



Agenda Date: 4/27/11

Agenda Item: 8B-2

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE OFFSHORE WIND) ORDER GRANTING
REBATE PROGRAM FOR THE INSTALLATION OF) EXTENSION OF TIME TO
METEOROLOGICAL TOWERS) NRG BLUEWATER WIND

DOCKET NO. EO08110971

<u>Company</u>	<u>City/Town</u>	<u>Docket No.</u>
NRG Bluewater Wind	Hoboken	EO08121063

BY THE BOARD:

This Order memorializes action taken by the Board of Public Utilities (Board) at a public agenda meeting held April 27, 2011 regarding applicant's NRG Bluewater Wind, (Bluewater or Petitioner) request for an extension, on a previously approved project.

BACKGROUND AND PROCEDURAL HISTORY

At its December 17, 2008 public agenda meeting, the Board approved, pursuant to its Offshore Wind (OSW) Grant Solicitation, a grant of \$4 Million each to Bluewater, Garden State Offshore Energy and Fishermen's Energy for their proposed OSW generation facilities. The initial term of the rebate expired on January 9, 2010. At its August 19, 2009 public agenda meeting, as memorialized in an Order dated September 16, 2009 in Docket Nos. EO08110971, EO08121062, EO08121063, and EO08121064, the Board granted petitioner a one-year extension of the rebate commitment for the Installation of Meteorological Towers [Met Tower(s)], making the new expiration date January 9, 2011. Bluewater now requests a two-year extension for the commissioning and payment of necessary components.

On or about October 28, 2010, Bluewater submitted a letter with the Board detailing the reasons for the extension. In part, Bluewater explained that the federal permitting process has been delayed. In early summer of 2009, the offshore renewable regulations of the Bureau of Ocean Energy Management and Enforcement of the U.S. Department the Interior (BOEMRE or Agency) had just gone into effect. BOEMRE then informed Bluewater that commercial leasing would take place through a Request For Interest (RFI) process. As of October 2010, however, the Agency had not released a RFI for wind projects off of New Jersey's coast. Despite this delay, NRG Bluewater continues to work with the Agency to secure permits.

Concerning progress on the Met Tower project, Bluewater indicates that as of October 28, 2010, it had completed its geophysical and geotechnical studies at a cost of \$1 million dollars,

and had completed the Met Tower design at a cost of \$300,000. Bluewater has also issued a competitive solicitation for proposals for Met Tower construction revealing that construction will cost in excess of the original rebate. Bluewater anticipated committing an additional investment of 100% to 150% of the rebate amount to the Met Tower project.

On Monday, January 24, 2011, in a meeting between Board Staff and Bluewater, Board Staff informed Bluewater that three criteria needed to be satisfied by petitioner in order to receive the rebate extension at the original 4 million dollar amount. If all elements of the request were not satisfied, the rebate would be reduced to 3 million dollars. Bluewater needed to: 1) provide the Board with permit documentation; 2) provide the Board with a letter from their lender, stating a Met Tower was necessary for the petitioner to receive financial backing for their proposed wind-farm; and 3) provide the Board with letters from the other two rebate recipients, Garden State Offshore Energy and Fishermen's Energy, that stated the information gathered from the Met Tower, when shared, would be worth one million dollars. In the meeting staff agreed to reimburse Bluewater for the cost of each necessary component of the project prior to total completion, as was done with the two other rebate recipients. The petitioner produced the first two elements, but not the third.

By letter dated February 18, 2011, Bluewater provided the following information, detailing what further actions need to be performed to make the proposed Met Tower operational:

- 1) Bluewater must submit an acceptable Project Plan to BOEMRE, with a Certified Verification Agent (CVA) approving the design, fabrication and installation plans of the Met Tower.
- 2) The following permits must be secured:
 - a) Incidental Harassment Authorization (IHA) – The National Oceanic and Atmospheric Administration issued an IHA for marine mammals and sea turtles in September 2010, which covered only the period October through November 2011, and must be reissued for the 2011 construction season.
 - b) EPA Outer Continental Shelf Air Permit (OCS) – Bluewater submitted a revised Notice of intent and OCS Air Permit Application in February 2010. Additional detail must be collected regarding type of vessels to be used to install the Met Tower to secure this permit in 2011.
 - c) Army Corps of Engineers, Nationwide Permit 5 – Once final design decisions are made for the New Jersey met tower, a permit should be issued.
 - d) Coast Guard Private Aids to Navigation – The U.S. Coast Guard will issue a permit related to the lighting and marking several weeks prior to construction. The permit will be requested six weeks prior to installation commencement. Bluewater has been in contact with the Coast Guard to ensure timely approval.
- 3) An important aspect of the Met Tower schedule is the long lead-time items that drive the construction and installation effort. Examples of this are:
 - a) The fabrication of the foundation must be commissioned six months before installation to account for time to fabricate and deliver the Met Tower.
 - b) Instrumentation must be purchased at least X months prior to deployment.
 - c) Reserving offshore construction vessel must occur six to twelve months prior to its use to secure availability.

Because the construction of a Met Tower is a more expensive and risky venture than the alternative technologies used by the other rebate recipients, but necessary for project financing, Bluewater confirmed with Staff on April 8, 2011, that a two year extension to secure approvals, order equipment, and install the Met Tower is reasonable and necessary under the circumstances.

Due to the lack of Met Tower permits, combined with delays involving federal wind park permitting, and weather-related delays, Bluewater is unable to construct its New Jersey Met Tower to meet the current deadline. Staff, therefore, recommends granting Bluewater a two-year extension and a new rebate commitment of \$3 million. Staff also recommends increased monitoring through status updates, being provided to the Board by petitioner, as was done by the Board in an 8/27/08 Order. In the Matter of Wayne Energy Corporation – Petition to Extend the Solar Electric Project Rebate Commitment, Docket No. EO08060423.

DISCUSSION AND FINDINGS

Bluewater notified Board Staff On October 28, 2010, that the project could not be completed in advance of the January 2011 deadline and provided Board Staff with documentation of progress on the project. Bluewater has kept the Board apprised of the project status

When the Board granted petitioner's first request for an extension, it applied the standard articulated in the Board's Order dated November 26, 2008, In the Matter of the Offshore Wind Rebate Program for the Installation of Meteorological Towers, Docket No. EO0811097 (November 26th Order). The November 26th Order states, in part, "in the event the construction of the meteorological tower is delayed by an event which is not within the reasonable control of the applicant, then applicant shall promptly notify the Board of such event and shall consult with Board Staff to determine whether a revised schedule is appropriate."

The criteria in the November 26th Order applies to petitioner's request for a second extension. The Board may also consider whether the extension is in accord with the general purpose and intent of the Meteorological Tower Rebate Program and public policy. Based on status reports and other information provided by Bluewater to justify the extension request, installation of the Met Tower was delayed for reasons not within Bluewater's control. Specifically, Bluewater did not anticipate delays with obtaining federal wind project permits. The delay has impacted the ability of Bluewater to commence installation of the Met Tower and seasonal weather related concerns also have limited Bluewater's progress. The Board recognizes that developers may be faced with permitting timelines and requirements that are beyond the control of the State and developer.

Based on facts and circumstances specific to this matter as set forth herein above, the Board concurs with the Office of Clean Energy's recommendations. The Board **FINDS** that the project was delayed for reasons not within the control of Bluewater. The Board **FINDS** that such delays prevented Bluewater from completing the project in advance of the January 2011 deadline. The Board **FINDS** that petitioner has substantially documented its efforts and progress on project completion. The Board **FINDS** that a second extension is consistent with public policy described in the Board's Order of September 16, 2009 in Docket Nos. EO08110971, EO08121062, EO08121063, and EO08121064, wherein the Board granted the first extension, and that a two-year extension is reasonable considering the complexity of Met Tower installations, the current status of the project, and seasonal weather limitations.

In addition, the Board **FINDS** that Bluewater did not provide all of the information requested by Staff at the January 24th meeting, and therefore a reduction of the initial rebate commitment from \$4 million to \$3 million is reasonable. Bluewater is hereby on notice that any further delay may jeopardize its eligibility for the BPU Rebate funding. Further, the Board **FINDS** that partial payment before total completion of the project is warranted under the circumstances of this extension request and is consistent with the September 16, 2010 Board Order that reduced the recipients payments but allowed for partial payment before total completion of the project. See, In the Matter of the Offshore Wind Rebate Program for the Installation of Meteorological Towers Docket Nos. EO08110971, EO080121062, and EO08121064.

Last, the Board **FINDS** that the progress of project construction is to be closely monitored through status updates, being provided to the Board. Due to Board Staff's concerns regarding the timeliness of the project, the Board **DIRECTS** Board Staff to develop, with input from the Petitioner, project milestones, which are to be submitted to the Office of Clean Energy, to ensure the completion of Petitioner's project no later than January 9, 2013.

The Board **DIRECTS** Petitioner to provide Board Staff with detailed reports on milestone progress on a Quarterly basis. The Board **FURTHER DIRECTS** Petitioner to notify Board Staff immediately of any further delays in construction and to simultaneously provide a specific list of the actions it will take to cure the delay.

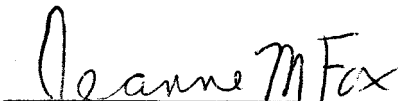

The Board **HEREBY APPROVES** a rebate commitment of \$3 million and **AUTHORIZES** the Office of Clean Energy to issue a commitment letter to Bluewater, consistent with this Order. In light of the facts presented before the Board, and the commitment to supporting alternative, renewable energy sources, the Board **HEREBY GRANTS** the petition of Bluewater to extend the installation deadline, from January 9, 2011 to January, 9, 2013 contingent on the above stated provisions.

DATED: 4/27/11

BOARD OF PUBLIC UTILITIES
BY:




LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER
JOSEPH L. FIORDALISO
COMMISSIONER
NICHOLAS ASSELTA
COMMISSIONER

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

ATTEST:


KRISTI IZZO
SECRETARY