

MURRAY E. BEVAN
mbevan@bmg.law

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VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Aida Camacho, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
CN 350
Trenton, NJ 08625-0350
Rule.Comments@bpu.nj.gov

***Re: I/M/O Offshore Wind Renewable Energy Certificate (OREC) Funding
Mechanism
Docket No. QX18040466***

Comments of the Retail Energy Supply Association (“RESA”)

Secretary Camacho:

This office is counsel to the Retail Energy Supply Association (“RESA”),¹ a diverse group of retail electric and gas suppliers that share a common vision that competitive retail energy markets deliver more efficient, customer-oriented outcomes than do vertically-integrated, regulated utility providers. RESA and several of its members were active participants in the Board’s previous stakeholder process involving the development of an offshore wind (“OSW”) funding mechanism. RESA is pleased to continue to collaborate with the Board and other stakeholders to develop a funding mechanism for OSW that is competitively neutral and ensures that suppliers and customers are protected from the financial risks of OSW development, while ensuring that OSW developers can finance their projects.

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

RESA provided public comments at the Board's May 8, 2018 Public Hearing in the above-captioned matter, and offers these written comments and questions in response to the funding mechanism Straw Proposal contained in the April 27, 2018 meeting announcement (the "OSW Straw Proposal").

1. The Electric Distribution Companies (EDCs) shall act as payment agents, on behalf of suppliers, to efficiently direct OREC funding from ratepayers to OSW developers.

RESPONSE:

As indicated in its public comments on May 8, RESA conceptually supports the proposal for the EDCs to act as payment agents on behalf of third party suppliers ("TPSs") and the Basic Generation Service Providers ("BGSPs") with respect to the collection of OREC funds. By this mechanism, the OREC obligation is competitively neutral between TPSs and BGSPs. However, RESA believes that the details of the OREC agency structure should be laid out in more detail in a rule proposal in order to ensure that TPSs and their customers are not unfairly burdened with the responsibility of OSW project financing, and to further delineate the expectations for all participants in this process (ratepayers, TPSs, BGSPs, EDCs, and OSW developers).

2. EDCs shall make monthly OREC payments to the OSW developers based on the actual number of MWhs produced by the offshore wind project and consistent with the Board Approved OREC Allowance.

RESPONSE:

Since the EDCs will handle the collection of ORECs from all ratepayers and in turn provide these funds to the OSW developers, RESA does not object to a monthly payment process under the current proposal. However, RESA notes that if monthly payments are required, and these payments are to be based on "the actual number of MWhs produced by the offshore wind project" then the Board should take into account that final PJM load data from PJM is typically not generated for three months. Such an OREC structure should provide a means for reconciliation if

the monthly payment process is to be based on final PJM load data. In the alternative, RESA believes that the most effective and streamlined way to structure payment is to use final PJM load data as it lessens the need for true-ups or reconciliations months after payments have been made.

3. An OREC Program Administrator shall be utilized by the EDCs to monitor and verify that OREC payments are correct, that the correct amount of PJM revenues are refunded to ratepayers, and to provide annual true-ups and verification of all obligations and payments.

RESPONSE:

RESA continues to support the establishment and use of an independent, third-party overseer of the OREC program. RESA further recommends that monthly updates, in addition to annual true-ups, should be provided by the program administrator if payments are required monthly.

4. The Board may direct the EDCs to enter into a joint contract to retain an OREC Program Administrator.

RESPONSE:

RESA takes no position on this portion of the proposal but reserves the right to comment in this continued proceeding.

5. Reasonable administrative costs related to an OREC Administrator and/or for acting as a payment agent shall be recoverable by the EDCs as pass-through charges.

RESPONSE:

RESA realizes there are costs associated with the EDC administration of these OREC responsibilities. However, RESA questions the proposal of a mere “pass through” of charges without some additional Board scrutiny of these charges.

6. The Board shall establish an OSW carve-out for each OSW approved project to be expressed as a percentage of Supplier load, and which will count against the Suppliers' and BGSPs' Class I RPS obligation.

7. Any adjustments to the OSW carve-out shall be made three-years in advance of the applicable energy year.

RESPONSE to Items 6 & 7:

These components of the OSW Straw Proposal are crucial to ensuring the continued stability of the TPS market in New Jersey. Since the OSW requirement is tied to the Class I requirement, RESA is responding to these items together. There is legislation awaiting Governor Murphy's signature which requires an increase to the Class I RPS percentage requirement from the current 16.029% to 21% by 2020, with continued increases to 50% by 2030. Since the OSW requirement is a carve-out of the Class I requirement, it is crucial that any changes to the OSW percentage requirement be made three years prior to actual implementation, and in tandem, that the Class I percentage requirement be updated three years out as well. These pieces of RPS compliance are interlocking – if one changes, so must the other. Regardless, TPSs need advance notice of changes to the RPS as these changes will have a direct impact on TPS customer contracts. Therefore, to the extent the Board proposes changes to the OREC obligation on a three-year forward basis (which RESA supports), RESA reminds the Board that this necessitates that the Class I requirements be updated as well.

8. The OREC Administrator shall assist the BPU in setting the appropriate OSW carve-out, expressed as a percentage of supplier load, and may periodically recommend adjusting the percentage as necessary to meet the OREC Allowance approved by the Board.

RESPONSE:

RESA generally supports the use of the OREC Administrator, as an independent third-party, to assist the Board in developing the OSW carve-out. However, RESA believes the Board should continue to solicit input and comments from stakeholders that may be better able to shine a light on key aspects of New Jersey's market and RPS compliance issues.

9. The OSW project shall transfer the appropriate number of ORECs to each supplier for retirement in compliance with the Supplier's RPS OSW obligation.

RESPONSE:

RESA stresses that the manner or mechanism by which OSW developers will provide ORECs to TPSs and BGSPs (or the EDCs on behalf of the BGSPs, as the case may be) for demonstrating compliance with the State's RPS requirements is of paramount concern to RESA. The OREC structure proposed raises the following questions, which we ask the Board to consider: Will the OSW developers transfer these ORECs directly into the TPSs' PJM-EIS GATS accounts? Will the OREC Administrator ensure that the OSW developers make the appropriate transfer to the TPS? What happens if the OSW developers do not properly transfer ORECs to a TPS?

To the extent an OSW developer is obligated to transfer ORECs into a TPS's account, but does not (for whatever reason), RESA submits that the TPS should not be held responsible or liable for failure to timely retire ORECs, nor should the supplier be penalized for failure to timely or accurately file any RPS compliance reports with the Board. A TPS's RPS compliance obligations, with respect to the OREC under this OSW Straw Proposal, should be to retire the ORECs issued to it and report such retirement to the Board with its annual RPS filings. To state another way, a TPS' obligation should be deemed satisfied to the extent it retires all of the ORECs issued to it and reports as such to the Board.

10. The OREC for each approved OSW project will reflect an "all-in" price for the construction, operation, maintenance, inter-connection, upgrades to the grid, and decommissioning of the OSW wind farm for the specified term of the program.

RESPONSE:

RESA generally supports this proposal and reserves the right to offer future comments in this continued proceeding.

11. OREC Funding for each approved OSW project will be based on an initial 20 year term.

RESPONSE:

RESA generally supports this proposal and reserves the right to offer future comments in this continued proceeding.

12. The total OREC Allowance which reflects the total number of megawatt hours for which a qualified OSW Project is eligible to receive ORECs on an annual basis shall not be subject to reduction or modification during the term of each OREC, unless agreed upon by the parties.

RESPONSE:

RESA believes that any OREC financing mechanism must be competitively neutral, and that any changes made to OSW or OREC obligations (as well as the joined Class I obligations) be made with reasonable advanced notice to all market participants – preferably on a three-year forward basis. RESA asks that the rule proposal addresses and ensures that the OREC “allowance” to TPSs will be sufficient to demonstrate RPS compliance. In other words, RESA wants to ensure that the funding mechanism ultimately developed does not require TPSs to be responsible for any Offshore Wind Alternative Compliance Payments (“OACPs”) that may be required if not enough ORECs are generated, and that any ORECs generated that are deposited into a TPSs’ GATS account, and subsequently retired, will be sufficient for a TPS to demonstrate compliance with its OREC obligations.

13. All PJM Revenues generated by an approved OSW Project will be returned to ratepayers, through the EDCs, to offset the cost of the OREC.

RESPONSE:

RESA generally supports this proposal and reserves the right to offer future comments in this continued proceeding.

14. PJM revenues may be held by the OSW developer for up to 3 months for use by a qualified OSW project for some specific uses which may include: to address the lag time for OREC payment; to cover the full obligation until payment is made; or for purposes deemed necessary to ensure that the OSW project receives their full approved OREC revenues on a timely basis.

RESPONSE:

RESA generally supports this proposal, but believes that PJM revenues belong to the ratepayers and not the OSW developers. RESA believes that further information and specific parameters are needed in a proposed rule to ensure that the PJM revenues, to which ratepayers are entitled, are properly monitored and protected.

15. All PJM Revenues shall be independently verified.

RESPONSE:

RESA generally supports this proposal and reserves the right to offer future comments in this continued proceeding.

16. Rules must address the potential scenario in which an OSW project experiences a period of Insufficient OREC demand.

RESPONSE:

RESA agrees that the rule proposal to be developed by the Board should address periods of insufficient OREC demand. RESA believes that the EDCs should not be required to purchase ORECs on behalf of the TPS and BGSP load if the production of ORECs exceeds the OSW carve-out established by the Board, and further submits that TPSs (and their BGSP counterparts) should not be liable for OREC overproduction under any circumstances. RESA further submits that the Offshore Wind Economic Development Act (“OWEDA”) provides that ORECs are eligible for use in the energy year in which they are generated, and the following two energy years. Therefore, the rule proposal should reflect the ability of an OSW Developer to “bank” or otherwise hold

overproduced ORECs for retirement in a future energy year within the confines of the statute, and should not require immediate purchase of over-produced ORECs.

RESA further submits that a rule proposal should also address the manner in which OACPs are collected and remitted, and notes that this OSW Straw Proposal does not address OACPs. Since the EDCs are the proposed payment agents under this OSW Straw Proposal, it makes the most sense for the EDCs to be similarly responsible for collection of OACPs.

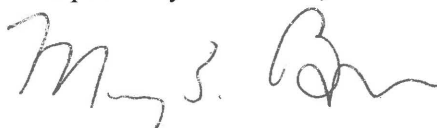
17. The Board will determine the terms and conditions for an entity to operate the wind farm following the initial OREC period for an OSW project.

RESPONSE:

RESA generally supports this proposal and reserves the right to offer future comments in this continued proceeding.

RESA appreciates the opportunity to provide these written comments and questions regarding the OSW Straw Proposal, and looks forward to further collaborating with the Board and other stakeholders in the development of this funding mechanism process. RESA reserves the right to offer further comments in this matter as Board staff's proposal is further developed and as stakeholder provide additional comments and information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. E. Bevan", written in a cursive style.

Murray E. Bevan