

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 18-E-0071 - In the Matter of Offshore Wind Energy.

NOTICE SOLICITING COMMENTS

(Issued April 11, 2018)

PLEASE TAKE NOTICE that comments are invited on the adoption of a regulatory program to encourage the procurement of electricity from new offshore wind generating facilities by New York State consumers.<sup>1</sup> This includes, in part, consideration of an "Offshore Wind Policy Options Paper" (Options Paper) filed by the New York State Energy Research and Development Authority (NYSERDA) on January 29, 2018, which provides an assessment of alternatives for addressing a wide range of policy issues pertinent to the deployment of offshore wind energy.

As a component of the regulatory program, the Commission is considering adopting a goal that the quantity of electricity supplied by renewable resources and consumed in New York State be increased by the output of 2,400 MWs of new offshore wind generation facilities by 2030 as part of a strategy to reduce statewide greenhouse gas emissions by 40% by 2030. The goal under consideration is based on contributions towards achievement of the goal by each New York Load Serving Entity (LSE) serving retail customers, including the non-jurisdictional Long Island Power Authority (LIPA) and New York Power Authority (NYPA).

As a Phase 1 component of the regulatory program, the Commission is considering the adoption of a requirement to jump-start the deployment of offshore wind resources to serve New

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<sup>1</sup> The scope of this notice is identical to the proposed rulemaking published in the State Register on April 4, 2018.

York consumers by requiring each New York LSE to serve their retail customers by procuring new offshore wind resources, evidenced by the competitive procurement of qualifying Offshore-wind Renewable Energy Credits (ORECs), obtained in solicitations to be conducted in 2018 and 2019 to procure the annual renewable energy attributes associated with up to 800 MWs of new offshore wind generation facilities.

Phase 1 Competitive Solicitations

Sufficient competitive solicitations would be conducted by NYSERDA, LIPA and/or NYPA in 2018 and 2019, in cooperation with each other, to obtain in total the intended 800 MWs. The quantity of MWs that is procured by each soliciting entity towards the 800 MWs need not be limited to the proportional share of retail load to be served, but instead could be based on quantities deemed efficient for each particular solicitation. Solicitations conducted by NYSERDA would be for the procurement of ORECs only and would have 25-year contract terms. Contracts awarded by NYSERDA, in its discretion, could be flexible as to quantity purchased to be tailored to the capacity of interconnection points, or to promote other efficiency factors such as economies of scale. LIPA and/or NYPA could agree to have NYSERDA obtain a share of ORECs for them through NYSERDA's solicitations, or could conduct their own solicitations. If LIPA and/or NYPA conduct their own solicitations, they would be free to establish their own OREC procurement options and methodologies, including, but not limited to, the combined procurement of ORECs, energy, and capacity.

Phase 1 Offshore Wind Project Eligibility

Eligibility would be limited to offshore wind electric generation facilities, located in ocean waters of the United States, that become operational on or after January 1, 2015; that deliver their electric energy into the New York Control Area for consumption by New York consumers, either by direct generator lead into New York or by transmission across adjacent control areas into New York; that upon submission of a bid have already obtained a lease for the offshore ocean site from the U.S. Bureau of Ocean Energy Management (BOEM); and that are located a minimum distance from shore necessary to minimize visual impacts from land, to be pre-determined by the Commission. The Commission is considering whether the minimum distance should be 20 statute miles, or some lesser or greater minimum distance. In addition, eligibility requirements regarding project labor agreements and prevailing wage requirements could be included in solicitations by NYSERDA, in its discretion, after consultation with Staff of the Department of Public Service.

Phase 1 NYSERDA Bid Scoring and Contracts

NYSERDA would score competitive bids by giving a relative weight of 70% to price, 25% to economic benefits, and 5% to project viability. NYSERDA, in its discretion, would establish the criteria for scoring economic benefits and project viability for each solicitation. In addition, criteria regarding project labor agreements and prevailing wage requirements could be included in the scoring of economic benefits by NYSERDA, in its discretion, after consultation with Staff of the Department of Public Service. NYSERDA would impose a maximum upset price as a cost containment measure, and would always have authority to reject all bids. Contract language and

contract requirements, such as construction and in-service milestones and deadlines, bid bonds, cash bonds, and other contract security arrangements would be left to NYSERDA's discretion.

#### Phase 1 NYSERDA Procurement Options

The Commission is considering a number of options for NYSERDA's procurement of ORECs, as listed below. A number of these options are further detailed in the Options Paper, along with NYSERDA's assessment of the associated benefits and costs, legal risks and implications, and other considerations.

##### 1. Fixed OREC

Under this approach, winning projects would receive a fixed, as-bid OREC price throughout the contract lifetime. Each OREC would represent the renewable attributes associated with 1 MWh of electricity generated. This is similar to the Commission's approach used for Tier 1 of the Renewable Energy Standard.

##### 2. Market OREC

Under this option, NYSERDA would purchase ORECs at a price that would vary over the life of the contract based on the net difference, from time to time, between the project's winning Strike Price bid and the actual revenue the project was able to achieve from its energy and capacity sales, whether in the regulated wholesale markets or through other transactions such as bilateral sales. Offshore wind generators would be required to report to NYSERDA their actual revenues received from selling energy and capacity. To determine the net amount paid to the generator (Market OREC Price), NYSERDA would deduct from the Strike Price the actual revenues received by the offshore wind generator from selling energy and capacity.

3. Index OREC

Under this option, NYSERDA would purchase ORECs at a price that would vary over the life of the contract based on the net difference, from time to time, between the project's winning Strike Price bid and a reference price equivalent to the compensation that a generic, average project might receive. Such reference price would be an average energy and capacity market price, as expressed in a market index or composite of indices (Reference Price), whether the project sold its energy and capacity into the regulated wholesale markets or not. NYSERDA would derive the Reference Price from an index or composite index of prices cleared within a particular New York Control Area zone, which zone may or may not be the zone into which the project sells its energy and capacity. The Reference Price would be comprised of average energy and capacity values within that zone for a period of time prior to the calculation of the reference price, such as a month, reflective of a time period for such generation, but not the actual prices received by the generator (which may have been impacted during that period of time, even in the same zone, by time-of-day and other factors). To determine the net amount paid to the generator (Index OREC Price), NYSERDA would deduct from the Strike Price the Reference Price.

4. Forward OREC

Under this option, NYSERDA would purchase ORECs at a price that would vary at set periods of time, such as every two years over the life of the contract, based on the net difference, recalculated every two years, between the project's winning Strike Price bid and the price of two-year energy and capacity price forecasts or forward indices as expressed in a forward composite of indices (Forward Price) within a particular

zone, whether the project sold its energy and capacity into the regulated wholesale markets or not, and in that particular zone or not. Either upward or downward adjustments to the OREC price of each tranche would be calculated prior to the beginning of each tranche period according to energy and capacity price forecasts or forward indices matching the tranche period, and would remain fixed for the duration of the tranche period. Such prices would then be recalculated thereafter, at the end of every tranche period, in the same manner. To determine the net amount paid to the generator (Forward OREC Price), NYSERDA would deduct from the Strike Price the Forward Price.

5. Fixed/Index OREC

Under this option, NYSERDA would purchase ORECs at a fixed price, as bid, for an initial period of time, such as two years, and a price would be set thereafter that varies based on an Index. The price would then vary at set periods of time, such as every two years over the life of the contract, based on the net difference, recalculated every two years, between the project's initial bid price (Bid Price) and the change in the price of two-year energy and capacity price forecasts or forward indices as expressed in a forward composite of indices (Forward Price) within a particular zone, whether the project sold its energy and capacity into the regulated wholesale markets or not, and in that particular zone or not. Either upward or downward adjustments to the OREC price of each tranche would be calculated prior to the beginning of each tranche period according to energy and capacity price forecasts or forward indices matching the tranche period, and would remain fixed for the duration of the tranche period. Such prices would then be recalculated thereafter, at the end of every tranche period, in the same manner. To determine the net amount paid to the

generator (Fixed/Index OREC Price), NYSERDA would deduct or add from the Bid Price the change in the Forward Price.

6. Capped OREC

Under this option, NYSERDA would purchase ORECs at a fixed price, as bid, for an initial period of time, such as two years, and a price would be set thereafter that varies based on an Index. The price would then vary at set periods of time, such as every two years over the life of the contract, based on the net difference, recalculated every two years, between the project's initial bid price (Bid Price) and the change in the price of two-year energy and capacity price forecasts or forward indices as expressed in a forward composite of indices (Forward Price) within a particular zone, whether the project sold its energy and capacity into the regulated wholesale markets or not, and in that particular zone or not. Either upward or downward adjustments to the OREC price of each tranche would be calculated prior to the beginning of each tranche period according to energy and capacity price forecasts or forward indices matching the tranche period, and would remain fixed for the duration of the tranche period, except at no time would the resultant OREC price exceed the original Bid Price. Such prices would then be recalculated thereafter, at the end of every tranche period, in the same manner. To determine the net amount paid to the generator (Capped OREC Price), NYSERDA would deduct or add from the Bid Price the change in the Forward Price, except at no time would the resultant OREC price exceed the original Bid Price.

7. Other Options

The Commission will also consider other options that may include certain aspects and variations of the procurement options identified above.

Phase 1 Annual OREC Purchases by LSEs

Under each procurement option listed above, NYSERDA would purchase the ORECs, on behalf of the LSEs, and then resell them to the LSEs for compliance with the LSEs' obligation. Each LSE would be required to enter into a contractual relationship with NYSERDA to periodically purchase ORECs during a program year balanced in a reconciliation process so that the quantity of ORECs purchased by the LSE during the program year equals the LSE's proportional share of the total number of ORECs purchased by NYSERDA. The proportional share of each LSE would be based on the quantity of retail sales load served by the LSE during the program year. Phase 1 ORECs would not be tradable by LSEs except with NYSERDA.

NYSERDA's reasonable administrative costs and cost recovery fee costs would be recoverable from LSEs as an OREC price adder, or in some other manner, as determined by the Commission.

Phase 2

Shared radial and independently-owned transmission options are reserved for consideration in Phase 2 and would not be considered for the Phase 1 competitive solicitations. The options of incorporating environmental impact criteria other than the minimum distance from land into the eligibility requirements and incorporating environmental impact criteria into the bid scoring calculations are reserved for consideration in Phase 2 and would not be considered for the Phase 1 competitive solicitations.

The full text of the Options Paper and the full record of the proceeding may be reviewed online at the Department of Public Service web page, [www.dps.ny.gov](http://www.dps.ny.gov), by clicking on



"Search," and entering "18-E-0071" in the "Search by Case Number" field.

Comments are requested by June 4, 2018, and shall be submitted to the Secretary by e-filing through the Department of Public Service's Document and Matter Management System (DMM),<sup>2</sup> or by e-mail to the Secretary at [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov). If unable to file electronically, commenters may make submissions by post or hand delivery to the Hon. Kathleen H. Burgess, Secretary, Three Empire Plaza, Albany, New York 12223-1350.

Information and instructions related to becoming a party, subscribing to the service list, or otherwise monitoring the status of this proceeding can be found on the Department's website at:

<http://documents.dps.ny.gov/public/MatterManagement/RequestAPStatus.aspx>. All documents submitted to the Secretary will be posted on the Department's website and become part of the official case record.

(SIGNED)

KATHLEEN H. BURGESS  
Secretary

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<sup>2</sup> To register with DMM, go to <http://www.dps.ny.gov/efile/registration.html>