

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Proceeding on the Motion of the
Commission to Implement a Large-Scale
Renewable Program and Clean Energy
Standard**

Case 15-E-0302

In the Matter of Offshore Wind Energy

Case 18-E-0071

**COMMENTS OF EQUINOR WIND US LLC ON THE NEW YORK STATE ENERGY
RESEARCH AND DEVELOPMENT AUTHORITY PETITION REGARDING
ADJUSTMENT TO INDEX REC AND INDEX OREC FORMULAS FOR NEW
CAPACITY ACCREDITATION RULES**

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Dated: October 10, 2023

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Equinor Wind US LLC (“Equinor”) submits these comments in response to the Petition filed by the New York State Energy Research and Development Authority (“NYSERDA”) on June 29, 2023.¹ In the Capacity Accreditation Petition, NYSERDA requests that the Public Service Commission (“Commission”) grant it authority to revise the calculation for reference capacity prices (“RCP”) in NYSERDA’s existing and future Tier 1 renewable energy certificate (“REC”) and offshore wind renewable certificate (“OREC”) purchase and sale agreements (collectively, “Contracts”) in response to new capacity accreditation rules promulgated by the New York Independent System Operator, Inc. (“NYISO”).

I. COMMENTS

Equinor appreciates NYSERDA’s careful evaluation of the impacts of NYISO’s capacity accreditation rules and its proactive approach to addressing these impacts on Index REC and Index OREC contracts. The manner in which these contracts evolve to account for NYISO’s changes will impact the risk profile and economics of existing contracts as well as future solicitations for offshore wind and other renewable resources. As discussed further below, Equinor respectfully

¹ Case 15-E-0302, et al., *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Petition Regarding Adjustment to Index REC and Index OREC Formulas for New Capacity Accreditation Rules* (filed June 29, 2023) (“Capacity Accreditation Petition”).

requests that the Commission accept the Capacity Accreditation Petition but direct NYSERDA to remove the 50% weighting factor contemplated by the proposed Strike Price Adjustment Mechanism.

A. The 50% Weighting In The Strike Price Adjustment Mechanism Is Unsupported And Should Be Removed

Equinor appreciates NYSERDA's recognition of the need for strike price adjustments to existing contracts to ensure that the proposed revisions "hold steady the total revenue reasonably expected to be achieved by each project," as contemplated by the relevant Change of Law provisions in each existing contract.² As currently proposed, the Strike Price Adjustment Mechanism relies on a 50% weighting of the selected UPF and the "default UPF" in the adjustment formula.³ There is no rationale provided for including a weighting mechanism or why this specific percentage is appropriate. Equinor believes this arbitrary and artificial limitation on the scale of the strike price adjustment is unnecessary, inappropriate, and should be removed.

B. The Proposed rUPF Approach Is An Imperfect But Reasonable Approach When Combined with the Proposed Strike Price Adjustment Mechanism Modification

Under the current RCP formula, a project is exposed to its production performance shortfalls relative to the capacity factor stated in its bid.⁴ This approach encourages a project to develop the most accurate possible production forecast based on the data available at the time of its bid to ensure that it can – on average, over the contract term – achieve the UPF stated in its contract. This incentivizes a project to propose a realistic and achievable capacity factor and operate its project accordingly to achieve the proposed capacity factor. In this way, the current RCP formula approach appropriately allocates risk by allowing the project developer to select its own UCP and then measuring the project's performance against the chosen UCP when conducting

² *Id.* at p. 8

³ *Id.* at 8

⁴ *Id.* at p. 2, Formula 1.

the Index OREC calculation. Importantly, each of these factors is within the developer's direct control and incentivizes the developer to calibrate its bidding and operation strategies to align with its chosen UCP.

In contrast, the proposed RCP formula replaces the developer-proposed UPF with a Relative UCAP Production Factor (“rUPF”). As a result, the project is exposed to the production performance of the Representative Unit, over which it has no control.⁵ The risk of this approach is particularly acute for offshore wind projects, which can be located hundreds of miles apart and experience markedly different production profiles over the same time period. Furthermore, setting the rUPF factor to 1 under the proposed RCP formula exposes projects to risks relative to the actual rUPF factor inherent to a project’s capacity revenues from NYISO. Although necessary in light of NYISO’s new capacity accreditation rules, these changes subject projects to risks beyond their control and represent a material shift in the project’s risk profile compared to the current approach.

Regarding the proposed adjustments to existing contracts, Equinor acknowledges the administrative efficiency of setting the rUPF factor to 1 and appreciates NYSERDA’s recognition of the need for strike price adjustments to reflect the revenue expectations of the relevant projects at the time of bid submission. As explained above, Equinor maintains that the proposed rUPF approach exposes projects to additional risks outside their control, in stark contrast to the current developer-proposed UPF approach. However, if combined with the proposed Strike Price Adjustment Mechanism revision discussed above, Equinor believes the revised formula represents an imperfect but reasonable price adjustment methodology. Without removing the artificial and unjustified 50% weighting, the proposed approach may not “hold steady” the project revenue

⁵ *Id.* at p. 5, Formula 3.

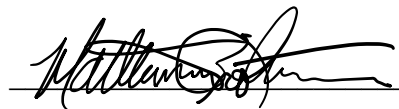
expectations as contemplated by the Capacity Accreditation Petition and the Change of Law provisions of the existing contracts.

As for future contracts, Equinor appreciates NYSERDA's acknowledgment that a more tailored rUPF value could be appropriate under certain circumstances, including offshore wind solicitations, and doing so could benefit ratepayers in a way that outweighs the bid evaluation and contract administration simplicity of setting the rUPF factor to 1. Therefore, Equinor supports the Commission granting NYSERDA the authority to 1) specify fixed rUPF values or allow Proposers to specify their rUPF values, in consultation with the Department of Public Service ("DPS"), and 2) implement other necessary adjustments to the RCP formula, subject to the agreement of NYSERDA and DPS Staff, to ensure alignment with potential future changes. Without such flexibility, projects will be subject to risks beyond their control.

II. CONCLUSION

For the foregoing reasons, Equinor respectfully requests that the Commission accept the Capacity Accreditation Petition but direct NYSERDA to remove the 50% weighting factor contemplated by the proposed Strike Price Adjustment Mechanism.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Matthew Brotmann', is written over a horizontal line.

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