

NEW YORK STATE OFFSHORE WIND: THE LAUNCH OF PHASE II

Hodgson Russ Renewable Energy Alert
January 30, 2020

NYSERDA's Petition to Procure At Least Another 1,000 MWs of Offshore Wind

Kickstarting round two of New York State's nation-leading support of offshore wind projects through the purchase of Offshore Wind Renewable Energy Credits (ORECs), on January 28, 2020, the New York State Energy Research and Development Authority (NYSERDA) filed a petition with the New York Public Service Commission (Commission) seeking authorization to procure at least 1,000 megawatts (MWs) of offshore wind resources. The action cements New York's leadership role in building the American and global offshore wind industry. As Green Tech Media recently recognized, "Over the past year, New York solidified its position as not only the most important U.S. offshore wind market but also ranking among the most important in the world."

This petition sends a strong signal to the world's offshore wind developers, supply chain and other market participants that New York intends to forge ahead in the face of the federal slowdown of additional wind energy area lease auctions and failure to pass an offshore wind investment tax credit. In a joint statement with the Alliance for Clean Energy-New York (ACE-NY), Joe Martens, Director of the New York Offshore Wind Alliance (NYOWA), a project of the Alliance for Clean Energy-New York (ACE-NY), stated this is "[f]ast but deliberate action by NYSERDA to keep New York State's offshore wind momentum going."

This second round follows the Commission's 2018 Order authorizing procurement of 2400 MWs and NYSERDA's late 2018 solicitation, which sought approximately 800 MWs but, because of the quality of the bids received, resulted in contracts for 1,700 MWs. Thus, even if the Commission only authorizes another 1,000 MWs this time around, NYSERDA will still have authorization to solicit for approximately another 1,700 MWs of offshore wind capacity in 2020.

NYSERDA's petition launches a proceeding at the Commission that will be commenced soon by a Notice filed on the docket by the Department of Public Service triggering a series of events: 60 days for public comment, likely a window of time allotted for reply comments, and then an Order within one or two months after the docket has closed. Given that likely schedule, a Commission Order in response to this petition can be expected in June or July of 2020. This schedule therefore

Attorneys

Joseph Endres
Michael Hecker
Elizabeth Holden
Charles Malcomb
Paul Meosky
Daniel Spitzer
Jeffrey Stravino
Brianna Szopinski
Sujata Yalamanchili
John Zak
Henry Zomerfeld

NEW YORK STATE OFFSHORE WIND: THE LAUNCH OF PHASE II

provides plenty of time for NYSERDA to issue its next OREC solicitation in the second half of 2020.

Phase II Adjustments

NYSERDA proposes that the 2020 solicitation would follow many of the same directives from the Phase 1 Order with only modest changes to incorporate lessons learned from the first go-round.

The Phase II solicitation will evaluate bids according to the same scale, weighting 70% for price, 20% for economic benefits and 10% for project viability. However, within this framework NYSERDA proposes to make the following tweaks:

1. **Price Evaluation:** NYSERDA is seeking the Commission's authorization to align the 2020 offshore wind solicitation with the recently adopted Order Modifying Tier 1 Renewable Procurements (Index REC Order), which we discussed in a recent alert. In accordance with this Order, Phase II offshore wind bidders would be permitted to offer either a Fixed or Index OREC bid. Regardless of the chosen bid structure, 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. In making this change, NYSERDA would do away with the hybrid evaluation structure that was used in Phase I, which complicated the evaluation process during the scoring process.
2. **Reference Energy and Capacity Price:** To further improve the cost-effectiveness of the Index OREC structure by providing developers an even better hedge, NYSERDA also proposes to modify the definitions of the Reference Energy Price and Reference Capacity Price to be consistent with changes in the Index REC Order. The revised Reference Energy Price would reflect the average locational based marginal price (LBMP) from a project's NYISO (New York Independent System Operator) zone of delivery, instead of an average across Zones K and J. Similarly, the revised Reference Capacity Price would be calculated using a project's specific NYISO-designated locality (*i.e.*, New York City, Long Island, Zones G-J, or Rest of State).
3. **Executed Contracts for the Purchase of ORECs:** NYSERDA is proposing to do away with the Phase I requirement that Load Serving Entities (LSEs) provide NYSERDA with executed contracts for the purchase of ORECs. Instead, NYSERDA proposes to file 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. This revision would apply for LSEs from Phase I as well as those in Phase II.

At Least 1,000 MW

NYSERDA is seeking approval from the Commission to procure at least 1,000 MW of offshore wind in 2020, but the Commission could decide to authorize an even greater capacity depending upon several market variables.

First, the Commission may take into account the potential competition in NYSERDA's procurement based on the Bureau of Ocean Energy Management's (BOEM) pace of identifying additional Wind Energy Areas (WEAs) for auction. In October, 2017, NYSERDA submitted proposed "Areas of Consideration" to BOEM, the first step towards the issuance of an auction notice for new WEAs in the New York Bight. Unfortunately, BOEM has yet to open a new lease auction and it appears that new lease areas may not be available until 2021 at the earliest. When new WEAs are leased, New York State's following

NEW YORK STATE OFFSHORE WIND: THE LAUNCH OF PHASE II

procurement would be able to take advantage of those additional project bids.

Second, a decision at the federal level about whether to extend the Investment Tax Credit (ITC) is at play, in light of cost projections for developers and therefore the value the State can expect in bids. In December, 2019 an extension for the ITC was removed from the annual House spending package. On the other hand, the global scaling of the offshore wind industry and continued sharp reduction of all-in project construction costs provides a strong argument for ensuring that the State captures the U.S. market opportunity as it develops.

Finally, the Commission will need greater clarity on transmission upgrades. The Phase 1 Order identified the study of a backbone transmission system as a primary consideration for Phase 2, the results of which will be used to inform the State's ongoing renewable energy procurement efforts. In the Phase II Petition, NYSERDA acknowledges that 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. Moreover, the Long Island Power Authority and Con-Edison have yet to release their ongoing study of transmission capacity to, among other things, accommodate the injection of additional offshore wind projects. However, that information is expected to be finalized during the pendency of this Phase II proceeding. The Commission will no doubt examine this information when considering the size of the Phase II authorization.

If you received this alert from a third party or from visiting our website, and would like to be added to our Renewable Energy Law mailing list or any other of our mailing lists, please visit us at: <https://forms.hodgsonruss.net/subscription-center-hr.html>