identification of factors that could impact OSW impact and the sensitivities associated with those projected output levels on a rank ordering basis (from most important/likely to least important/likely).
- An explanation on how changes in OSW output forecasts will be made available to Board Staff and Rate Counsel should the proposed project be selected for an OREC award.

Tax Credits and other Financial Support

The current pandemic has created a considerable degree of public policy uncertainty. It is also an election year. Tax policies and other regulatory changes could arise over the next year that could impact OSW finances. OSW bids made in the second solicitation should be required to clearly identify all tax benefits and other financial support mechanisms that will be used to support their OREC bids. Bidders should discuss, for instance, why one form of tax break or financial support is being used over another, such as the use of a production tax credit (“PTC”) rather than an investment tax credit (“ITC”). In addition, bidders should be required to explain, in detail, how they will modify their original OREC offers should existing tax laws be extended or modified in a way that create additional ratepayer value. Winning bids should be required to certify that they will continue to seek out, after original award, all tax benefit and other financial support mechanisms that can create ratepayer benefits.

In addition, the Guidance documents need to recognize that there have been changes to the wholesale markets since OWEDA was passed that make shifting the risk of energy and capacity sales to ratepayers even more onerous. A recent decision by the Federal Energy Regulatory Commission (“FERC”) determined that any state-subsidized generation facility that seeks to bid into the PJM Capacity market will be subject to PJM’s Minimum Offer Price Rule

(“MOPR”).⁸ This means that the bids for those facilities will be adjusted to remove the impact of that subsidy and will force those facilities to submit higher bids which may cause them not to clear the PJM Market. If they do not clear, New Jersey ratepayers will still pay for those subsidized resources but they will also have to pay for an equivalent amount of non-subsidized capacity, thus essentially paying twice. Projects can try to get around the MOPR by demonstrating that their costs are lower and getting a “unit-specific exemption,”⁹ but receiving such an exemption is likely to be difficult and cannot be assumed. OSW bidders need to explain how their offers conform to these recent changes and how, if this FERC policy is changed or reversed, how capacity revenues will be used to reduce ratepayer OREC costs.

⁸ Calpine Corp. v. PJM Interconnection, L.L.C., 171 FERC ¶61,034 (April 16, 2020), appealed by NJ Rate Counsel in: N.J. Div. of Rate Counsel v. FERC, No. 20-1059 (D.C. Cir. Filed Feb. 28, 2020) and No. 20-1762 (7th Cir., docketed May 6, 2020).

⁹ Id. and Calpine Corp. v. PJM Interconnection, L.L.C., 169 FERC ¶61, 239 at PP 161-162, 214-216 (Dec. 2019).



August 17, 2020

Ms. Aida Camacho-Welch, Secretary of the Board
State of New Jersey
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350

Re: Draft New Jersey Offshore Wind Second Solicitation Guidance Document, Docket No. QO20070478

Dear Secretary Camacho-Welch:

RWE Renewables Americas, LLC (“RWE”) appreciates the opportunity to provide comments on the New Jersey Board of Public Utilities’ (“NJBP”) Draft New Jersey Offshore Wind Second Solicitation Guidance Document (“Draft Guidance Document”) supporting New Jersey’s second offshore wind solicitation in 2020 for Offshore Renewable Energy Credits (“ORECs”).

RWE, founded in 1898, is one of the largest players in the renewable business worldwide and the third largest producer of renewable energy in Europe. RWE's strategy for renewables is geared to growth and we plan to invest an annual amount of \$1.5 billion to expand our wind, solar energy and storage technologies portfolio. Since 2007 we've built nearly 4,000 megawatts (“MW”) of wind, solar and energy storage projects in the United States with more under development. We've invested more than \$6 billion in producing clean, affordable homegrown energy. RWE has established an ambitious CO2 reduction target and has committed to be carbon-neutral by 2040. As the second largest offshore wind developer in Europe, RWE owns 2.5 gigawatts of Offshore Wind and operates an additional 800 MW for our partners.

Solicitation Schedule

RWE appreciates Governor Phil Murphy's announcement of a long-term solicitation schedule in even numbered years through 2028 to provide insight and certainty in the U.S. market. Visibility into the pipeline of projects and knowing when solicitations will occur will allow for the necessary investments to jump start the U.S. offshore wind supply chain, unleashing business opportunities for the manufacturing, construction, transport and installation of offshore wind components across the region, driving down costs and establishing a local workforce.

Proposed 2020 Solicitation Size and Frequency

In the Draft Guidance Document, the NJBPU is seeking to solicit between 1,200 MW and 2,400 MW of ORECs in 2020 and to retain the flexibility to adjust the timing and the quantity to be procured based on market conditions, including the development schedule for transmission solutions to accommodate large new injections of offshore wind, the status of additional Bureau of Ocean Management ("BOEM") lease areas, permitting, port readiness, establishment and evolution of the supply chain, workforce training, and technology progress affecting overall cost trends. In order to capture the greatest benefits and cost savings for New Jersey ratepayers, RWE suggests that the NJBPU should consider the following in determining the size and frequency of procurements:

- Increased competition from the participation of additional leaseholders;¹
- CAPEX costs will continue to decline with the establishment and maturation of a local supply chain;
- Completion of PJM transmission analysis will allow for more efficient system planning, reducing overall system costs associated with the full integration of New Jersey's 7,500 MW offshore wind target;
- The availability of future federal tax incentives.

The collective cost impacts of increased competition in the New York Bight lease area and downward cost trends will yield more creative bids and greater economic benefits in post-2020 procurements. In addition, New Jersey anticipates awarding

¹ BOEM began the leasing process for the New York Bight lease area with the Call for Information and Nominations in April of 2018. A BOEM lease auction is anticipated in 2021.

contracts for the 2020 solicitation in Q1 of 2021 likely making these projects ineligible for the 18 percent federal ITC that will expire at the end of this year. For these many reasons, RWE requests that the NJBPU award less MW in 2020. By awarding less MW in 2020 and more in 2022 and beyond, New Jersey will continue to make progress towards achieving the 7,500 MW offshore wind goal and capture greater cost savings for New Jersey ratepayers.

Weighting of Evaluation Criteria

RWE supports the NJBPU's ranking and weighting of the six evaluation criteria that reflect the goals stated in Executive Order 8 and Executive Order 92. The weighting of the evaluation criteria provides clear guidance and transparency to the developer community that will allow New Jersey to achieve its stated objectives of contributing to a stronger New Jersey economy, combating global climate change, providing added reliability for the transmission network, and achieving all of this at the lowest cost reasonable cost for New Jersey ratepayers.

Sincerely,

Kate McKeever

Kate McKeever

Director, Government & Regulatory Affairs for U.S. Offshore Wind

RWE Renewables Americas, LLC

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(325) 267-0842



Surfside Foods, LLC

Phone: (856) 785-2115 * Fax: (856) 785-0975

2838 High Street
PO Box 692
Port Norris, NJ
08349

August 19, 2020

New Jersey Board of Public Utilities
Joseph Fiordaliso, President
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0305

Re: New Jersey BPU Solicitation #2 Draft Guidance Document - Section 10: Fisheries
Protection Plan

Dear Mr. Fiordaliso,

Surfside Foods, LLC (Surfside) is a vertically integrated harvester and processor of Atlantic surfclams and ocean quahogs. We operate the majority of our fleet of eight clam boats out of the New Jersey ports of Point Pleasant and Atlantic City.

We applaud the inclusion of a Fisheries Protection Plan (FPP) as a required portion of the application solicitation for offshore wind projects and support the scientifically rigorous plan to detect impacts to marine resources and measures to avoid, minimize and mitigate potential impacts on fish, and on commercial and recreational fisheries required in the application. The impacts to the fishing industry cannot be overlooked, nor addressed at the last minute before a site is developed.

The FPP does not clarify the review process to determine whether plans are indeed scientifically rigorous. Governor Murphy's Executive Order No. 92 directing the New Jersey Department of Environmental Protection (NJDEP) to "promote and realize the development of wind energy off the coast of New Jersey to meet a goal of 7,500 megawatts of offshore wind energy generation by the year 2035." puts the NJDEP in an awkward position of doing due diligence regulating while working to realize the development of wind energy. We recommend the addition of an external review panel for the FPP portion of the solicitation. It is critical that these be reviewed in an unbiased manner by those with extensive technical and scientific experience specific to New Jersey and regional fisheries.

Thank you for your consideration of my comments, please reach out to me with any questions you may have concerning these views.

Regards,

Thomas Dameron

Thomas Dameron
Government Relations &
Fisheries Science Liaison
Surfside Foods, LLC