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Board of Public Utilities



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NOTICE¹

IN THE MATTER OF

[Docket No. QO22080481](#)

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

REQUEST FOR INFORMATION

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

BACKGROUND AND PROCEDURAL HISTORY

New Jersey Governor Phil Murphy signed Executive Order No. 8 on January 31, 2018² to reinvigorate the implementation of the State's Offshore Wind Economic Development Act ("OWEDA" or the "Act"), enacted in 2010.³ To this end, Governor Murphy set a "goal of 3,500 MW of offshore wind energy generation by the year 2030."⁴ On November 19, 2019, Governor Murphy signed Executive Order No. 92, increasing the State's offshore wind energy generation goal to 7,500 MW by 2035.⁵ To date, the NJBP has successfully completed two offshore wind solicitations, awarding three projects and a total of 3,758 MW of capacity.⁶

On February 28, 2022, the NJBP announced an updated offshore wind solicitation schedule to meet the State's 7,500 MW goal by 2035, with the Third Solicitation expected to be issued in Q1 2023 with an

¹ Not a paid legal advertisement.

² Exec. Order N. 8 (2018).

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

⁴ Exec. Order N. 8, at 2.

⁵ Exec. Order N. 92, at 3 (2019)

⁶ See In the Matter of the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,400 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 92; In the Matter of the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Atlantic Shores Offshore Wind Project 1, LLC, BPU Docket Nos. QO20080555 and QO21050824, Order dated June 30, 2021 (1,509.6 MW of capacity awarded); In the Matter of the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,400 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 92; In the Matter of the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Ocean Wind II, LLC, BPU Docket Nos. QO20080555 and QO21050824, Order dated June 30, 2021 (1,148 MW of capacity awarded); In the Matter of the Board of Public Utilities Offshore Wind Solicitation for 1,100 MW – Evaluation of the Offshore Wind Applications, BPU Docket No. QO18121289, Order dated June 21, 2019 (1,100 MW of capacity awarded).

estimated target of 1,200 MW.⁷ The schedule for the Third Solicitation was revised to accommodate the integration of the Board's decision on the State Agreement Approach ("SAA") coordinated transmission solution and to allow the developers who successfully bid for new lease areas in the New York Bight sufficient time to further develop their proposed projects, including the establishment of stakeholder and supply chain relationships.

Board Staff is currently in the process of developing the Solicitation Guidance Document ("SGD") for the Third Solicitation and seeks stakeholder response to the questions included herein to inform that process. Stakeholders are invited to answer any or all of the questions and are not required to respond to any specific questions. Please be specific in providing feedback and recommendations. Each response must include the name and affiliation of the commenter, along with contact information.

In addition to this RFI, Board Staff is planning to issue a second RFI before the Board releases the draft SGD to address topics related to integration of the Board's SAA decision. Responses to the second RFI are expected to be due two weeks after the second RFI is issued.

Board Staff is planning to issue the draft SGD for stakeholder comments in or around late November 2022, with a stakeholder meeting to be held in December 2022 and written comments due one month after issuance of the draft SGD.

COMMENTS

The deadline for comments on this matter is 5:00 p.m. Eastern Time on October 7, 2022.

Please submit comments directly to the specific docket listed above using the "Post Comments" button on the Board's [Public Document Search](#) tool. Comments are considered "public documents" for purposes of the State's Open Public Records Act and any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3.

Written comments may also be submitted to:

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

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

Board Staff looks forward to receiving and reviewing your responses.



Carmen D. Diaz
Acting Secretary of the Board

Dated: September 16, 2022

⁷ See NJBPU, [New Jersey Updates Schedule for Third Offshore Wind Solicitation](https://nj.gov/bpu/newsroom/2022/approved/20220228.html) (Feb. 28, 2022), <https://nj.gov/bpu/newsroom/2022/approved/20220228.html>.

A. Project Design

1. What are the benefits and challenges of the Board requiring submittal of minimum and/or maximum project capacity bid sizes?
2. Board Staff is considering project design nameplate submissions approximately equal to 1,200 MW, while preserving the need for flexibility in its evaluation of project nameplates that significantly diverge from the target nameplate of 1,200 MW. Is there an optimal project capacity size such that multiples of this installed capacity foster efficient OREC pricing, and if so, how is that optimal project capacity size determined?
3. What considerations should guide the determination of minimum and/or maximum project bid sizes?
4. What technical, economic, or environmental considerations affect proposed project sizes?
5. What, if any, transmission technology constraints, such as cable or converter station capacity, would directly affect project size?
6. What are the benefits and challenges of the Board allowing the inclusion of energy storage in applicants' projects?
7. If energy storage is included in a proposal, should there be specific parameters in the SGD around how it should or must be interconnected, deployed, and operated to optimize grid reliability and economic benefits to New Jersey ratepayers?

B. Economic Impacts and Strength of Guarantees for Economic Impacts

8. Board Staff is considering requiring deposits that are refundable if firm economic benefits guarantees are met – or a damages term if economic benefits are not met – that would be applicable to all applicants.
 - a. What are the benefits or challenges of implementing such a requirement?
 - b. How would such a requirement affect the level of proposed economic benefits and guaranteed economic benefits applicants submit?
 - c. Under such a framework, what deposit forfeitures or damages should be imposed if there are shortfalls relative to the firm economic benefits guarantees?
 - d. Under such a framework, what is the difference between a deposit forfeiture or damages term that will facilitate meeting the firm economic benefits guarantees and those that are punitive?
 - e. Under the deposit forfeiture framework, how should at-risk deposit amounts be guaranteed? Should the Board require a letter of credit from a creditworthy third party, or should parental guarantees be accepted?
9. Proposed economic benefits require pledges or guarantees from applicants to ensure timely realization. What are the practical limitations of such pledges or guarantees?
10. Is there specific guidance to applicants that should be incorporated in the SGD to support the identification of benefits and impacts to Environmental Justice and Overburdened Communities, as identified in the 2019 New Jersey's Energy Master Plan and New Jersey's Environmental Justice Law, N.J.S.A. 13:1D-157?
11. How should Board Staff consider the benefits and impacts to Environmental Justice and Overburdened Communities when evaluating projects?

12. Is there specific guidance to applicants that should be incorporated in the SGD to support the dissemination of benefits to Environmental Justice and Overburdened Communities? For example, the suggestion or requirement to (1) engage with these communities on job training and supply chain opportunities, (2) define the benefits the applicant expects to provide to these communities, including potentially binding or voluntary job creation targets, and (3) explain how the applicant intends to deliver those benefits.
13. What are the potential benefits and impacts to Environmental Justice and Overburdened Communities associated with the construction and operation of offshore wind projects and the accompanying onshore infrastructure?
14. How should applicants be required to report on progress toward meeting their commitments to Environmental Justice and Overburdened Communities and engagement with these communities?
15. Are there additional specific requirements, beyond those included in the Second Solicitation's SGD, that should be considered for the Economic Development Plan⁸?

C. Performance Guarantees

16. What mechanism could be included in a Board Order to ensure that the proposed nameplate capacity of the Project is constructed as set forth in the Order?
17. What are the potential benefits and impacts of assessing a performance guarantee for failing to construct, or constructing less than, the proposed nameplate capacity?
18. If performance guarantees are to be incorporated in the Board Order governing the delivery of ORECs, how could a completion guarantee be structured to irrevocably and unconditionally guarantee performance by a certain date?
19. Regarding protection of ratepayer interests:
 - a. How would the inclusion of a performance guarantee requiring performance by a certain date affect an applicant's OREC offer price?
 - b. What measures could be taken to protect New Jersey ratepayer interests?
 - c. Can the cost of a performance guarantee be laid off to a guarantor at good value from New Jersey ratepayers' standpoint? If not, why not?
20. N.J.A.C. 14:8-6.6(b)(4) allows ORECs in excess of the Annual OREC Allowance in a given year to be carried forward to the next year if there are unmet ORECs in that year. How should the Board Order address a circumstance where there are persistent unmet ORECs over the OREC term?

D. Inflation/Deflation Adjustment

Board Staff is considering a pricing mechanism where the OREC price an applicant submits in their Application could be adjusted at a future milestone date based on inflation/deflation and/or specific commodity costs, particularly as they affect project component pricing and labor costs. The adjustment would be based on an actual measure of inflation or other commodity price index or indices on the future milestone date, relative to the measure of inflation, value of the index or indices at the time of Application submission. Board Staff seeks input on how such an adjustment mechanism can be designed to share

⁸ Economic Development Plan is defined in the Second Solicitation's SGD.

risks and benefits equitably between ratepayers and applicants in order to support successful project development.

21. Please comment on your expectations for near-term (through 2025), medium-term (through 2030) and long-term (through 2050) inflation and the impact on OREC pricing and provide the basis for this outlook.
22. What are the benefits and challenges of including an inflation adjustment mechanism in the Third Solicitation to account for changes in commodity pricing and labor costs?
23. Describe how an inflation adjustment mechanism could affect OREC pricing.
24. If an inflation adjustment is included, what are the elements of residual inflation risk?
25. What are the advantages and disadvantages of a requirement to propose (a) a fixed OREC price without inflation adjustment and (b) an inflation adjustable OREC price, versus making one or both optional?
26. If an applicant offers both a fixed OREC price and an adjustable OREC price, and if the applicant's project is selected, what is the latest date that the pricing option could be chosen and why?
27. Describe how an inflation adjustment mechanism could affect the project development timeline and/or viability of an offshore wind project.
28. What are the benefits and challenges of (i) applying the inflation adjustment in lieu of an annual escalator on the OREC price or (ii) allowing bids with inflation adjustment to also include an escalator?
29. Should the inflation adjustment mechanism be based on a single defined index or multiple indices?
30. What publicly available index or indices are most suitable to capture applicants' exposure to inflation during the project development period? Please explain the relevance of the index or indices you suggest. If the index is not publicly available, how would you suggest the Board meet its goal of transparency and openness?
31. If multiple indices are used, please provide any suggestions on how they should be weighted for purposes of tracking key component costs, including calculation examples. Please identify suggested sources, either proprietary or public, that represent the best information source.
32. What are the benefits and challenges of applying the adjustment to all versus only a specific percentage of the OREC price?
33. What is an appropriate way to set the baseline value of the inflation index or indices at the time of bid submission, for example an annual average or discrete monthly value?
34. Regarding the milestone for determining the price adjustment date:
 - a. What is the best milestone for determining the price adjustment date?
 - b. What are the benefits and challenges of the milestone being a fixed calendar date versus the date of a defined event?
 - c. Please explain your choice of milestone date and how it could be unambiguously defined.
 - d. If there is ambiguity, please explain why it should be considered.

35. Regarding the potential inclusion of a “deadband” (i.e., the amount that the OREC price is adjusted when the adjustment resulting from applying the change in index (up or down) exceeds a certain percentage of the OREC price):
 - a. What are the benefits and challenges of including a deadband in the inflation adjustment?
 - b. What are the benefits and challenges of a symmetric vs an asymmetric deadband?
 - c. What is a reasonable deadband percentage to apply and why?
 - d. What would be the impact on OREC pricing if there is a deadband on the adjustment and why?
36. What specific content in regard to the inflation adjustment factor in a Board Order awarding a project would strengthen an applicant’s ability to execute binding agreements on a timely basis with primary original equipment manufacturers (“OEMs”)?

E. Environmental and Fisheries Mitigation Plan

37. Are there additional specific requirements, beyond those included in the Second Solicitation’s [SGD](#), that should be considered for the Environmental Protection Plan?⁹
38. Are there additional specific requirements, beyond those included in the Second Solicitation’s [SGD](#), that should be considered for the Fisheries Protection Plan?¹⁰
39. Please discuss opportunities for sharing environmental data collected prior to and during pre-construction surveys and baseline monitoring regarding the spatial and temporal presence of marine mammals, fish, aquatic invertebrates, sea turtles and avian species and bats, as well as benthic habitats, with the environmental community, including, but not limited to, the New Jersey Department of Environmental Protection (“NJDEP”) and other state agencies and regional entities.
40. What is the scope of environmental data that can or should be required to be shared, for example, pre-construction data that is included in the Construction and Operations Plan submitted to BOEM, all pre-bid data, or a sub-set thereof?
41. Please explain the types of environmental data obtained prior to and during pre-construction surveys, during construction and during operation that applicants would consider to be proprietary and explain why.
42. What delays may exist in making proprietary data available and why?
43. Please describe potential plans for collecting environmental, wildlife and/or fisheries data (through either pre-construction or operations-phase research and monitoring) that could be used to inform mitigation actions and/or decisions.
44. What requirements for stakeholder review of mitigation and monitoring plans are reasonable and appropriate for the awarded project?
45. NJDEP is interested in opportunities to collaborate with other Atlantic seaboard states to integrate data regarding the spatial and temporal presence of marine mammals, fish, aquatic invertebrates, sea turtles, avian species and bats, as well as benthic habitats. Discuss opportunities and potential barriers that may exist.

⁹ Environmental Protection Plan is defined in the Second Solicitation’s SGD.

¹⁰ Fisheries Protection Plan is defined in the Second Solicitation’s SGD.

46. What information is available about embodied carbon¹¹ in applicants' proposed supply chains? What types of embodied carbon data can applicants report?
47. The Second Solicitation required a fee of \$10,000/MW to support regional research and monitoring. Is a similar fee to support regional research and monitoring reasonable and appropriate for the Third Solicitation? Why or why not?

F. Evaluation

48. Are there any criteria relevant to the evaluation of the Environmental and Fisheries Protection and Permitting Plans, as presented in Section 4.2 of the [Evaluation Report](#) for the Second Solicitation that should be added or any criteria that are not relevant and should be removed?
49. Are there any criteria relevant to the evaluation of the "Likelihood of Successful Commercial Operation," as presented in Section 5 of the [Evaluation Report](#) for the Second Solicitation that should be added or any criteria that are not relevant and should be removed?

¹¹ "Embodied carbon" refers to the greenhouse gas emissions arising from the manufacturing, transportation, installation, maintenance, and disposal of materials comprising the offshore wind facility and associated transmission interconnection infrastructure.