



STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES & CARRIERS

Administration
89 Jefferson Boulevard
Warwick, Rhode Island 02888
(401) 941-4500
(401) 941-9207 - Fax

October 7, 2022

Chairman Ronald T. Gerwatowski
Commissioner Abigail Anthony
Commissioner John C. Revens, Jr.
Rhode Island Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02888

Re: Docket No. 22-22-EL Rhode Island Energy's Draft RFP for Long-Term Contracts for Offshore Wind Energy

Dear Chairman Gerwatowski and Commissioners,

In accordance with the Affordable Clean Energy Security Act ("ACES", R.I.G.L. 39-31-10(a)), Rhode Island Energy (RIE, or Company) developed the draft Request for Proposals (RFP) in consultation with the Office of Energy Resources (OER) and the Division of Public Utilities and Carriers (Division). Beginning on July 11, OER and the Division have participated in a series of productive meetings with representatives of RIE. We had several opportunities to review preliminary drafts and provide comments to RIE. Our goal was to ensure that the RFP is consistent with the provisions of ACES, produces a robustly competitive procurement, and safeguards ratepayers' interests. We are appreciative of RIE's thoughtful consideration of our concerns. Following recent discussions with RIE, we understand that each of the issues that are of paramount importance to the Division, summarized below, have been addressed by RIE to the Division's satisfaction. The Division notes, however, that the Company has not yet shared with us a revised RFP that reflects these agreed-upon changes. We trust that the Company has been working diligently and in good faith to accommodate the Division's preferences.

A primary concern raised by the Division was the inclusion of language in Section 2.6, Regulatory Approval, stating RIE's intent to seek remuneration. Footnote 20 on page 31 of the draft RFP states the Division's lack of support for RIE's intention to seek remuneration. The Division also objected to language on page 32, stating, "Rhode Island Energy will consider PUC approval as acceptable final Regulatory Approval only if: (1) the PUC approves annual

remuneration equal to 1.00 percent of the actual annual payments made under the contracts.” The Division believes such language injects considerable uncertainty into the procurement process, would chill participation by qualified bidders, and reduce competition, to the detriment of ratepayers. As a practical matter, the Commission, and not RIE, has the sole discretion under ACES to determine whether any remuneration is appropriate. Moreover, ACES does not permit any remuneration unless the wind project is operational by December 31, 2026. The Division notes that the Mayflower offshore wind project, which is currently pending before the Energy Facility Siting Board, is not projected to be in commercial operation before 2030, so it appears extremely unlikely that remuneration will be relevant to the project (or projects) contemplated by this RFP. We were pleased to learn in the public hearing before the Commission on September 21 and in further discussion with RIE, that RIE will delete all references to remuneration in the final RFP.

Recognizing that other Atlantic seaboard states have issued or are intending to issue RFPs for offshore wind projects within the next year, the Division encouraged RIE to accelerate the schedule of the RFP process. The proposed bid due date of March 13, 2023, approximately 5 months after RFP release, appears to minimize, to the extent possible, direct competition with other states for developers’ attention and resources during the period allowed for developers to prepare a bid. However, the Draft RFP schedule filed with the Commission shows approximately 6 months for RIE’s review of proposals received, with September 11, 2023, as the target date for selection, and further requires bidders to keep their bids valid for 260 days, or until November 28, 2023. This review period is significantly longer than needed in other states for comparable offshore wind procurements. The most recent Massachusetts offshore wind procurement timeline reflects approximately three months between bid due date and announcement of award.¹ Similarly, NYSERDA’s current RFP for offshore wind contains an approximate 3-month period between the due date for proposals and the Award Notification Date.² Delaying selection may put prospective bidders in a situation where they have to choose which state contract they will pursue, thereby potentially limiting the number of participants in the RIE procurement.³ Moreover, a requirement to keep a bid open and valid for 260 days is nearly three months longer than what is typically seen in other states, where 180 days appears to be standard practice. Holding a bid open and valid for an extended period of time will likely increase bidders’ risk of adverse changes in underlying costs, thereby adding a risk premium to the bid price. It is the Division’s understanding that the Company will, in all probability, reduce the time that bids must remain valid from 260 to 180 days.

¹ See: <https://macleanenergy.com/83c-iii-timeline/>

² See: <https://www.nyserda.ny.gov/All-Programs/Offshore-Wind/Focus-Areas/Offshore-Wind-Solicitations/2022-Solicitation>

³ Under Massachusetts statute, the next offshore wind RFP must be released no later than May 7, 2023 (two years after the prior RFP release.) If the timeline for the next procurement is similar to the last, Massachusetts bids would be due in September 2023, or around the same time that bidders in Rhode Island would be notified of award according to RIE’s Draft RFP.

The Division recommended to RIE that additional emphasis be placed on identifying the impacts and benefits to historically marginalized and environmental justice communities. Consistent with ACES (R.I.G.L. 39-31-10(a)), the Draft RFP requires that bidders submit a Workforce Diversity Plan and a Supplier Diversity Plan. The Draft RFP (Section 2.2.3.8) also requires that bidders provide, "An annualized estimate for all economic benefits, including the specific in-state expenditures and employment proposed during the development, construction and operation and maintenance phases of the project;" RIE shared with the Division the Economic Development Sheet, a form that bidders must submit, and which requires a detailed breakout of annual project expenditures by year, number of jobs created, and which expenditures will be in-state and which will be targeted for vendors, suppliers, and historically marginalized communities that are identified in the Workforce Diversity and Supplier Diversity Plans. The Division is satisfied that this will provide transparency on how the Workforce Diversity Plan and Supplier Diversity Plan will be implemented. Additionally, the Division suggested that the Environmental and Fisheries Mitigation Plan include a discussion of potential impacts to historically marginalized communities/environmental justice communities, and proposed mitigation measures.

Lastly, the Division shares the concerns of the Quonset Development Corporation in comments filed with the Commission on October 3 in this docket, that any commitment by an offshore wind developer to provide economic benefits to Rhode Island must become legally binding. It is our expectation, and RIE's, that the selected developer will execute a binding agreement with one or more state agencies or other state institutions to ensure that the proposed in-state investments are actually realized, with appropriate mechanisms to enforce. We understand from RIE that it will coordinate with other state agencies and institutions so that such binding agreements are negotiated in parallel with the Power Purchase Agreement (PPA) between RIE and the developer and should be concluded prior to execution of the PPA. The Division looks forward to continuing to collaborate with RIE and OER to ensure that Rhode Island's next offshore wind procurement is successful, fully compliant with the law, and delivers the intended economic benefits.

Respectfully submitted,



Linda D. George
Administrator

cc: Service List