

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of Offshore Wind Energy

Case 18-E-0071

PETITION REGARDING OFFSHORE WIND PROCUREMENT
Authorization for 2020 Procurement

Introduction

By this Petition, the New York State Energy Research and Development Authority (NYSERDA) requests that the Public Service Commission (Commission) issue an order authorizing NYSEDA to issue a solicitation in 2020 for the procurement of at least 1,000 megawatts (MW) of offshore wind.

In its July 2018 Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement, the Commission determined that to help achieve New York’s renewables and greenhouse gas emissions goals in a fair and cost-effective manner, a “series of actions related to offshore wind are necessary.”¹ Those actions included the adoption of an Offshore Wind Standard for 2,400 MW of offshore wind by 2030, and authorization for NYSEDA to issue Phase 1 solicitations in 2018 and 2019 for approximately 800 MW or more of offshore wind.²

NYSERDA asserts that the next action in that series should include authorization to issue an additional solicitation in 2020, which is both warranted and necessary for New York State to maintain its trajectory toward meeting its clean energy goals. NYSEDA bases this recommendation on the following events, all of which occurred after the issuance of the Phase 1 Order: (1) the passage of the Climate Leadership

¹ Case 18-E-0071, In the Matter of Offshore Wind Energy, Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement (Phase 1 Order) (issued and effective July 12, 2018), p. 3.

² The Phase 1 Order requires NYSEDA to seek authorization for incremental procurements: “if NYSEDA . . . procures ORECs from 800 MW or more in the first year, a second procurement would require additional authorization by the Commission” (Phase 1 Order, p. 28.) NYSEDA successfully contracted for 1,696 MW of offshore wind in October 2019.

and Community Protection Act (CLCPA); (2) the success of the Phase 1 solicitation and continued downward cost trends; (3) significant developments in the U.S. offshore wind market since the issuance of the Phase 1 Order; (4) the extension of an 18 percent federal investment tax credit (ITC) to wind facilities that begin construction in 2020;³ and (5) the directive issued by Governor Andrew M. Cuomo in his 2020 State of the State address, that NYSERDA issue its second solicitation for offshore wind facilities in 2020.⁴

In the Phase 1 Order, the Commission noted that numerous parties were in agreement regarding the need to move expeditiously with Phase 1, and that consideration of Phase 2 should follow. The Phase 1 Order anticipated that Phase 2 would be “informed by the Phase 1 experience, as well as market developments, and that “issues not addressed in Phase 1, including transmission options and additional environmental impact criteria, should be reserved for Phase 2.”⁵ Given that consideration of those issues is still in the information collection and analysis stage of the process, and for the reasons stated below, NYSERDA petitions the Commission to issue an order allowing progress on this important initiative to continue while the Phase 2 process develops and matures.

Background

The last few years have seen an unprecedented expansion of New York’s legislative and regulatory efforts to combat climate change and promote the development of a clean energy economy.

On August 1, 2016, the Commission issued its Order Adopting a Clean Energy Standard (CES Framework Order),⁶ which, based upon the recommendation and comments in a White Paper filed by NYSERDA and Department of Public Service Staff (Staff), established the 50 percent renewables by 2030 goal. The CES Framework Order also requested that NYSERDA develop a “blueprint,” identifying the appropriate mechanisms for the Commission and the State to consider in order to maximize the potential of the burgeoning offshore wind industry.⁷

³ H.R.1865 – Further Consolidated Appropriations Act, 2020. Section 127, p. 699.
<https://www.congress.gov/116/bills/hr1865/BILLS-116hr1865enr.pdf>

⁴ Governor Andrew M. Cuomo. “Making Progress Happen: New York State 2020 State of the State”. January 8, 2020, p. 30. <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2020StateoftheStateBook.pdf>

⁵ Phase 1 Order at p. 58.

⁶ Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard, (Issued and effective August 1, 2016).

⁷ *Id.*, at pp. 18, 66, 103.

In January 2018, NYSERDA published the New York State Offshore Wind Master Plan (Master Plan),⁸ which included more than 20 studies that gathered data on environmental, social, economic, regulatory, and infrastructure issues relevant to offshore wind energy development, and reflected the State’s extensive outreach efforts with interested agencies, entities, communities, and individuals in the responsible and cost-effective development of offshore wind.

NYSERDA also filed a Policy Options Paper⁹ in January 2018 that launched the regulatory proceedings that culminated in the Commission’s issuance of the Phase 1 Order on July 12, 2018. In the Phase 1 Order, the Commission adopted the goal of procuring 2,400 MW of offshore wind capacity by 2030.¹⁰ NYSERDA launched its inaugural solicitation for offshore wind (ORECRFP18-1) on November 8, 2018.¹¹

In July 2019, Governor Andrew Cuomo announced the signing of the Climate Leadership and Community Protection Act (CLCPA), which includes a 70percent renewables by 2030 directive. The CLCPA doubled the State’s distributed solar target (6,000 MW by 2025) and codified the existing 3,000 MW of energy storage by 2030 target. The CLCPA also nearly quadrupled the State’s offshore wind target to 9,000 MW by 2035. Separately, Governor Cuomo committed the State to investing \$200 million in port infrastructure to unlock private supply chain capital and maximize the long-term economic benefits to the State from the regional development of offshore wind.

Governor Cuomo simultaneously announced the single largest renewable energy procurement by any state in U.S. history—nearly 1,700 MW—with the selection of two offshore wind projects for contract awards resulting from NYSERDA’s Phase 1 offshore wind solicitation.¹² On October 23, 2019, Governor

⁸ NYSERDA. “New York State Offshore Wind Master Plan: Charting a Course to 2,400 MW of Offshore Wind Energy”. January 2018. <https://www.nyserda.ny.gov/All-Programs/Programs/Offshore-Wind/Offshore-Wind-in-New-York-State-Overview/NYS-Offshore-Wind-Master-Plan>

⁹ NYSERDA. “Offshore Wind Policy Options Paper.” New York State Offshore wind Master Plan. January 29, 2018. www.nyserda.ny.gov/-/media/Files/Publications/Research/Biomass-Solar-Wind/Master-Plan/Offshore-Wind-Policy-Options-Paper.pdf

¹⁰ Case 18-E-0071, *supra* note 1.

¹¹ Governor Andrew M. Cuomo, “Governor Cuomo Issues New York’s Large-Scale Offshore wind Solicitation”. November 8, 2018. <https://www.governor.ny.gov/news/governor-cuomo-issues-new-yorks-large-scale-offshore-wind-solicitation>

¹² Governor Andrew M. Cuomo, “Governor Cuomo Executes the Nation’s Largest Offshore Wind Agreement and Signs Historic Climate Leadership and Community Protection Act”. July 18, 2019. <https://www.governor.ny.gov/news/governor-cuomo-executes-nations-largest-offshore-wind-agreement-and-signs-historic-climate>

Cuomo announced that NYSERDA had finalized contracts with Equinor Wind US LLC for its 816 MW Empire Wind Project and Sunrise Wind LLC (a joint venture of Ørsted A/S and Eversource Energy) for its 880 MW Sunrise Wind Project.¹³ NYSERDA filed its comprehensive filing, "Launching New York's Offshore Wind Industry: Phase 1 Report," (Phase 1 Report) with the Commission on that same date.¹⁴

On December 20, 2019 in the United States Congress, H.R. 1865, the Further Consolidated Appropriations Act of 2020, was passed into law (Public Law no. 116-94), extending the application of the 18 percent ITC to wind facilities until January 1, 2021.

On January 8, 2020, Governor Cuomo issued his 2020 State of the State address, "Making Progress Happen." In the accompanying State of the State book, Governor Cuomo issued a directive to NYSERDA:

In 2020, [NYSERDA] will issue its second solicitation for offshore wind facilities. This solicitation is expected to yield at least an additional 1,000 megawatts of clean power, and perhaps substantially more. NYSERDA's solicitation will be designed to capture the rapidly falling costs of offshore wind energy and deliver significant economic value to New Yorkers in the form of affordable, reliable new clean energy, while creating thousands of new jobs in the burgeoning offshore wind industry.

In response to Governor Cuomo's directive and for the reasons stated above, and in furtherance of the State's ambitious renewable goals, NYSERDA respectfully submits this Petition proposing to issue a request for proposals in 2020 to procure at least 1,000 MW of additional offshore wind capacity. In soliciting at least 1,000 MW in 2020, flexibility should be given to evaluate a range of bids that can maximize the competitive outcome, including bids for up to 2,500 MW. This would represent an additional 1,800 MW beyond the 2,400 MW amount considered in the Commission's prior Environmental Impact Statement.

¹³ Governor Andrew M. Cuomo, "Governor Cuomo Announces Finalized Contracts for Empire Wind and Sunrise Wind Offshore Wind Projects to Deliver Nearly 1,700 Megawatts of Clean and Affordable Renewable Energy to New Yorkers". October 23, 2019. <https://www.governor.ny.gov/news/governor-cuomo-announces-finalized-contracts-empire-wind-and-sunrise-wind-offshore-wind>

¹⁴ NYSERDA. "Launching New York's Offshore Wind Industry: Phase 1 Report". October 23, 2019. <https://www.nyserda.ny.gov/-/media/Files/Programs/offshore-wind/osw-phase-1-procurement-report.pdf>

Justification for Requested Action

NYSERDA believes that authorization to issue an additional solicitation of at least 1,000 MW is both warranted and necessary to maintain New York's trajectory in meeting its clean energy goals while Phase 2 considerations are underway. NYSERDA bases this recommendation on the following events: (1) the passage of the CLCPA; (2) the success of the Phase 1 solicitation and continued downward cost trends; (3) significant developments in the U.S. offshore wind market since the issuance of the Phase 1 Order; (4) the extension of an 18 percent federal ITC to wind facilities that begin construction in 2020; and (5) the directive issued by Governor Andrew M. Cuomo in his 2020 State of the State address, that NYSERDA issue its second solicitation for offshore wind facilities in 2020.

- 1. CLCPA:** Under the CLCPA, the State now has a goal of 9,000 MW of offshore wind by 2035. In particular, the goal is reflective of the strong and competitive market that has emerged for offshore wind development in the United States, the economies of scale unique among renewable resources available to New York, and the anticipated improvements in technology and supply chain, that are driving rapid cost declines globally.¹⁵ To meet this ambitious goal, New York will need to move expeditiously and strategically on an accelerated track to advance projects toward its achievement. While a broader Commission proceeding will be necessary, this near-term action would continue the State's progress at this critical time. This approach would be consistent with the Phase 1 Order, in which the Commission recognized that offshore wind procurement needs to begin immediately "in order to cost effectively secure the economic and environmental benefits" of this new industry.¹⁶ Simply stated, passage of the CLCPA encourages the acceleration of OSW procurement activities.
- 2. Phase 1 Solicitation Results and Cost Trends:** As detailed in the Phase 1 Report, NYSERDA's Phase 1 offshore wind solicitation resulted in offshore wind Renewable Energy Certificate (OREC) prices approximately 40 percent less than projected by NYSERDA's Policy Options Paper analysis. The Empire Wind and Sunrise Wind projects have an average all-in development cost of \$83.36 per megawatt hour (2018 dollars) with an expected average OREC cost of \$25.14

¹⁵ Utility Dive. October 24, 2019. "Global Offshore Wind Prices Drop 32%: BloombergNEF". <https://www.utilitydive.com/news/global-offshore-wind-prices-drop-32-bloombergnef/565719/>

¹⁶ *Id.*, p. 39.

per megawatt hour. This translates to an expected bill impact of less than a dollar per month – approximately \$0.73 – for an average residential customer.

These projects are priced competitively relative to recent results from New Jersey and several New England states while also delivering significant new port infrastructure investments, public-private workforce training commitments and the promise of thousands of well-paying job opportunities. The awarded projects will spur New York's clean energy industry with \$3.2 billion in combined economic impacts to upstate, downstate, and Long Island, more than \$85 million investments in long-term port facilities and cutting-edge technologies and are expected to deliver over 1,600 direct new jobs in project development, component manufacturing, installation, and operations and maintenance.

For 2020, NYSERDA anticipates several factors affecting pricing outcomes. Notably, regarding potential cost reduction drivers, the extension of the ITC, strong competitive pressure on pricing among an expected robust pool of bidders, and ongoing technology improvements could result in cost decreases versus the Phase 1 result. Conversely, potential constraints in the supply chain, a competitive global offshore wind market, and bidders' assessment of permitting risk, all bear the prospect of cost inflation. In consideration of these factors, particularly the presence of strong competition and mature leases, NYSERDA anticipates that, on balance, a 2020 solicitation would offer robust competition with competitive, or likely lower costs and stronger overall benefits comparable to those realized under the initial solicitation, particularly if competitive market forces are maximized through an expeditious issuance of the solicitation and award of contracts.

If a 2020 solicitation is authorized by the Commission, NYSERDA would continue to employ the cost containment measures prescribed within the Phase 1 Order, including the use of the confidential benchmark price in its price evaluation, and the ability to reject all bids.¹⁷ In addition, and consistent with the Phase 1 solicitation, NYSERDA would continue to consult with Staff in considering the portfolio, timing, and balancing of benefits appropriate to meet the Commission's objectives and in determining an award group.

- 3. U.S. Offshore Wind Market Developments:** To maximize its attractiveness for long-term investments by the burgeoning U.S. offshore wind industry, New York must provide market certainty and demonstrated commitment toward the achievement of its renewables goals. As

¹⁷ *Id.*, p. 43.

explained in NYSERDA’s comprehensive review of the Phase 1 process and considerations for future procurements, the initial two contracts and the State’s nation-leading offshore wind mandate position New York as an epicenter for this important new industry, but regional competition to secure existing lease areas and the U.S. offshore wind supply chain is quickly ramping up. Specifically, neighboring states are moving to accelerate their offshore wind markets to a now-combined 26,000 MW regional offshore wind market.¹⁸

The Phase 1 Report notes that, as neighboring States advance their offshore wind procurements, projects in existing federal lease areas can be expected to secure offtake agreements in those markets, resulting in a decrease in the available lease areas and the number of competitive bidders, which may materially affect the cost competitiveness of future solicitations. If New York proceeds with at least a 1,000 MW procurement in the summer of 2020, it would have cost-competitive access to more than 8,300 MW of existing lease area capacity and up to six unique bidders providing strong competitive pressure in the marketplace. Conversely, if New York waits to issue a solicitation until 2021, the more limited number of lease areas and potentially fewer bidders could adversely affect competition and project pricing. The Phase 1 Order anticipated that, by the time a Phase 2 solicitation was issued, BOEM would have leased additional wind energy areas (WEAs) where eligible projects could be built.¹⁹ However, the BOEM process has not advanced as expected, and it appears no new WEAs will be available for lease until 2021 at the earliest.

Offshore wind represents a \$70 billion capital expenditure opportunity to businesses in the offshore wind power supply chain over the course of the next decade.²⁰ Top-tier manufacturers and suppliers are actively building detailed plans for investments in the region, but are still hesitant in the short-term as they look to confirm project pipelines to lock in their investments. NYSERDA expects that critical decisions regarding manufacturing footholds will be made by many suppliers within the next 12 months and that these early actions will by and large determine manufacturing investments and clusters thereafter. New York’s commitment to issuance of

¹⁸ American Wind Energy Association (AWEA). U.S. Offshore Wind Industry Status Update – December 2019. <https://www.awea.org/Awea/media/Resources/Fact%20Sheets/Offshore-Fact-Sheet.pdf>

¹⁹ *Id.*, p. 57.

²⁰ University of Delaware Special Initiative on Offshore Wind. Supply Chain Contracting Forecast for U.S. Offshore Wind Power. March 26, 2019. <https://www.ceoe.udel.edu/File%20Library/About/SIOW/SIOW-White-Paper---Supply-Chain-Contracting-Forecast-for-US-Offshore-Wind-Power-FINAL.pdf>

another competitive opportunity in early 2020 will encourage developers and their suppliers to take the long view in a market that supports economic development.

4. **Investment Tax Credit:** On December 20, 2019, H.R. 1865, the Further Consolidated Appropriations Act of 2020, was enacted (Public Law no. 116-94), extending the application of the 18 percent ITC to wind facilities that commence construction in 2020 implementable through such measures as the “safe harbor” provision or other major project expenditures. Should the Commission move expeditiously to support this Petition, it is conceivable that NYSERDA would be in a position to make awards in a timeframe that developers could secure these tax credit savings to the benefit of New York ratepayers.
5. **The 2020 State of the State:** In his 2020 State of the State address, Governor Cuomo called upon NYSERDA to issue a solicitation for at least 1,000 MW of OSW in 2020. The Governor also directed NYSERDA, the New York State Department of Transportation (DOT), and Empire State Development (ESD) to solicit competitive bids to invest up to \$200 million to support private-public investments in offshore wind port infrastructure. In 2019, NYSERDA, in conjunction with the DOT and ESD, issued an Offshore Wind Port Infrastructure Request for Qualifications (RFQL), which successfully launched a first phase of this process through which New York State sought to pre-qualify applicants and then select proposals for public/private investment in port infrastructure that will advance the offshore wind industry in New York State. The response to the RFQL was robust and included proposed projects that would cover industry needs including project staging and installation, manufacturing, operations and maintenance, vessel construction, and component storage. The 2020 ports Request for Proposals promises to unlock significant private supply chain capital that will enhance opportunities to maximize the long-term economic benefits to the state from the regional development of offshore wind. Offshore wind projects proposing into a 2020 solicitation can reasonably be expected to utilize these ports.

Status of Phase 2 Considerations

As stated, the Phase 1 Order anticipated that Phase 2 would be informed by the Phase 1 experience, as well as market developments, and that issues not addressed in Phase 1, including transmission options and additional environmental impact criteria, should be reserved for the second phase of this program.

Transmission: Regarding transmission options, the Phase 1 Order identified a backbone transmission system as a primary consideration for Phase 2. The Phase 1 Order observed that several factors were involved in this consideration, including timing, certainty, the effect on competition, and the extent to which wind energy areas are available to provide energy to New York.

The Commission's directive to study a potential backbone system for Phase 2 and beyond has begun to be examined by NYSERDA and Staff. However, as stated above, the Commission recognized that the location of additional lease areas would be critical to the design of a backbone system and anticipated that those lease areas would be identified in time for the Phase 2 process. It now appears that no new lease area will be available until 2021 at the earliest. In addition, the CLCPA's expanded scope has dramatically altered the way New York must think about its grid and, by extension, the scope of study originally anticipated by the Phase 1 Order.

Accordingly, NYSERDA and Staff are now conducting this expanded analysis, the results of which will be used to inform next steps associated with renewable energy related proceedings and to inform the State's ongoing renewable energy procurement efforts. Like the process that preceded the adoption of the CES, outcomes from this analysis will be incorporated into a robust and structured opportunity for stakeholder feedback. Furthermore, consistent with NYSERDA's findings in the Phase 1 Report, information gleaned from the full suite of proposals suggests that there are additional options to support continued radial connections into the New York market in the near term while alternative transmission approaches are considered.

Therefore, while the requisite assessments have advanced, it is not timely to rely solely on a planned offshore wind transmission solution in a 2020 solicitation, but rather to continue the radial interconnection approach employed in the Phase 1 solicitation, informed by the ongoing analyses as discussed in this Petition.

Stakeholder Considerations: While the Phase 1 Order included significant considerations related to environmental impacts, fisheries, and other ocean uses along with general stakeholder issues such as project visibility, project viability will increasingly depend upon effective stakeholder engagement, which must include a strong in-State presence and direct engagement efforts with New York stakeholders, as well as progressive stewardship regarding environmental or commercial fishing impacts. NYSERDA has been working steadily with stakeholders, including the State's offshore wind Technical Working Groups, to evolve procurement approaches that can enhance the design and performance of New York's projects, and mitigate the impacts thereof, while preserving the economic and environmental benefits of offshore wind for New York.

Given the flexibility afforded in this regard through the Phase 1 Order, such considerations may not require explicit Commission approval to implement in 2020. NYSERDA notes its intention to consider the following matters in the eligibility or bid scoring calculations, including: promoting alignment of benefits delivered to disadvantaged communities consistent with the CLCPA; continuing leadership in environmental and fishing mitigation planning and research as well as on-going participation in NYSERDA's Technical Working Groups; inclusion of Environmental and Fishing Mitigation Plans that include reasonable and appropriate best management practices; and incorporating environmental or commercial fishing impact criteria and assessments. Consistent with the Phase 1 Order, NYSERDA reaffirms its commitment to advancing the role of Environmental and Fishing Mitigation plans with "best practices established by the Technical Working Group as of the time of the solicitation"²¹ and with the benefit of "any experience gained during the Phase 1 solicitation."²²

Proposal for Authorization to Procure at Least 1,000 MW of Offshore Wind in 2020

NYSERDA proposes to advance its second offshore wind procurement for at least 1,000 MW in the summer of 2020. NYSERDA proposes that the 2020 solicitation would follow the Phase 1 Order's directives, with continued evaluation weighting of 70 percent price, 20 percent economic benefits, and 10 percent viability., and only modest changes to incorporate the insights gained by NYSERDA through its execution of the Phase 1 process and an evolving policy framework. Such changes are proposed to include the following:

Price Evaluation: In accordance with the Phase 1 Order, the initial RFP employed a hybrid procurement structure that required separate Index OREC and Fixed OREC bids for each proposal. Those bids were then jointly evaluated using a 90 percent/10 percent weighting formula and process described in the RFP. Should the Index OREC structure be ultimately awarded, the Purchase and Sale Agreement included a reversion clause upon which the Index OREC structure would revert to the Fixed OREC structure should the Index OREC structure become legally invalid or prohibited. This approach was adopted to balance the "possibility of disruptive legal process, or by the possibility of bidders being inhibited by the financial risk of non-adjustable contracts" given the newness of the Index OREC approach.²³

²¹ *Id.*, p. 48.

²² *Id.*, p. 49.

²³ *Id.*, p. 39.

In the inaugural solicitation, the Index OREC model yielded pricing approximately 40 percent lower than originally anticipated in the Policy Options Paper, demonstrating the market success of this innovative contracting mechanism. NYSERDA further notes that the coupling of the two bids through the hybrid evaluation structure complicated the evaluation process by blending prices from a scoring perspective, despite the fact the one price will not be the primary awarded structure and without clear benefit.

Referencing the Index OREC's demonstrated success and noting the industry appetite and cost savings expected under the Index model in NYSERDA's land-based Tier 1 procurements, the Commission has recently adopted an Index model for Tier 1 procurements in its recent Order Modifying Tier 1 Renewable Procurements.²⁴ Accordingly, NYSERDA is seeking Commission's authorization to align the 2020 offshore wind solicitation with this recent order – allowing bidders to offer either a Fixed or Index OREC bids – thereby forgoing the hybrid evaluation structure and the associated reversion clause in the Purchase and Sale Agreement. Regardless of a bidder's chosen bid structures, bid prices would be evaluated by calculating the expected levelized net OREC cost under each bid type, using a pre-determined energy and capacity price outlook to properly evaluate all Index OREC bids. Bids under both structures would therefore be evaluated head-to-head using this single cost metric to ensure optimal cost effectiveness for ratepayers.

Reference Energy and Capacity Price: In addition, based upon the experience of the Phase 1 procurement, NYSERDA proposes to improve the finance value of the Index OREC structure by modifying the definitions of the Reference Energy Price and Reference Capacity Price. Consistent with the Index Order, NYSERDA recommends using a Reference Energy Price that reflects the average locational based marginal price (LBMP) from a project's NYISO zone of delivery. Similarly, NYSERDA recommends using a Reference Capacity Price that is calculated using a project's specific NYISO-designated locality (i.e. New York City, Long Island, Zones G-J, or Rest of State). These modifications are expected to improve the cost effectiveness of the Index OREC structure while maintaining high levels of feasibility and market compatibility.

²⁴ Case 15-E-0302; *supra*, Order Modifying Tier 1 Renewable Procurements (Index Order) (issued and effective January 16, 2020). <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={1F9CA0EB-3968-41DB-BBE0-C251A3FE52DE}>

Administration of the Load Serving Entity OREC Obligation

The Phase 1 Order set March 31, 2019 as the due date for LSEs to provide NYSERDA with executed contracts for the purchase of ORECs; that date has been extended, at NYSERDA's request, to April 30, 2020.²⁵ Given the multitude of LSEs in the state, it is essential that the LSE purchase agreement be a standard, non-negotiable instrument. While NYSERDA anticipates that the LSE purchase agreements would be very similar to that used in the existing RES and zero-emissions credit programs, no standard OREC purchase agreement has been put before the LSEs or other stakeholders.

NYSERDA proposes that administration of the offshore wind obligations would be more easily and efficiently pursued through a modification of the Commission's instructions regarding the Phase 1 Order requirement for the LSE agreement filing due date. Instead, NYSERDA proposes filing an implementation plan for stakeholder comment, that will include a description of the compliance obligation calculations, process and structure, as well as a standard purchase agreement for ultimate Commission approval. As neither of the awarded projects is expected to commence commercial operation in 2020, NYSERDA's proposal will not interfere with the administration of the program and will allow all parties to proceed on a more informed basis.

Administrative Funding

The Phase 1 Order authorized NYSERDA to expend up to \$9,797,000 in funding to cover NYSERDA's administrative costs in implementing Phase 1 of the Offshore Wind Standard. This funding was used to continue NYSERDA's work commenced under an original \$15 million in offshore wind-related funding authorized under two Clean Energy Fund investment plans used to fund the Offshore Wind Master Plan and other pre-development activities.^{26,27}

NYSERDA files quarterly reports under Case 18-E-0071 to report on the use and balance of funding available for its offshore wind activities under the CEF Order. As of the administrative report filed

²⁵ Case 18-E-0071, "Ruling on Extension Request," November 27, 2019.
<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={D1BC751E-A4D6-4C7C-AB55-E77FF643F597}>

²⁶ Order Authorizing the Clean Energy Fund Framework. January 21, 2016.
<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={B23BE6D8-412E-4C82-BC58-9888D496D216}>

²⁷ Clean Energy Fund Investment Plan: Large-Scale Renewables Chapter. April 19, 2019.
<https://www.nyserda.ny.gov/-/media/Files/About/Clean-Energy-Fund/CEF-Large-Scale-Renewable.pdf>

January 23, 2020, approximately \$4 million remains uncommitted from the originally authorized funding, which per the Phase 1 Order, was ultimately offset by \$1.74 million in bid fees paid by proposers.²⁸ These funds have been utilized to support the execution of the Phase 1 procurement, coordination and analytic support of New York's offshore wind Technical Working Groups, supply chain and infrastructure studies and supplier forums to cultivate economic development and opportunities for supply chain integration for New York businesses, stakeholder outreach and engagement activities, and technical analysis.

Current Phase 1 administrative funds, judiciously allocated, are expected to be utilized in early 2020 for ongoing program administration, the hiring of an offshore wind fisheries liaison, industry events and public outreach efforts, port infrastructure RFP support, various analytical activities and support for Technical Working Groups and related efforts.

As of December 2019, OREC funding currently funds 3.5 FTEs of general program staff, 0.4 FTEs of legal staff, 0.5 FTEs of transmission staff, and 1.0 FTEs of fishing liaison support to a total of approximately 5.4 FTEs. Beginning in January 2020, NYSERDA plans to transition an additional 1.0 FTEs of environmental staff to OREC funding to a total of 6.4 FTEs through June 2020.

Incremental to this basis, NYSERDA requests authorization for administrative funding for an additional 2.0 FTEs for the balance of 2020 to support the program's growing focus on supply chain, stakeholder engagement, and contract management. Additional administrative funding would be required to execute on the next solicitation and to continue program development in late 2020 while broader proceedings advance. NYSERDA's administrative budgets typically include NYSERDA staff direct and indirect salaries, fringe benefits, and other direct program operating costs and allocated general and administrative expenses. The requested authorization would also require non-recurring consultant and legal support along with program and system development which is intended to build upon the Phase 1 design. All efforts would be made to streamline NYSERDA's work and to build on all Phase 1 work products to the extent possible.

In total, NYSERDA expects its administrative costs for the latter half of 2020 to equal approximately \$2.1 million plus the addition of salary and overhead, ongoing offshore wind program development that reflects NYSERDA's need to keep momentum on its broader programs, and the NYS Cost Recovery Fund expense. These items sum to a combined total of \$4.4 million, representing a comprehensive "stop-

²⁸ Case 18-E-0071, "NYSERDA OREC Quarterly Administrative Report Q4 2019". January 23, 2020. <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={D3CE7588-3F77-42F2-9317-2E7B39461D41}>

gap” to cover program needs from July through December 2020 and including staff growth to build necessary capacity to meet the State’s nation-leading commitment for this industry (Table 1).

Administrative costs from January 2021 and beyond are anticipated to be built into a revised Clean Energy Standard and Offshore Wind Standard comprehensive budget.

Consistent with the approach taken for administration under the Phase 1 Order, NYSERDA proposes to use existing unspent Renewable Portfolio Standard (RPS) funds to cover these incremental administrative costs.

NYSERDA would allocate a proportionate share of the annual New York State Cost Recovery Fee (CRF) to the 2020 offshore wind solicitation. The CRF is a fee assessed to NYSERDA and other public authorities by New York State for an allocable share of state governmental costs attributable to the provision of services to public benefit corporations pursuant to Section 2975 of the Public Authorities Law. For the fiscal year ended March 31, 2019, the CRF assessment was about 1.18 percent of NYSERDA’s annual expenses, and NYSERDA has assumed a similar percentage for the program’s allocable share of CRF costs. If actual cost allocations exceed these estimates, NYSERDA would reallocate approved but uncommitted offshore wind administrative funds or would request approval for additional funds; authorized funds in excess of actual commitments and expenditures will be held for future ratepayer benefit.

NYSERDA proposes to file quarterly itemized reports on costs associated with administration and would continue to keep detailed accounting of all costs in administering the program and any unspent administrative funds would be used for future ratepayer benefit. NYSERDA also proposes, similar to the Phase 1 approach, to offset these costs with any bid fees received in response to its 2020 solicitation.

Table 1. Proposed Budget: July-December 2020 Offshore Wind Administrative Costs	
	NYSERDA’s Proposed Offshore Wind Program Costs
Salary and Overhead	\$1,309,640
Technical Support	\$1,845,000
System Development	\$220,000
NYS Cost Recovery Expense	\$39,821
Program Development	\$1,000,000
Total	\$4,414,461

State Environmental Quality Review

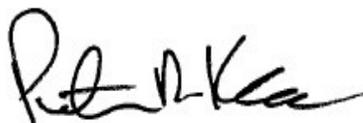
NYSERDA also understands that the actions it requests will necessitate the Commission's consideration of a supplement to the Generic Environmental Impact Statement (GEIS) adopted by the Commission as part of the Phase 1 Order. A draft supplemental GEIS (SGEIS) will be presented by DPS Staff to the Commission and, if accepted by the Commission, will be made available for public comment. The SGEIS will address factors relevant to consideration of the associated environmental impacts including project size and the range of potential sites to be developed as well as relevant other considerations. In considering the potential environmental impacts of the continued development of offshore wind it is important to note that the distinctions in this Petition are financial and contractual in nature. Such distinctions do not relate to the physical parameters or operating characteristics of the projects that ultimately will be deployed and thus do not imply any differences to the carbon benefit or other environmental benefits and impacts resulting from the projects to be deployed under an eventual Order.

Conclusion

NYSERDA respectfully requests that, in response to Governor Cuomo's recent directive, for the all of the reasons stated above, and in furtherance of the State's ambitious renewable goals, the Commission issue an order authorizing NYSERDA to issue a solicitation in 2020 to procure at least 1,000 MW of offshore wind capacity.

Dated: January 28, 2020

Respectfully submitted,



Peter Keane
Deputy General Counsel
NYSERDA
518.862.1090, ext. 3366
Pete.keane@nyserda.ny.gov