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## **Comments of the New York Offshore Wind Alliance**

on

### **Offshore Wind Program**

### **Request for Information ORECRFI23-1**

**Submitted: November 2, 2023**

The New York Offshore Wind Alliance (“NYOWA”)<sup>1</sup> respectfully submits the following comments on the New York State Energy Research and Development Authority’s (“NYSERDA”) Request for Information (“RFI”) related to a proposed expedited Request for Proposals (“RFP”) for Offshore Wind Renewable Energy Credits (“ORECs”). Under a fast-tracked solicitation scenario, NYSERDA is contemplating either a Q4 2023 RFP release with awards made in Q1 2024; or alternatively, Q1 2024 for RFP release and awards made in Q2 2024.

At the outset, NYOWA applauds NYSERDA for its efforts to provide a limited, one-time opportunity for developers of previously awarded OREC contracts to re-bid these projects with adjusted prices consistent with the developers’ assessment of current and future market conditions, while at the same time affording other eligible leaseholders an opportunity to participate in this expedited solicitation on comparable terms. NYOWA believes this expedited RFP is consistent with the parameters of Public Service Commission’s October 12, 2023 Order Denying Petitions Seeking to Amend Contracts with Renewable Energy Projects (“PSC Order”), which stands for the proposition that competitive bidding is the best means of eliciting OSW project proposals that meet state public policy objectives while protecting state ratepayers.

NYOWA offers the following specific comments responsive to the questions posed in the RFI.

First, NYOWA does not have a consensus position on whether an expedited RFP should adhere to the Q1 Close option, Q2 Close option, or indeed some other timeline. On the one hand, we are keen to see the preservation of early mover projects and the benefits in terms of timeline and industry building which they are able to provide. NYSERDA should take into account the timing of major financial commitments that must be made by legacy project owners as it sets an expedited RFP schedule.

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<sup>1</sup> The New York Offshore Wind Alliance is a collaboration of the world’s leading developers of offshore wind, national environmental NGOs, labor, and other interests joined together to support a robust and responsible offshore wind industry in New York State. Individual members of NYOWA will be submitting comments of their own.

On the other hand, expecting non-legacy project developers to prepare entirely new and responsive bids under an extremely tight timeframe may be a real challenge, if not an impossibility. An overly aggressive timetable could work against the interests of the PSC in ensuring robust competition. These workload and logistical challenges are complicated by ongoing solicitations underway in neighboring states that will necessarily divert internal resources.

We hope NYSERDA will take these competing pulls into consideration as it establishes the RFP schedule.

Second, and relatedly, it will be important for developers to have greater transparency around the award pool size and capacity on offer in the expedited solicitation. We would encourage NYSERDA to request indications from developers of existing projects with respect to their intentions of cancelling or resubmitting their existing projects early enough to inform each developer's proposed Offer Capacity.

Third, while there is an exigent need for this fast-track solicitation, NYOWA is also keen to see, as proposed in the Governor's 10-point plan, an appropriately scaled OSW solicitation in the regular order in late 2024.

Fourth, NYOWA is confident that there are multiple areas of the OREC solicitation process that can be simplified and streamlined to meet the extraordinary time constraints of this fast-tracked process, while preserving NYSERDA's ability to discern the relative strengths of projects against key evaluation metrics<sup>2</sup>. While we do not enumerate all available process efficiencies here, we would refer NYSERDA to the individual comment submissions by NYOWA members. However, as a general matter, we would encourage NYSERDA to consider implementing measures that would reduce the amount of novel proposal details that are required to be submitted upfront by developers, such as by replacing an upfront proposal submission requirement of all developers with a later requirement for the awarded developer(s) to negotiate such details during the post-award contracting phase; or, where possible, eliminate the need for such proposal details entirely by specifying minimum performance standards in the contract itself.

Fifth, for the expedited RFP, NYOWA generally supports the suspension of the applicability of certain ancillary ORECRFP22-1 requirements, including: the integration of storage, the submission of Supply Chain Investment Plans, and fossil repurposing plans. For avoidance of doubt, NYOWA supports the retention of the historically applied Economic Benefits evaluation

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<sup>2</sup> NYOWA also supports a more comprehensive review of the current OREC solicitation process in advance of the next solicitation following the expedited solicitation that is the subject of the instant RFI. The review should aim to facilitate a reduction of the cost of the program, enhance delivery of public benefits, and achieve other objectives identified in the PSC Order. While the instant RFI is necessarily constrained to those areas which NYSERDA has the administrative discretion to modify, a more comprehensive review should encompass areas that would potentially require Commission approval or change of law.

criterion at a 20% weighting based on *unconditional* economic benefit commitments by developers.

Sixth, NYSERDA should consider whether the retroactive application of certain parameters that have evolved over NYSERDA's three solicitation cycles will act as an effective bar to participation by previously awarded projects in this expedited RFP. An example of this, as reflected in the RFI, is the proposal to waive the prohibition on HVAC cables in Constrained Areas. This principle should be extended to, for example, the requirement for Meshed Grid Ready, which only arose in the third solicitation, and potentially well after substation orders have been placed for the first wave of New York projects.

Seventh, while NYOWA appreciates NYSERDA's desire to maximize the contribution of OSW to the state's 70% renewable by 2030 target, we are concerned that a 2030 commercial operation date ("COD") will be too aggressive for newly developed projects and could limit competition. Given the well-documented supply chain constraints, federal permitting timelines, and planned NY Harbor PPTN in-service date (January 1, 2033), among other factors, the imposition of financial penalties for failure to attain a 2030 COD seems particularly onerous and could similarly have a chilling effect on bid participation. If, as indicated in the RFI, the underlying concern "to reinforce the need to bid realistic schedules", this can be accomplished by holding developers to their individualized progress milestones as reflected in their respective bids.

Lastly, NYOWA questions the need for the one project per NYISO load zone limitation. Fundamentally, with four at-risk projects, such a rule will inevitably force project attrition, which could have a detrimental impact on the New York offshore wind portfolio overall. At a minimum, NYSERDA should retain flexibility to exceed these limitations based on a portfolio-wide review of the bids.

Thank you for considering these viewpoints.

Respectfully submitted,



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