



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-103

June 21, 2017

Joint Petition of Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, and NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy, for approval of a proposed timetable and method for the solicitation and execution of long-term contracts for offshore wind, pursuant to Section 83C of An Act Relative to Green Communities, St. 2008, c. 169, as amended by St. 2016, c. 188, § 12.

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I. INTRODUCTION AND PROCEDURAL HISTORY

On April 28, 2017, Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil”), Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid (“National Grid”), and NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy (“Eversource Energy”) (together, “electric distribution companies” or “Petitioners”) jointly filed a request with the Department of Public Utilities (“Department”) pursuant to Section 83C of An Act Relative to Green Communities, St. 2008, c. 169 (“Section 83C”),¹ for approval of a proposed timetable and method for the solicitation and execution of long-term contracts for offshore wind energy generation through a request for proposals (“RFP”) process.² The Department docketed this matter as D.P.U. 17-103.

On April 28, 2017, the Commonwealth of Massachusetts Department of Energy Resources (“DOER”) submitted a letter in support of the Petitioners’ proposed RFP. On May 1, 2017, the Department requested comments on the petition from interested persons. D.P.U. 17-103, Notice of Filing and Request for Comments (May 1, 2017). On May 5, 2017, pursuant to Section 83C, Peregrine Energy Group, Inc. (“Peregrine”), in its role as

¹ Section 83C was added to the Green Communities Act by An Act to Promote Energy Diversity, St. 2016, c. 188, § 12.

² The electric distribution companies filed a revised RFP on May 5, 2017 to provide clarification to certain sections and to correct spelling, grammar and spacing issues. All references herein to the RFP will refer to the May 5, 2017 revised RFP.

Independent Evaluator (“IE”), submitted an Independent Evaluator Report (“IE Report”).³ On May 15, 2017, the following entities submitted initial comments: Associated Industries of Massachusetts (“AIM”); the Attorney General of the Commonwealth (“Attorney General”); Bay State Wind LLC (“Bay State Wind”); the Conservation Law Foundation (“CLF”); The Nature Conservancy; collective comments of the National Wildlife Federation, Natural Resources Defense Council, Environmental League of Massachusetts, Mass Audubon, Union of Concerned Scientists, Environment Massachusetts Research & Policy Center, Toxics Action Center, Massachusetts Climate Action Network, Massachusetts Sierra Club, and Clean Water Action (“Environmental Nonprofits”); 1,247 Massachusetts residents through the National Wildlife Federation, Environmental League of Massachusetts, Conservation Law Foundation, Environment Massachusetts Research & Policy Center, and 350 Massachusetts (“MA Residents”); FirstLight Power Resources (“FLPR”); TransCanada Facility USA, Inc. (“TransCanada”); RENEW Northeast, Inc. (“RENEW”); Anbaric Development Partners (“Anbaric”); Deepwater Wind; Vineyard Wind, LLC (“Vineyard Wind”); Willett Kempton of the University of Delaware College of Earth, Ocean, & Environment (“UD Comments”); and Senator Julian Cyr and Representative Dylan Fernandes (collectively, the “Legislators”). On May 22, 2017, the following entities submitted reply comments: Anbaric; Bay State Wind;

³ The IE’s role is to monitor and report on the solicitation and bid selection process in order to assist DOER in determining whether a proposal is reasonable and to assist the Department in its consideration of long-term contracts filed for approval. Section 83C(f); 220 CMR § 23.04(6).

and the Petitioners. DOER also submitted reply comments in support of the proposed RFP.

The Petitioners responded to 18 information requests.⁴

Pursuant to Section 83C, the electric distribution companies are required to jointly and competitively solicit proposals for Offshore Wind Energy Generation not later than June 30, 2017;⁵ and, provided that reasonable proposals have been received, shall enter into cost-effective long-term contracts for Offshore Wind Energy Generation equal to 1,600 megawatts (“MW”) of aggregate nameplate capacity not later than June 30, 2027. St. 2016, c. 188, § 12; 220 C.M.R. § 23.00 et seq. In developing the provisions of long-term contracts, the electric distribution companies shall consider long-term contracts for renewable energy certificates (“RECs”) for energy or for a combination of RECs and energy, if applicable. St. 2016, c. 188, § 12; 220 C.M.R. § 23.04(1). The electric distribution companies, in coordination with DOER, shall consult with the Attorney General regarding the choice of solicitation methods. St. 2016, c. 188, § 12; 220 C.M.R. § 23.04(2). The electric distribution companies and DOER shall jointly propose a timetable and method for the solicitation and execution of long-term contracts. St. 2016, c. 188, § 12; 220 C.M.R.

⁴ The Department, on its own motion, enters into the evidentiary record the Petitioners’ April 28, 2017 filing, the Petitioners’ May 5, 2017 Revised Filing, the IE Report, and responses to information requests DPU 1-1 through DPU 1-18. 220 C.M.R. § 1.10(3).

⁵ Offshore Wind Energy Generation means offshore electric generating resources derived from wind that: (a) are Class I renewable energy generating sources as defined in M.G.L. c. 25A, § 11F; (b) have a commercial operations date on or after January 1, 2018, which has been verified by DOER; and (c) operate in a designated wind energy area for which an initial federal lease was issued on a competitive basis after January 1, 2012.

§ 23.04(2). The timetable and method for the solicitation and execution of such contracts are subject to review and approval by the Department. St. 2016, c. 188, § 12; 220 C.M.R.

§ 23.04(2).

An electric distribution company may decline to pursue proposals having terms and conditions that would require the contract obligation to place an unreasonable burden on the company's balance sheet. St. 2016, c. 188, § 12; 220 C.M.R. § 23.04(7). All proposed long-term contracts are subject to the review and approval of the Department prior to becoming effective. As part of its review and approval process for any proposed long-term contracts, the Department must take into consideration recommendations from the Attorney General, which must be submitted to the Department within 45 days following the filing of contracts with the Department. St. 2016, c. 188, § 12; 220 C.M.R. § 23.05(2). Section 83C provides that the Department shall consider both the potential costs and benefits of such contracts and shall approve a contract only upon a finding that it is a cost-effective mechanism for procuring reliable renewable energy on a long-term basis taking into account the factors outlined in this section. St. 2016, c. 188, § 12; 220 C.M.R. § 23.05(1)(b).

If DOER, in consultation with the electric distribution companies and the IE,⁶ determines that reasonable proposals were not received pursuant to a solicitation, DOER may

⁶ Section 83C requires that DOER and the Attorney General jointly select, and DOER contract with, an IE to submit a report to the Department analyzing the timetable and method for solicitation and the solicitation process implemented by the electric distribution companies and DOER, including recommendations, if any, for improving the process. See Section III, below, for further discussion of the IE's role in this solicitation.

terminate the solicitation, and may require additional solicitations to fulfill the requirements of Section 83C. St. 2016, c. 188, § 12; 220 C.M.R. § 23.04(9). If an electric distribution company deems all proposals to be unreasonable, it shall submit a filing to the Department within 20 days of the date of its decision, including documentation to support its decision. St. 2016, c. 188, § 12; 220 C.M.R. § 23.04(12). Within four months of the date of an electric distribution company's filing, the Department must approve or reject that company's decision and may order the electric distribution company to reconsider any proposal. St. 2016, c. 188, § 12; 220 C.M.R. § 23.04(12). If the electric distribution companies are unable to agree on a winning bid following a solicitation, the matter shall be submitted to DOER which shall, in consultation with the IE, issue a final, binding determination of the winning bid, provided that the executed contract is subject to review by the Department. St. 2016, c. 188, § 12; 220 C.M.R. § 23.04(11). In this Order, we assess whether the timetable and method of solicitation and execution of long-term contracts in the electric distribution companies' proposed RFP comply with Section 83C and 220 C.M.R. § 23.00 et seq.

II. SUMMARY OF THE PETITION

A. Introduction

The Petitioners jointly developed and seek approval of a proposed timetable and method for the solicitation and execution of the long-term contracts for Offshore Wind Energy Generation in accordance with Section 83C (Petitioners Cover Letter at 1). The Petitioners state that they developed the RFP in conjunction with DOER, and that they consulted with the Attorney General during the RFP's development (Petitioners Cover Letter at 2). The RFP

states that its fundamental purpose is to satisfy the policy directives encompassed within Section 83C and to assist the Commonwealth with meeting its Global Warming Solution Act (“GWSA”) goals (RFP § 1.1).⁷ The RFP states that Section 83C requires that the electric distribution companies, in coordination with DOER: (1) solicit proposals for Offshore Wind Energy Generation in a fair and non-discriminatory fashion; and (2) enter into cost-effective long-term contracts for Offshore Wind Energy Generation (Petitioners Cover Letter at 2). The Petitioners state that the standards and criteria set forth in this RFP are designed so that the proposals selected for contract negotiations will satisfy Section 83C by facilitating financing, and providing a cost-effective source of long-term Offshore Wind Energy Generation to the Commonwealth (Petitioners Cover Letter at 2).

The RFP solicits two categories of bids: (1) Offshore Wind Energy Generation with a project-specific generator lead line proposal; and (2) Offshore Wind Energy Generation with an expandable transmission proposal under a Federal Energy Regulatory Commission (“FERC”) tariff (RFP § 2.2.1.3).

The Petitioners state that the RFP is the first solicitation set forth in Section 83C and is part of a staggered procurement schedule for a total of approximately 1,600 MW of Offshore Wind Energy Generation (Petitioners Cover Letter at 2). Through this solicitation, the Petitioners state that they are seeking to procure 400 MW of Offshore Wind Energy

⁷ The RFP states that the GWSA requires the Commonwealth to establish goals and meet targets for the reduction of greenhouse gas emissions by 2020, 2030, 2040, and 2050 (RFP § 1.2). The Commonwealth has established specific goals requiring a reduction of 25 percent below 1990 levels by 2020 and a reduction of 80 percent below 1990 levels by 2050 (RFP § 1.2).

Generation, and will consider procuring up to 800 MW if the Evaluation Team determines that a larger-scaled proposal is both superior to other proposals, and likely to produce significantly more economic net benefits to ratepayers compared to the alternative of procuring additional capacity in future solicitations after consideration of relevant risks (Petitioners Cover Letter at 2-3). The Petitioners state that the precise amount of Offshore Wind Energy Generation for which the electric distribution companies would execute contracts through this solicitation will depend upon the bids submitted and ensuing contract negotiations (Petitioners Cover Letter at 3).

B. Bid Evaluation Process

Under the RFP, the evaluation of bids will occur in three distinct stages: (1) review of bids for eligibility and threshold requirements; (2) quantitative and qualitative evaluation of bids; and (3) final evaluation to ensure selection of viable projects that provide cost-effective, reliable Offshore Wind Energy Generation with limited risk (RFP § 2.1). During any stage of the bid evaluation process, the Evaluation Team reserves the right to disqualify and eliminate from further consideration any proposal that it reasonably believes does not meet the RFP's eligibility requirements (RFP § 2.1).⁸ During any stage of the procurement process, if the Evaluation Team determines that a proposal is deficient and missing applicable information needed to continue the evaluation process, the Evaluation Team will notify the respective

⁸ The Evaluation Team consists of the electric distribution companies and DOER (Petitioners Cover Letter at 2). The Evaluation Team will engage an Evaluation Team Consultant to assist the Evaluation Team with the technical methodologies and findings for eligible proposals (RFP at Definitions).

bidder and permit the bidder a reasonable opportunity to cure the deficiency and/ or supply the missing information (RFP § 2.1). Following the bid evaluation process, the electric distribution companies and DOER will consider the evaluation results and project rankings to determine projects for selection (RFP § 1.4). The electric distribution companies will be responsible for negotiation and execution of any final contracts, and DOER will have the opportunity to monitor contract negotiations between the electric distribution companies and selected bidders (RFP § 1.4).

1. Stage One

During Stage One, the Evaluation Team will review proposals to ensure that they satisfy certain eligibility, threshold, and other minimum requirements (RFP § 2.2.1). To be eligible to participate in the solicitation, a bidder must be a developer of Offshore Wind Energy Generation or in possession of the development rights to Offshore Wind Energy Generation (RFP § 2.2.1). Additionally, the RFP contains eligibility requirements regarding: (1) the allowable forms of pricing; (2) bidder disclosure of affiliations and affiliate relationships; (3) a contract between 15 and 20 years; minimum generating capability of 400 MW;⁹ (4) capacity requirements; interconnection and delivery requirements; proposal completeness; and (5) bid fees (RFP § 2.2.1).

The Evaluation Team will review bids that meet the eligibility requirements to determine whether they comply with threshold requirements, which, according to the

⁹ A bidder may submit a proposal for up to 800 MW, and may also submit alternative proposals with a nameplate capacity of no less than 200 MW and no greater than 800 MW (RFP § 2.2.1.2).

Petitioners, are intended to screen out proposed projects that: (1) are insufficiently mature from a project development perspective; (2) lack technical viability; (3) impose unacceptable balance sheet impacts on the electric distribution companies; (4) do not satisfy the minimum requirements set forth in Section 83C; (5) are not in compliance with RFP requirements pertaining to credit support; or (6) fail to satisfy minimum standards for bidder experience and ability to finance the proposed project (RFP § 2.2.2).

2. Stage Two

In Stage Two, the Evaluation Team scores and ranks bids that meet the requirements of Stage One evaluation based on the results of quantitative and qualitative analyses (RFP § 2.3). The Evaluation Team will score proposals on a 100 point scale, with 75 points possible for quantitative factors and 25 points possible for qualitative factors (RFP § 2.3).

The Stage Two quantitative analysis process takes place in multiple steps. The first step consists of a screening process during which the Evaluation Team directly compares bids to determine whether bids are economically competitive when compared to other bids (RFP § 2.3.1). The Evaluation Team will remove from further consideration bids that are, in the consensus of the Evaluation Team, not economically competitive (RFP § 2.3.1). The Evaluation Team will consider bids that it deems to be economically competitive based on their direct and indirect economic and environmental costs and benefits (RFP § 2.3.1).

Direct contract price costs and benefits include, but are not limited to: (1) an evaluation of Offshore Wind Energy Generation on a mark-to-market comparison of the price of any eligible Offshore Wind Energy Generation under a contract to projected market prices

at the delivery point with and without the project in-service; (2) an evaluation of RPS Class I eligible resources on a mark-to-market comparison of the price of any eligible Offshore Wind Energy Generation under a contract to projected market prices at the delivery point with and without the project in-service; (3) the cost of the offshore delivery facilities, including associated interconnection and upgrade costs, where the recovery of such costs is not included in the Power Purchase Agreement (“PPA”), and expected benefits, if any, of the revenue from sales of excess capacity over the offshore delivery facilities; and (4) the costs, benefits, and risks of a proposed expandable transmission project, including a calculation of the avoidance of future net costs to connect future Offshore Wind Energy Generation projects to onshore delivery points, taking into consideration the network costs and risks of delay or failure of future Offshore Wind Energy Generation projects, including possible stranded costs to be borne by ratepayers (RFP § 2.3.1.1). The quantitative evaluation will use a multi-year net present value analysis to preliminarily rank all projects that pass the initial screening (RFP § 2.3.1.3).

Additional economic and environmental costs and benefits that the Evaluation Team may take into consideration include, but are not limited to: (1) impacts of changes in locational marginal price (“LMP”) paid by ratepayers in the Commonwealth and/or impact on production costs; (2) for proposals greater than 400 MW, the opportunity costs and benefits of procuring greater than 400 MW in this solicitation as compared to the anticipated costs and benefits of procuring the installed capacity through a future solicitation; (3) RECs will be evaluated using an economic proxy value for their contribution to GWSA requirements, as

determined by the Evaluation Team; (4) additional impacts, if any, from the proposal on the Commonwealth's greenhouse gas ("GHG") emission rates and overall ability to meet GWSA requirements; (5) the economic impacts of any associated energy storage systems; and (6) indirect impacts, if any, for retail ratepayers on the capacity or ancillary services market prices with the proposed project in service (RFP § 2.3.1.2).

The qualitative evaluation will consist of factors Section 83C requires as well as factors the Evaluation Team considers, including: (1) siting, permitting, and project schedule; (2) reliability benefits; (3) benefits, costs, and contract risk; (4) environmental impacts from siting; and (5) economic benefits to the Commonwealth (RFP § 2.3.2).

3. Stage Three

In Stage Three, the Evaluation Team will consider remaining proposals based on Stage Two evaluation criteria and, at its discretion, the following factors: (1) the portfolio effect; (2) the overall impact of various portfolios of proposals on the Commonwealth's policy goals, as directed by DOER, including GWSA goals; (3) risks associated with project viability of the proposals; (4) risks to customers associated with projects proposing to recover offshore delivery facilities costs through transmission rates not fully captured in the Stage Two evaluation; (5) a comparison to a reasonable range of data and analyses on expected offshore wind prices, industry costs, and the anticipated cost impact of future technology; (6) ratepayer bill impacts; (7) benefits to customers not fully captured in the Stage Two evaluation; and (8) other considerations, as appropriate, to ensure selection of proposals providing the greatest impact and value consistent with the objectives of Section 83C (RFP § 2.4). The Petitioners

state that the objective of Stage Three is to select the proposal(s) that provide the greatest impact and value consistent with the stated objectives and requirements of Section 83C, as set forth in the RFP (RFP § 2.4). The Petitioners state that the Evaluation Team prefers viable, cost-effective projects with limited risk, but recognizes that the extent to which the stated RFP objectives will be satisfied will depend, in large part, on the particulars of the proposals submitted (RFP § 2.4).

C. Proposed Timetable

Table 1 below sets forth the proposed timetable for the bidding process (RFP § 3.1).

Table 1: Proposed Solicitation Timetable

Event	Anticipated Date¹⁰	Elapsed Time
Issue RFP	June 30, 2017	Day 0
Bidders Conference	July 19, 2017	Day 19
Submit Notice of Intent to Bid	July 26, 2017	Day 26
Deadline for Submission of Questions	July 26, 2017	Day 26
Due Date for Proposal Submissions	December 20, 2017	Day 173
Selection of Projects for Negotiation	May 22, 2018	Day 326
Negotiate and Execute Contracts	October 3, 2018	Day 460
Submit Contracts for Department Approval	November 1, 2018	Day 489

Once the Department approves the method and timetable for solicitation and execution of the long-term contracts, the Petitioners will promptly issue the RFP to a wide range of

¹⁰ Anticipated Date refers to the anticipated number of days from the date of issuance of the RFP.

potentially interested parties (Petitioners Cover Letter at 5). The Petitioners state that, pursuant to Section 83C, they have consulted with: (1) DOER and the Attorney General regarding the choice of contracting methods and solicitation methods; and (2) DOER regarding the proposed timetable (Petitioners Cover Letter at 5). The Petitioners further state that the April 28, 2017 filing submitted to the Department represents a timetable and method for the solicitation and execution of long-term contracts for Offshore Wind Energy Generation agreed upon by the electric distribution companies and DOER (Petitioners Cover Letter at 5).

III. INDEPENDENT EVALUATOR REPORT

A. Introduction

Section 83C requires that DOER and the Attorney General jointly select, and DOER contract with, an IE to submit: (1) a report to the Department analyzing the timetable and method for solicitation and the solicitation process implemented by the electric distribution companies and DOER, including recommendations, if any, for improving the process;¹¹ and (2) a report to the Department summarizing and analyzing the solicitation and bid selection process, and providing an independent assessment of whether all bids were evaluated in a fair and non-discriminatory manner to be submitted when the Department opens an investigation to review a proposed contract. Section 83C(f). Pursuant to Section 83C, DOER and the Attorney General selected Peregrine to serve as the IE with respect to this solicitation (IE Report at 1).

¹¹ Consistent with this provision, Peregrine submitted the IE Report on May 5, 2017.

The IE Report analyzes the timetable and method of the first Section 83C Offshore Wind Energy Generation solicitation and the solicitation process (IE Report at 2). According to Peregrine, after substantial deliberation, DOER and the electric distribution companies decided to structure the proposed RFP to address key project size/transmission approach issues as follows: (1) the procurement target for the first solicitation is 400 MW, however, proposals of up to 800 MW will be considered if the Evaluation Team determines that a larger-scaled proposal is both superior to other proposals and is likely to produce significantly more economic net benefits to ratepayers compared to the alternative of procuring the additional capacity in a future solicitation after taking relevant risks into consideration; and (2) Offshore Wind Energy Generation bidders would be required to submit proposals of 400 MW and may submit proposals from 200 MW to 800 MW (IE Report at 3). Further, for each proposal, bidders would be required to submit two proposal variants: (i) a PPA including a project-specific generation lead line proposal; and (ii) a PPA with an expandable transmission proposal that would be designed to be pre-built and/or expandable to transmit energy from the proposed project and the entire 1,600 MW of expected Offshore Wind Energy Generation projects to be solicited under Section 83C (which could be bid with others, including a transmission developer) (IE Report at 3). The evaluation framework would take into consideration the potential benefits, costs, and risks associated with the different types and sizes of proposals (IE Report at 3).

The IE concludes that the RFP satisfies Section 83C's standards for an open, fair, and transparent solicitation that is not unduly influenced by affiliates (IE Report at 3-4). The IE

Report suggests that the Evaluation Team could provide additional guidance to prospective bidders through providing pro forma agreements and providing answers to bidder questions before bids are due (IE Report at 4).

B. IE Conclusions and Recommendations

Peregrine concludes that the proposed RFP design is fair and does not unduly favor affiliates of the electric distribution companies and that the implementation of the bid evaluation and selection process should be open and transparent consistent with the design of the RFP (IE Report at 23). The IE was involved in the RFP development process from the beginning and had the opportunity to comment and provide suggestions multiple times throughout the process (IE Report at 3). The major issues identified with the first 83C Offshore Wind Energy Generation solicitation were resolved after several months of discussion among the Evaluation Team, the Attorney General, which plays a consultative role, and the IE, and the resulting RFP is the product of that process and collaboration (IE Report at 2-3, 21-23).

IV. INITIAL MATTERS

A. Scope of the Department's Review

Section 83C(b) limits the scope of this proceeding to a review of the timetable and method for solicitation and execution of long-term contracts for Offshore Wind Energy Generation. St. 2016, c. 188, § 12; 220 C.M.R. § 23.00 et seq. In RFP review proceedings such as this, we wish to avoid predetermining or limiting the consideration of proposed contracts or evaluation models. Long-Term Contracts for Renewable Energy Generation,

D.P.U. 17-32, at 18-19 (2017); Long-Term Contracts for Renewable Energy, D.P.U. 15-84, at 22 (2015); Fitchburg Gas and Electric Light Company et al., D.P.U. 09-77, at 22 (2009), citing Long-Term Contracts for Renewable Energy, D.P.U. 08-88-A at 10 (2009). We have found that to do so could constrain the flexibility of buyers and sellers in contract negotiations to seek the best sharing of risks and benefits under the contracts. D.P.U. 17-32, at 18-19; D.P.U. 15-84, at 21; D.P.U. 09-77, at 21, citing D.P.U. 08-88-A at 10. Further, the Department has found that parties have the opportunity to raise all relevant substantive issues with respect to the evaluation of proposed projects, to all phases of contract development and negotiation, and to the specific terms and conditions contained in the resulting PPA(s) in the context of the adjudication before the Department of individual long-term contracts for renewable energy. D.P.U. 17-32, at 18-19; D.P.U. 15-84, at 21; D.P.U. 09-77, at 22; D.P.U. 08-88-A at 10.

We have found that the appropriate time to address these substantive issues is when each electric distribution company submits a proposed contract for Department approval. D.P.U. 17-32, at 18-19; D.P.U. 15-84, at 21; D.P.U. 09-77, at 22; D.P.U. 08-88-A at 10-11. Determinations regarding whether the specific contents of the contracts that result from this solicitation are consistent with the public interest and result in just and reasonable rates must be made in the context of individual adjudications, where the Department will weigh evidence and arguments in order to make fact-based decisions on a case-by-case basis. D.P.U. 17-32, at 18-19; D.P.U. 15-84, at 21; D.P.U. 08-88-A at 10-11.

B. Participation of Other States in the Solicitation

1. Introduction

Section 83C provides, in part, that: “a solicitation may be coordinated and issued jointly with other New England states or entities designated by those states.” Section 83C(b). Section 83C is otherwise silent with regard to the participation of other New England states (“other states”) in any subsequent phase of the contracting process. See Section 83C. Section 1.1 of the RFP states the following:

The Commonwealth of Massachusetts in consultation with the Distribution Companies will consider the participation of other states as a means to achieve the Commonwealth’s Offshore Wind Energy Generation goals if such participation has positive or neutral impact on Massachusetts ratepayers. If the Commonwealth determines that such participation provides a reasonable means to achieve its Offshore Wind Energy Generation goals cost effectively through multi-state coordination and contract execution, selected projects may be allocated on a load ration share basis to one or more electric distribution companies in such state, subject to applicable legal requirements in the Commonwealth and the respective state (RFP § 1.1, n.8).

2. Summary of Comments

Bay State Wind requests clarification on if, and when, the participation of other states may occur, as it could allow bidders to submit proposals that may offer even greater economic benefits to ratepayers (Bay State Wind Comments at 12). CLF encourages the participation of other states to the extent it provides efficiencies and benefits to ratepayers (CLF comments at 14). CLF, however, argues that multi-state participation would not affect the electric distribution companies’ legal obligation to enter into long-term contracts totaling approximately 1,600 MW of capacity for Massachusetts by 2027, or the requirement to solicit individual

proposals that would provide at least 400 MW of capacity to Massachusetts ratepayers (CLF Comments at 14-15).

3. Analysis and Findings

Although envisioned as a possible component to achieve the goals of Section 83C, the RFP was not developed in coordination with other states (RFP at 1-2). Further, it does not appear that other states will participate in the issuance of the solicitation. However, the electric distribution companies contend that other states have expressed interest in evaluating and considering projects proposed in response to the RFP (see RFP § 1.1, n.8). We note that Section 83C(b) allows for a solicitation to be coordinated and issued jointly with other New England states or entities designated by those states, but is silent on the commencement of other states' participation after the initial solicitation. Thus, if the Petitioners allow other states' involvement after issuance of the RFP, the Petitioners must demonstrate that any resulting contracts fully comply with Section 83C and the Department's regulations. Consistent with the Petitioners' representations, we also expect the Petitioners to demonstrate that the involvement of other states resulted in a neutral or beneficial impact, specifically for Massachusetts ratepayers.

We decline to direct the Petitioners to remove from the RFP the possibility of other states' participation. It is our expectation that any method an electric distribution company uses to solicit and enter into long-term contracts with developers of Offshore Wind Energy Generation will be consistent with the intent and language of Section 83C, and we will consider this compliance at the time we review any executed contracts proposed to the

Department for approval. D.P.U. 17-32, at 21, D.P.U. 15-84, at 23; D.P.U. 09-77, at 24.

The Department emphasizes that we, and not the electric distribution companies, are the final arbiters of whether such proposals are reasonable and whether the resulting long-term contracts achieve the objectives of Section 83C. D.P.U. 17-32, at 21; D.P.U. 15-84, at 23.

V. ISSUES RAISED BY COMMENTERS

A. Timing of Solicitation

1. Introduction

The proposed schedule in the RFP provides for issuance of the RFP by June 30, 2017. Proposal submissions are due by December 20, 2017, or 173 days from issuance of the RFP. Projects will be selected for negotiation by May 22, 2018, or 326 days from RFP issuance, and contracts will be negotiated and executed by October 3, 2018, or 460 days from issuance of the RFP with ultimate submission to the Department for review and approval 489 days after RFP issuance (RFP § 3.1). Many commenters propose that the RFP timeline for bid evaluation, selection, and contract negotiation be accelerated to maximize ratepayer and environmental benefits (see AIM Comments at 3-4; Attorney General Comments at 8; Bay State Wind Comments at 5-6; Bay State Wind Reply Comments at 11; CLF Comments at 3; Environmental Nonprofits Comments at 9; Legislators Comments at 1-2; RENEW Comments at 10; TransCanada Comments at 3; Vineyard Wind Comments at 3-4).

2. Summary of Comments

Commenters recommend that the Department require the electric distribution companies to shorten the bid evaluation, selection, and contract negotiation portions of the RFP schedule to allow projects to take advantage of ratepayer and environmental benefits (AIM Comments

at 3-4; Attorney General Comments at 8; Bay State Wind Comments at 5; Bay State Wind Reply Comments at 11; CLF Comments at 3; Environmental Nonprofits Comments at 9; Legislators Comments at 1-2; RENEW Comments at 10; TransCanada Comments at 3; Vineyard Wind Comments at 3-4). Certain commenters argue that shortening the period for project evaluation so that the Evaluation Team selects projects for negotiation before the second quarter of 2018 could allow projects to take advantage of a more generous federal Investment Tax Credit (“ITC”) and result in lower ratepayer costs (AIM Comments at 3-4; Attorney General Comments at 8; CLF Comments at 4; Environmental Nonprofits Comments at 8; Legislators Comments at 2; RENEW Comments at 11; Vineyard Wind Comments at 4). Several commenters assert that the timeline proposed in the RFP for the selection of projects would result in surveying and construction delays by at least one season, which would add additional costs to the proposals and delay the realization of benefits (Attorney General Comments at 8; CLF Comments at 3; Legislators Comments at 2; RENEW Comments at 11; Vineyard Wind Comments at 4). A few commenters maintain that a shortened timetable would reduce the risk to developers of holding open a fixed bid price, thereby allowing for lower priced bids (CLF Comments at 4; TransCanada Comments at 3; RENEW Comments at 10; Vineyard Wind Comments at 5).

Several commenters note that the Department has approved similar solicitation processes with shorter timeframes, and argue that this solicitation does not require an additional 100 or 150 days relative to other, more complex solicitations the Department has approved such as those approved in D.P.U. 17-32 (CLF Comments at 5; RENEW Comments

at 10-11; Vineyard Wind Comments at 6-7). These commenters assert that whereas the Section 83D solicitation is likely to attract a significant number of bidders and will require evaluators to compare proposals across different technologies and project types, the Section 83C solicitation will attract a limited number of eligible bidders proposing similar-in-kind offshore wind projects and therefore a shorter RFP timeline is appropriate (Bay State Wind Comments at 6; CLF Comments at 4-5; RENEW Comments at 10-11; Vineyard Wind Comments at 6-7). Bay State Wind argues that the proposed schedule limits the opportunity for parties to benefit from lessons learned from the first solicitation, given that the second Offshore Wind Energy Generation solicitation will either overlap with or immediately follow Department review and approval of contracts resulting from the first solicitation (Bay State Wind Comments at 5-6).

Several commenters maintain that the bid evaluation period should be completed in the first quarter of 2018 (Attorney General Comments at 8; Legislators Comments at 1; Vineyard Wind Comments at 5). Bay State Wind and RENEW maintain that the contract negotiation period should be shortened by at least 60 days (Bay State Wind Comments at 5; RENEW Comments at 10-11). CLF and the Environmental Nonprofits more generally argue that the timeline should be revised to ensure that contract negotiation is completed as early as possible in 2018 (CLF Comments at 3-5; Environmental Nonprofits Comments at 8)

The electric distribution companies maintain that the Department should not shorten the timeline included in the RFP, as it is reasonable and achievable (Petitioners Reply Comments at 3). The electric distribution companies assert that the proposed timeline balances the desire

to realize the benefits of offshore wind projects in a timely manner with the need to carefully evaluate proposals to ensure that selected projects have a strong likelihood of being financed and constructed (Petitioners Reply Comments at 3). The electric distribution companies maintain that they carefully considered the overall timeline for the bidding process, in particular the time allotted for contract negotiations, and that the actual timing will be influenced by the preparedness and commercial positions of each selected bidder (Exh. DPU 1-15).

3. Analysis and Findings

As discussed in Section IV.A., the scope of this proceeding is statutorily limited to a review of the timetable and method for solicitation and execution of long-term contracts for Offshore Wind Energy Generation. Section 83C(b). Thus, as an initial matter, the Department concludes that Section 83C requires the Department to review and address comments and concerns regarding the proposed RFP timeline.

The Department begins its consideration of this matter by comparing the proposed timeline in this RFP with the timeline that the Department approved for the Section 83D solicitation for Clean Energy Generation in D.P.U. 17-32. As shown in Table 2 below, the approved Section 83D solicitation timeline is approximately 100 days shorter than the Section 83C solicitation timeline proposed by the Petitioners. See D.P.U. 17-32, at 14. In the Section 83D solicitation timeline, proposals are due 120 days from issuance of the RFP, projects will be selected for negotiation 300 days from RFP issuance, and the negotiation and execution of contracts will occur 360 days from RFP issuance.

Table 2: Timetable Comparison

Event	Section 83D Solicitation		Section 83C Solicitation	
	Anticipated Date	Elapsed Time	Anticipated Date	Elapsed Time
Issue RFP	March 31, 2017	Day 0	June 30, 2017	Day 0
Bidders Conference	April 14, 2017	Day 14	July 19, 2017	Day 19
Submit Notice of Intent to Bid	April 21, 2017	Day 21	July 26, 2017	Day 26
Deadline for Submission of Questions	April 21, 2017	Day 21	July 26, 2017	Day 26
Due Date for Proposal Submissions	July 27, 2017	Day 120	December 20, 2017	Day 173
Selection of Projects for Negotiation	January 25, 2017	Day 300	May 22, 2018	Day 326
Negotiate and Execute Contracts	March 27, 2018	Day 360	October 3, 2018	Day 460
Submit Contracts for Department Approval	April 25, 2018	Day 390	November 1, 2018	Day 489

The timeline for a solicitation can affect project development costs as well as project viability, which in turn impacts the timing and amount of benefits ratepayers will realize.

Commenters identified several examples of how the proposed Section 83C solicitation timetable could materially affect ratepayers. First, commenters argue that the proposed project selection deadline does not allow developers sufficient time to secure eligibility for the 2018 federal Business Energy Investment Tax Credit (“ITC”) (AIM Comments at 3-4; Attorney General Comments at 8; CLF Comments at 4; Environmental Nonprofits Comments at 8; Legislators Comments at 2; RENEW Comments at 11; Vineyard Wind Comments at 4). The ITC is expected to be reduced every year until it is phased out in 2020.¹² Therefore, the year

¹² For more information on the ITC, see: <https://energy.gov/savings/business-energy-investment-tax-credit-itc>.

in which a project becomes eligible for the ITC can have a significant impact on project development costs. Second, commenters maintain that a shorter timeline would reduce the risk premia associated with fixed price bid locks thereby resulting in lower priced bids and ratepayer savings (CLF Comments at 4; TransCanada Comments at 3; RENEW Comments at 10; Vineyard Wind Comments at 5).

The Department previously has directed Petitioners to shorten a renewable energy solicitation schedule to enhance the opportunity for developers to secure ITC benefits and pass them on to consumers in the form of lower bids. D.P.U. 13-57, at 18-20. We see no reason to deviate from that past practice here, given the possible material benefits to ratepayers in doing so. Thus, the Department concludes that it is in the public interest to approve a timeline that provides sufficient time for the market to develop and offer reasonable proposals, while enhancing the potential for projects to become eligible for the higher 2018 ITC. Based on our review of the comments, we find that the Petitioners' proposed timeline allows for bidders to develop reasonable proposals. We are particularly cognizant of the need to provide sufficient time for all parties to investigate and structure expandable transmission proposals, which are an innovative feature of this RFP and could offer significant ratepayer and environmental benefits. Therefore, we conclude that the proposed timeline from issuance of the RFP to proposal submission on December 20, 2017, 173 days after RFP issuance, is reasonable and we decline to direct the Petitioners to amend that portion of the proposed timeline.

The Department concludes that, based on a review of the comments and the proposed RFP, the Petitioners' proposed timeline provides more time than is reasonably necessary for

bid evaluation and contract negotiation. As an initial matter, we find that this solicitation is likely to result in fewer and less varied bids than the Section 83D solicitation. As a result, it is reasonable to conclude that the time allotted for bid evaluation and contract negotiation in the Section 83C solicitation should not be significantly greater than the time allotted in the Section 83D solicitation. Furthermore, we anticipate that the Evaluation Team should be able to leverage the analysis and process developed in the Section 83D bid evaluation, which will occur largely before bidders submit proposals in this Section 83C solicitation. See D.P.U. 17-32 at 14. Some commenters propose shortening the evaluation process by approximately 60 days to ensure its completion in the first quarter of 2018. We find that such a significant reduction in the evaluation timeframe may impede the ability of the Evaluation Team to conduct the analysis necessary to ensure a reasonable level of confidence in the ability of any proposed project to be financed and constructed, and to provide reliable, cost-effective Offshore Wind Energy Generation. Therefore, we find reducing the proposed bid evaluation timeline by 29 days will strike the appropriate balance in allowing the Evaluation Team sufficient time to thoroughly evaluate proposals while providing more time for developers to secure eligibility for the higher 2018 ITC.

The Petitioners' proposed timeline for contract negotiation is more than twice as long as that approved in the Section 83D proceeding. See D.P.U. 17-32, at 14. As discussed above, we find that contract negotiation for this solicitation should not require significantly more time than that needed in the Section 83D solicitation. The Petitioners maintain that the contract negotiation timing will be influenced by the preparedness of the selected bidders, and note that

the proposed contract documents have been posted on the RFP website in an effort to streamline the negotiation process (Exh. DPU 1-15). Given that bidders will have 300 days, or the better part of a year, to review the contract documents and prepare for negotiations, we are not persuaded that the proposed timeframe for contract negotiation is reasonable. Therefore, we find it more appropriate to reduce the proposed contract evaluation period to 70 days, slightly more time than the 60 days allowed in the Section 83D timeline, given the possibility that contracts may be awarded for expandable transmission facilities, which are a novel construct within this RFP. In conclusion, we direct the Petitioners to amend the proposed timeline for the 83C procurement, as shown in Table 3 below, to reflect the shortened bid evaluation and contract negotiation periods.

Table 3: Revised Solicitation Timetable

Event	Proposed RFP Date	REVISED	Proposed RFP Day	REVISED
Issue RFP	June 30, 2017		Day 0	
Bidders Conference	July 19, 2017		Day 19	
Submit Notice of Intent to Bid	July 26, 2017		Day 26	
Deadline for Submission of Questions	July 26, 2017		Day 26	
Due Date for Proposal Submissions	December 20, 2017		Day 173	
Selection of Projects for Negotiation	May 22, 2018	April 23, 2018	Day 326	Day 297
Negotiate and Execute Contracts	October 3, 2018	July 2, 2018	Day 460	Day 367
Submit Contracts for Department Approval	November 1, 2018	July 31, 2018	Day 489	Day 396

B. Timing of Subsequent Solicitations

1. Introduction

The electric distribution companies will issue subsequent solicitations for Offshore Wind Energy Generation within 24 months of the solicitation under review in the instant proceeding (RFP § 1.1). Section 83C requires that a subsequent solicitation occur within 24 months of the previous solicitation, and that the long-term contracts resulting from any subsequent solicitations include a levelized price per megawatt hour, plus transmission costs, that are less than the previous solicitation. St. 2016, c. 188, § 12. Several commenters argue that the Department should require the electric distribution companies to provide more clarity on the timing of subsequent solicitations (see CLF Comments at 12; Environmental Nonprofits Comments at 4; RENEW Comments at 10; Vineyard Wind Comments at 16).

2. Summary of Comments

Several commenters argue that the Department should require the electric distribution companies to release a proposed procurement schedule for the remaining capacity necessary to satisfy Section 83C (CLF Comments at 12; Environmental Nonprofits Comments at 4; RENEW Comments at 10; Vineyard Wind Comments at 16). These commenters maintain that such a procurement schedule would reduce costs by enhancing competition and enabling developers to coordinate project design and development (CLF Comments at 12; RENEW Comments at 10; Vineyard Wind Comments at 16-17). Vineyard Wind suggests that the next solicitation should occur no later than one year after the first solicitation (Vineyard Wind Comments at 16). The Environmental Nonprofits argue that solicitations should occur every

twelve months until the 1,600 MW commitment is reached (Environmental Nonprofits Comments at 4). TransCanada recommends that the schedule for future solicitations accommodates the development schedules of the leaseholders for the additional leases the United States Bureau of Ocean Energy Management (“BOEM”) will auction (TransCanada Comments at 3). TransCanada suggests that the electric distribution companies should procure the remaining capacity in a single solicitation in order to accelerate the development of the offshore wind supply chain and to provide the lowest costs for ratepayers (TransCanada Comments at 3).

The electric distribution companies maintain that the RFP provides a general schedule that complies with Section 83C, and that further detail should not be required at this time (Petitioners Reply Comments at 4). Further, the electric distribution companies claim that they, along with DOER, intend to conduct at least one, possibly as many as three, subsequent solicitations (Exh. DPU 1-1). The electric distribution companies assert the Environmental Nonprofits’ suggestion of issuing a new solicitation every twelve months is not practical given the complexity of each solicitation (Petitioners Reply Comments at 4).

3. Analysis and Findings

In the event of a staggered procurement schedule, as the Petitioners have proposed, Section 83C requires that the schedule specify that a subsequent solicitation shall occur within 24 months of a previous solicitation. Section 83C(b). We find the RFP clear with regard to the staggered procurement schedule and subsequent solicitations and that it meets the requirements

of Section 83C(b) (see RFP § 1.1). Therefore, we decline to direct the Petitioners to provide further detail regarding the schedule for subsequent solicitations.

C. Size of Solicitation

1. Introduction

The electric distribution companies will procure approximately 400 MW of Offshore Wind Energy Generation in the proposed solicitation, but indicate that they also will consider procuring up to 800 MW of Offshore Wind Energy Generation if a larger proposal is likely to produce significantly more economic net benefits to ratepayers (RFP § 2.2.1.2). The RFP requires eligible bidders to submit at least one proposal of 400 MW, while also allowing bidders to submit alternative proposals ranging from 200 MW to 800 MW (RFP § 2.2.1.2). Commenters raise issues regarding the solicitation size, including arguments that the solicitation should be limited to 400 MW of nameplate capacity, and that proposals less than 400 MW are not permitted by statute (see Attorney General Comments at 6-7; AIM Comments at 2; CLF Comments at 11; Deepwater Wind Comments at 1; RENEW Comments at 9; Vineyard Wind Comments at 14-15)

2. Summary of Comments

Several commenters recommend that the Department limit this solicitation to 400 MW of nameplate capacity (Attorney General Comments at 6-7; Deepwater Wind Comments at 1; Vineyard Wind Comments at 14). These commenters maintain that procuring capacity in a staggered fashion will enable the creation of a robust local supply chain and a new industry in the Commonwealth, and therefore caution that procuring too much capacity in the first

solicitation will increase supply chain risks and limit the opportunity for economic growth within the Commonwealth (AIM Comments at 2; Attorney General Comments at 6; Deepwater Wind Comments at 1). Several commenters also assert that costs associated with offshore wind development are likely to decrease in the future, and therefore procuring the statutorily required minimum of 400 MW in this solicitation and the remaining capacity in subsequent solicitations will likely deliver the most benefits to ratepayers (Attorney General Comments at 6, citing St. 2016, c. 188, § 12; Deepwater Wind Comments at 1-2; Vineyard Wind Comments at 14). Finally, the Attorney General argues that experience in other regions indicates that 400 MW is the current industry standard, and a larger project would place significant risks on ratepayers (Attorney General Comments at 6).

Bay State Wind and AIM support the RFP allowing for a range of bids that include different sizes in order to elicit cost-effective bids (AIM Comments at 2; Bay State Wind Comments at 3-4; Bay State Wind Reply Comments at 2). Bay State Wind disagrees with the Attorney General's assessment of "industry standard," arguing that it is based on a backwards looking analysis of the industry (Bay State Wind Reply Comments at 3). Bay State Wind argues that a large early commitment will ensure that the local supply chain investments occur, while a more incremental approach could delay or shift these investments to other states (Bay State Wind Reply Comments at 6). The electric distribution companies maintain that allowing for a larger range of proposal sizes ensures that more options are available to choose from and the electric distribution companies can select the most cost-effective proposals (Petitioners Reply Comments at 6).

Several commenters argue that Section 83C does not permit individual proposals of less than 400 MW (CLF Comments at 11; RENEW Comments at 9; Vineyard Wind Comments at 15). Specifically, commenters assert that a plain reading of the language of Section 83C makes it clear that individual proposals must be for at least 400 MW (CLF Comments at 11; RENEW Comments at 9; Vineyard Wind Comments at 15, citing St. 2016, c. 188, § 12). CLF and RENEW request that the Department direct the electric distribution companies to amend the RFP to clarify that they will not accept proposals for less than 400 MW (CLF Comments at 11; RENEW Comments at 9). CLF further requests that the Department direct the electric distribution companies to amend the RFP to clarify that under no circumstances should proposals include an initial development phase of less than 400 MW, consistent with the requirements of Section 83C (CLF Comments at 11). Vineyard Wind asks that the Department require the electric distribution companies to clarify that they will only accept a proposal for less than 400 MW if they also select a proposal for at least 400 MW to ensure the results of the solicitation comply with the statute (Vineyard Wind Comments at 16).

The electric distribution companies argue that Section 83C can be reasonably interpreted to allow for multiple proposals of less than 400 MW in a solicitation, provided that the total capacity sought through an individual solicitation is no less than 400 MW (Petitioners Reply Comments at 5; Exh. DPU 1-3). The Petitioners assert that this interpretation is consistent both with a plain reading of the statute and the broader context of the legislation (Petitioners Reply Comments at 6). Specifically, the electric distribution companies note that Section 83C requires “individual solicitations shall seek proposals for no less than

400 megawatts of aggregate nameplate capacity of offshore wind energy generation resources” (Petitioners Reply Comments at 5, citing St. 2016, c. 188, § 12). The electric distribution companies maintain that the phrase “aggregate nameplate capacity” is used throughout the statute and should be given similar meaning each time it is used (Petitioners Reply Comments at 6). The electric distribution companies argue that when the statute directs the electric distribution companies to procure a total of 1,600 MW of aggregate nameplate capacity, it contemplates the possibility of more than one project and more than one solicitation (Petitioners Reply Comments at 6). Therefore, the electric distribution companies conclude that the requirement to procure 400 MW of aggregate nameplate capacity in individual solicitations also means aggregate total capacity, which could be from multiple projects (Petitioners Reply Comments at 6; Exh. DPU 1-3).

Finally, Bay State Wind requests that the Petitioners amend the RFP to clarify whether capacity is measured “offshore”, based on the total nameplate capacity of the project, or at the grid delivery point (Bay State Wind Comments at 11). Bay State Wind suggests that project size be measured at the grid delivery point to ensure accuracy, and that the installed “nameplate capacity” of a project be increased as necessary to account for the expected electrical losses that will occur on the transmission cables at the point of delivery (Bay State Wind Comments at 12). The electric distribution companies clarify that they interpret capacity as being measured offshore, by the aggregate nameplate capacity of the proposed turbines because Section 83C uses the term “aggregate nameplate capacity” and requires proposals to minimize line losses (Petitioners Reply Comments at 5, n.4).

3. Analysis and Findings

Several commenters argue that Section 83C does not permit individual proposals of less than 400 MW and that the Department should direct the electric distribution companies to amend the RFP to clarify that they will not accept proposals for less than 400 MW (see CLF Comments at 11; RENEW Comments at 9; Vineyard Wind Comments at 15).

Statutes and, by extrapolation, ordinances should be interpreted whenever possible so they are harmonious with one another and present a consistent body of law. Boston Hous. Auth. v. Labor Relations Comm'n., 398 Mass. 715, 718 (1986); Hadley v. Amherst, 372 Mass. 46, 51 (1977). Words should be given their ordinary meaning, and one word should not be emphasized over another. Bolster v. Commr of Corps. & Taxation, 319 Mass. 81, 84-85 (1946). Where the language of a statute is “clear and unambiguous,” it is given the “effect as the legislature’s expressed intent.” Kain v. Dep't of Env'tl. Prot., 474 Mass. 278, 286, 49 N.E.3d 1124, 1132 (2016). If it is “sufficiently ambiguous to support multiple rational interpretations, the court looks to the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished, to the end that the purpose of its framers may be effectuated.” Kain v. Dep't of Env'tl. Prot., 474 Mass. 278, 286, 49 N.E.3d 1124, 1132 (2016).

Section 83C requires “distribution companies to enter into long-term contracts for offshore wind energy generation equal to approximately 1,600 megawatts of aggregate nameplate capacity not later than June 30, 2027; and provided further, that individual solicitations shall seek proposals for no less than 400 megawatts of aggregate nameplate

capacity of offshore wind energy generation resources.” St. 2016, c. 188, § 12. The term “aggregate nameplate capacity” is used throughout Section 83C. As the language of the statute expressly contemplates the possibility of multiple contracts and multiple solicitations, it is clear that the requirement to procure “approximately 1,600 megawatts of aggregate nameplate capacity,” allows for multiple projects that in the aggregate total 1,600 MW. The Department finds it appropriate to apply the same meaning of “aggregate nameplate capacity” throughout the statute. Therefore, the Department also finds that the requirement for individual solicitations to “seek proposals for no less than 400 megawatts of aggregate nameplate capacity,” also allows for multiple projects, so long as the aggregate total capacity sought is no less than 400 MW. Further, the Department finds that soliciting for a wider range of proposals ensures that the electric distribution companies can select the most cost-effective options available. On this basis, the Department finds that the commenters misinterpret the intent of the language of the statute, and agrees with the Petitioners that Section 83C can reasonably be interpreted to allow for submission of multiple proposals of less than 400 MW in a solicitation, provided that the total capacity sought through the solicitation is no less than 400 MW (see Petitioners Reply Comments at 5). Therefore, the Department declines to direct the Petitioners to amend the RFP to limit the solicitation to 400 MW of aggregate nameplate capacity.

Bay State Wind requests that the RFP be amended to clarify whether capacity is measured offshore by nameplate capacity or at the grid delivery point, accounting for line losses (Bay State Wind Comments at 11-12). The Petitioners respond that because Section 83C

uses the term “aggregate nameplate capacity” and requires proposals to minimize line losses, they interpret the statute to measure capacity offshore, by the aggregate nameplate capacity of the proposed turbines (Petitioners Reply Comments at 5, n.4). The Department agrees with the Petitioners’ interpretation of the meaning of capacity in Section 83C and will not require any revisions to the RFP regarding its definition.

D. Eligible Bid Categories

1. Introduction

The RFP requires bidders submitting proposals to sell Offshore Wind Energy Generation and/or RECs to submit both an expandable transmission proposal and a project-specific generator lead line proposal (RFP § 2.2.1.3). Expandable transmission proposals must be able to accommodate interconnection of the 1,600 MW of aggregate nameplate capacity contemplated by Section 83C and be available to all potential future bidders on a non-discriminatory basis (RFP § 2.2.1.3.2). Various commenters raise issues with regard to the eligible bid categories, including: (1) recommendations and requests for clarification on the expandable transmission proposal; and (2) requests to add a category for transmission-only bids (see AIM Comments at 2-3; Anbaric Comments at 4-13; Anbaric Reply Comments at 5-6; Attorney General Comments at 3-5; Bay State Wind Comments at 7-11; CLF Comments at 13-14, Environmental Nonprofits Comments at 7; RENEW Comments at 3-7; Vineyard Wine Comments at 12-14).

2. Expandable Transmission Proposal

a. Introduction

Commenters make several recommendations and requests for clarification related to the expandable transmission proposal requirement, including: (1) striking the requirement; (2) clarifying the requirements for expandable transmission proposals; and (3) clarifying how the Evaluation Team will evaluate expandable transmission proposals (see AIM Comments at 2-3; Attorney General Comments at 3-5; Bay State Wind Comments at 7-11; CLF Comments at 13-14, Environmental Nonprofits Comments at 7; RENEW Comments at 3-7; Vineyard Wine Comments at 12-14).

b. Summary of Comments

The Attorney General recommends that the Department require the electric distribution companies to remove the requirement for expandable transmission proposals, or in the alternative, remove the requirement that the shared facility must be sized or expandable to accommodate the interconnection of 1,600 MW (Attorney General Comments at 5). The Attorney General argues a number of issues regarding expandable transmission proposals should be considered before requiring bidders to submit an expandable transmission proposal (Attorney General Comments at 4-5). The Attorney General recognizes that a 1,600 MW shared facility may result in ratepayer benefits, but argues that at this time there is not sufficient evidence to support the development of a facility of this size (Attorney General Comments at 3, 5). AIM cautions that the expandable transmission proposal requirement may make it difficult to evaluate bids for cost-effectiveness, and introduces the risk that expandable

transmission proposals, if selected and developed under this solicitation, may not be compatible with offshore wind proposals in future solicitations (AIM Comments at 2-3). The electric distribution companies assert that the RFP does not require the Evaluation Team to select an expandable transmission proposal, but is designed to ensure full participation in both bid categories to allow for review of all available delivery methods and selection of the most beneficial proposal (Petitioners Reply Comments at 7-8). The electric distribution companies maintain that the Evaluation Team will consider the Attorney General's concerns during the evaluation process and argue that the Department should not require the Petitioners to strike or otherwise amend the requirement for expandable transmission proposals in the RFP (Petitioners Reply Comments at 7-8).

Several commenters recommend the final RFP clarify the parameters of the expandable transmission proposal requirement in order to elicit the most responsive and feasible bids (Bay State Wind Comments at 7; RENEW Comments at 3-4; Vineyard Wind Comments at 12). RENEW and Vineyard Wind assert that, per ISO-NE requirements, a transmission facility sized to accommodate 1,600 MW of offshore wind generation will require a minimum of two transmission lines; therefore, they recommend that the final RFP explicitly allow for the transmission requirement to be achieved through a combination of transmission facilities (RENEW Comments at 4; Vineyard Wind Comments at 12-13). Vineyard Wind requests that the Petitioners amend the RFP to clarify that the 1,600 MW of expandable transmission may be built in phases based upon receipt of sufficient requests for transmission capacity to avoid building an asset that will not be used (Vineyard Wind Comments at 13).

Commenters assert that the expandable transmission proposal requirement raises numerous technical, commercial, regulatory, and legal issues that require further clarification, particularly issues surrounding the United States BOEM leases for lands in the Outer Continental Shelf (Bay State Wind Comments at 7-11; Bay State Wind Reply Comments at 10; RENEW Comments at 6-7). Commenters assert that such issues include: (1) coordination with future winning bidders; (2) treatment of costs for network upgrades required beyond the point of interconnection; (3) capacity requirements for expandable transmission facilities; and (4) accuracy of cost estimates (RENEW Comments at 4-5, 8-9). Bay State Wind recommends that the Petitioners amend the RFP to require bidders to discuss applicable regulatory and commercial issues that are associated with the development of expandable transmission systems, and to document how they will address each of these issues in order to allow for a full and fair comparison of the benefits, costs and risks between proposals (Bay State Wind Comments at 8). The electric distribution companies maintain that questions related to the technical, commercial, and legal aspects of expandable transmission proposals are beyond the scope of this proceeding and are best addressed at the bidder conference and in the course of the bidder question and answer processes that will take place after they issue a final RFP (Petitioners Reply Comments at 9). The Petitioners assert that they expect bidders to address all technical and legal requirements associated with the expandable transmission proposal in their bids, as required by the RFP (Petitioners Reply Comments at 9, citing RFP § 2.2.1.3.2).

Vineyard Wind and RENEW recommend that the Evaluation Team consider and score generator lead line and expandable transmission proposals separately in order to ensure that the

evaluation process is transparent and that the expandable transmission requirement does not skew the assessment of the generator lead line proposals, which are more readily comparable to one another (RENEW Comments at 3; Vineyard Wine Comments at 12). CLF and the Environmental Nonprofits recognize that expandable offshore delivery facilities may provide environmental benefits as well as cost savings to ratepayers, but urge that the planning of a shared transmission system not delay the development of Offshore Wind Energy Generation (CLF Comments at 13-14, Environmental Nonprofits Comments at 7). CLF recommends that the Petitioners amend the RFP to clarify that the Evaluation Team will evaluate all proposals for offshore delivery facilities with a preference for projects that include timely implementation as a high priority (CLF Comments at 13-14). The Petitioners maintain that generator lead line proposals and expandable transmission proposals are separate, and the Evaluation Team will evaluate them as such (Petitioners Reply Comments at 9).

c. Analysis and Findings

The Attorney General recommends that the Department direct the Petitioners to strike the expandable transmission proposal requirement, arguing that numerous issues related to expandable transmission proposals require further consideration and stakeholder input (Attorney General Comments at 3-4). The Petitioners maintain that the expandable transmission proposal requirement in the RFP allows for the Evaluation Team to review all available delivery methods and to select the most beneficial proposal, but does not require the selection of an expandable transmission proposal (Petitioners Reply Comments at 7-8). In reviewing the method for solicitation, the Department seeks to avoid limiting the consideration

of proposed contracts or evaluation models. D.P.U. 17-32, at 18 (2017); D.P.U. 15-84, at 22 (2015); D.P.U. 09-77, at 22 (2009). In fact, inclusion of a wide and varied method of solicitation options is more likely to yield a robust range of proposals for the consideration of the Evaluation Team, and potentially result in greater benefits to ratepayers. Therefore, the Department declines to direct the Petitioners to remove the expandable transmission proposal requirement from the RFP.

We find that the expandable transmission proposal requirement is reasonable given the electric distribution companies' intent to enter into cost-effective contracts for 1,600 MW of Offshore Wind Energy Generation through a staggered procurement schedule. Consistent with the Petitioners' representations, we expect the electric distribution companies to consider the concerns the Attorney General has raised during the evaluation process (see Petitioners Reply Comments at 7-8). When the electric distribution companies submit the executed contracts resulting from this procurement to the Department for review and approval, the electric distribution companies will bear the burden of demonstrating that the contracts are in the public interest and result in just and reasonable rates. D.P.U. 17-32, at 19, D.P.U. 15-84, at 21. At that time, any party to a proceeding will have the opportunity to raise relevant substantive issues with respect to the evaluation of proposed projects in the context of adjudication before the Department. D.P.U. 17-32, at 19; D.P.U. 15-84, at 34; D.P.U. 09-77, at 23-24.

Several other commenters request that the Petitioners amend the RFP to provide further clarification on the parameters and various technical, commercial, and legal requirements for expandable transmission proposals (see, e.g., Bay State Wind Comments at 7; RENEW

Comments at 3; Vineyard Wind Comments at 12). We find that questions related to these matters exceed the statutory authority granted to the Department by Section 83C to review and approve the timetable and method for solicitation and execution of long-term contracts. See Section 83C. We agree with the Petitioners that these questions are best addressed at the bidder conference and in the question and answer process that will take place after the electric distribution companies issue a final RFP (see Petitioners Reply Comments at 9). Therefore, we decline to direct the Petitioners to amend the expandable transmission proposal requirement.

Vineyard Wind and RENEW recommend that the Evaluation Team evaluate and score generator lead line and expandable transmission proposals separately (RENEW Comments at 3; Vineyard Wine Comments at 12). The Petitioners argue that generator lead line proposals and expandable transmission proposals are separate, and therefore intend for the Evaluation Team to assess them as such (Petitioners Reply Comments at 9). Therefore, on the basis of this representation the Department will not require any revisions to the RFP with regard to the separate evaluation and scoring of generator lead line and expandable transmission proposals.

3. Transmission-Only Bids

a. Introduction

Certain commenters argue that the categories of eligible bids described in the RFP should be broadened to allow for transmission-only bids (see Anbaric Comments at 4-13; Anbaric Reply Comments at 5-6; Attorney General Comments at 5).

b. Summary of Comments

Anbaric argues that the expandable transmission proposal effectively requires the bidder to submit a transmission project and assume the tariff obligations of a transmission provider (Anbaric Comments at 4). Anbaric asserts that this function is more effectively served by a transmission developer, and that allowing transmission-only bids is the best way to ensure the development of a proposal for nondiscriminatory access to offshore delivery facilities that are part of an expandable transmission network (Anbaric Comments at 4-5). Anbaric recommends that the Department require the electric distribution companies to unbundle the transmission and generation solicitations into a two-part solicitation, the first part for transmission projects to establish transmission costs and the second for Offshore Wind Energy Generation (Anbaric Comments at 9, 12-13; Anbaric Reply Comments at 5-6). Anbaric argues that the IE should review Anbaric's proposal to unbundle the solicitation and recommends adoption of this approach to enhance the fairness and transparency of the Section 83C solicitation (Anbaric Reply Comments at 6). The Attorney General asserts that allowing transmission-only bids would minimize many of the concerns associated with the expandable transmission proposal requirement (Attorney General Comments at 5).

Bay State Wind argues that allowing transmission-only bids would substantially and needlessly increase the level of complexity and risk that is already associated with this solicitation (Bay State Wind Reply Comments at 10). Bay State Wind asserts that Section 83C does not contemplate merchant transmission as other commenters proposed and requests that

the Department reject such a request to expand the scope of the proposed RFP's requirements (Bay State Wind Reply Comments at 10-11).

c. Analysis and Findings

Certain commenters suggest that the Petitioners amend the RFP to include transmission-only bids (Anbaric Comments at 4-13; Anbaric Reply Comments at 5-6; Attorney General Comments at 5). After reviewing the eligible bid categories, we find the Petitioners have properly applied the requirements of Section 83C in developing the RFP's eligible bid categories. Section 83C requires that, in developing long-term contracts for Offshore Wind Energy Generation, the electric distribution companies consider long-term contracts for RECs for energy and for a combination of both renewable energy certificates and energy, if applicable. Section 83C(c). Section 83C does not require the electric distribution companies to include a transmission-only bid category in the RFP. See Section 83C. Thus, the Department finds that the electric distribution companies and DOER developed the RFP's eligible bid categories consistent with the requirements of Section 83C and declines to require the Petitioners to incorporate transmission-only bids as an eligible category in this RFP.

E. Commercial Operation Date

1. Introduction

A few commenters are concerned that the proposed commercial operation deadline of January 1, 2027 would unreasonably delay the Commonwealth in receiving the benefits from Offshore Wind Energy Generation (CLF Comments at 6-7; Environmental Nonprofits Comments at 8; Vineyard Wind Comments at 9). The electric distribution companies explain

that the proposed RFP considers the risks and advantages of both accelerated and delayed commercial operation dates (Petitioners Reply Comments at 4). The electric distribution companies also argue that the proposed RFP encourages the earliest possible commercial operation date, and gives flexibility to phased proposals (Petitioners Reply Comments at 3-4).

2. Summary of Comments

CLF argues that a commercial operation deadline beyond January 1, 2024 would be unreasonably delayed, and the proposed deadline of January 1, 2027 would not allow the lessons learned from earlier projects to inform subsequent solicitations (CLF Comments at 6). A few commenters are also concerned that a 2027 commercial operation deadline could result in delays in project development, and thereby delay benefits to ratepayers and the Commonwealth's economy (CLF Comments at 6-7; Environmental Nonprofits Comments at 8; Vineyard Wind Comments at 9). Vineyard Wind maintains that the proposed commercial operation deadline threatens to undermine the purposes of Section 83C, including energy diversity and achievement of the Commonwealth's GWSA goals (Vineyard Wind Comments at 8). In addition, some commenters claim that the proposed commercial operation deadline unnecessarily exceeds standard industry practice (CLF Comments at 6; Vineyard Wind Comments at 9).

CLF suggests the Petitioners amend the RFP to provide for a commercial operation date between January 1, 2022 and January 1, 2023 (CLF Comments at 5-6). The Environmental Nonprofits suggest a deadline no later than 2022, while others suggest a deadline no later than 2023 (Environmental Nonprofits Comments at 8; Legislators Comments

at 1; Vineyard Wind Comments at 8). Bay State Wind argues that there should not be any arbitrary cut-off date for commercial operation, nor should the evaluation process give an automatic advantage to any proposal based solely on commercial operation date (Bay State Wind Reply Comments at 9). Bay State Wind maintains that the proposed RFP appropriately includes the commercial operation date as part of the overall evaluation of a proposal's risks and benefits (Bay State Wind Reply Comments at 10).

The electric distribution companies assert that the proposed RFP encourages the earliest possible commercial operation date (Petitioners Reply Comments at 3). In addition, the Petitioners assert that the Evaluation Team's quantitative evaluation, qualitative evaluation, and final stage of evaluation would all examine the risks and advantages of both accelerated and delayed commercial operation dates (Petitioners Reply Comments at 4). The electric distribution companies also argue that setting the latest possible commercial operation deadline would allow for phased proposals and flexibility to design staggered commercial operation dates while still being eligible for the current solicitation (Petitioners Reply Comments at 4).

3. Analysis and Findings

At the outset, we note that Section 83C is silent on commercial operation date and only requires that contracts be executed prior to June 30, 2027. See Section 83C. The proposed RFP appropriately includes multiple steps in the evaluation process to examine the risks and advantages of proposals that include different commercial operation dates (RFP §§ 2.2.2.7, 2.3.1.3, 2.3.2). In addition, the proposed commercial operation deadline of January 1, 2027 contained in the RFP allows proposals that include multiple phased projects totaling 800 MW

to be eligible for this solicitation (RFP § 2.2.1.2). The Department finds that the proposed RFP includes a fair process to evaluate proposals with different commercial operation dates. Further, the Department finds that the competitive marketplace, and the incentives provided through existing federal tax credits, will likely yield an earlier commercial operation deadline than the January 1, 2027 timeframe envisioned in Section 83C. Accordingly, the Department rejects the commenters' suggestion to change the proposed commercial operation deadline.

F. Evaluation Criteria

1. Introduction

Commenters raise issues concerning the criteria the Evaluation Team will employ to evaluate bids (see, e.g., CLF Comments at 7-10, 15-18; Environmental Nonprofits Comments at 5-7; The Nature Conservancy Comments at 3-7; see, e.g., CLF Comments at 15-18; Bay State Wind Comments at 3-4; Bay State Wind Reply Comments at 2; Vineyard Wind Comments at 14-15). Comments related to the evaluation criteria fall into two categories: (1) valuation of the impacts on environmental resources; and (2) other Stage Three evaluation criteria contained in the RFP.

2. Environmental Criteria

a. Introduction

The RFP states that the quantitative evaluation process will include an evaluation of the costs and benefits of Offshore Wind Energy Generation, RECs, and additional impacts on GHG emission rates, and overall ability to meet GWSA requirements (RFP § 2.3.1.2). The RFP states that the qualitative evaluation process will include an evaluation of factors that avoid, minimize, or mitigate, to the extent practicable, environmental impacts

(RFP § 2.3.2.iv). Commenters raise concerns with regard to the evaluation criteria contained in the RFP regarding environmental impacts and mitigation for proposed projects (see, e.g., CLF Comments at 7-10; Environmental Nonprofits Comments at 5-7; The Nature Conservancy Comments at 3-7).

b. Summary of Comments

CLF and the Environmental Nonprofits request that the Evaluation Team give preference to proposals with strong environmental impact mitigation (CLF Comments at 7; Environmental Nonprofits Comments at 5). Specifically, CLF and the Environmental Nonprofits argue that the RFP should require proposals to provide a thorough environmental characterization of the proposed project site and cable routes (CLF Comments at 8; Environmental Nonprofits Comments at 6). In addition, CLF and the Environmental Nonprofits recommend that proposals that provide strong protections for the North Atlantic right whale should be given added weight in the evaluation process (CLF Comments at 10; Environmental Nonprofits Comments at 6). CLF also maintains that the RFP should require bidders to provide a preliminary environmental assessment of the project area, including wind turbine areas and transmission corridors (CLF Comments at 8). As part of the environmental impacts assessment and project stakeholder engagement plan, CLF and the Environmental Nonprofits request that the RFP require proposals to identify all relevant stakeholders (e.g., commercial and recreational fisherman, recreational boaters, wildlife watchers, and research institutions) (CLF Comments at 8, citing RFP § 2.3.2; Environmental Nonprofits Comments at 5).

The Nature Conservancy argues that the RFP should give more weight to the environmental benefits, which should include avoiding and mitigating direct impacts, reducing GHG emissions, maintaining recreational and commercial access to ocean space, and providing co-location of new economic uses such as aquaculture (The Nature Conservancy Comments at 2). The Nature Conservancy requests that the Evaluation Team allocate 20 percent of the quantitative and qualitative scoring to environmental resource impacts (The Nature Conservancy Comments at 3-6). The Nature Conservancy also maintains that the Evaluation Team should appoint a qualified technical committee that will provide evaluation guidelines and review the environmental resource impacts of RFP responses (The Nature Conservancy Comments at 6-7).

The electric distribution companies maintain that the evaluation criteria will contain a multitude of environmental issues, but that the Evaluation Team has not yet determined the exact weighting and method of evaluation (Petitioners Reply Comments at 9). The electric distribution companies request that the Department maintain the broad environmental considerations that are currently included in the RFP given that the evaluation criteria are beyond the scope of this proceeding (Petitioners Reply Comments at 9).

c. Analysis and Findings

In reviewing the proposed timing and method of solicitation and execution of contracts pursuant to Section 83C, including bid evaluation methods, the Department seeks to balance the goal of ensuring nondiscriminatory treatment of all potential eligible resource options with providing the electric distribution companies discretion to implement a flexible bid evaluation

methodology to accommodate a broad range of bids to be solicited pursuant to this RFP. D.P.U. 17-32, at 64; D.P.U. 15-84, at 33; Long-Term Contracts for Renewable Energy, D.P.U. 08-88, at 10 (2009); D.P.U. 09-77, at 20. Some commenters request that the Department give more weight to environmental criteria in the RFP (CLF Comments at 7-10; Environmental Nonprofits Comments at 5-7; The Nature Conservancy Comments at 3-7). The Nature Conservancy specifically recommends that the Department require the Petitioners to amend the RFP to indicate that the environmental impacts will account for 20 percent of the evaluation criteria (The Nature Conservancy Comments at 3-6).

While mindful of the comments received and our review of Section 83C and the proposed RFP, the Department finds that our review is limited to the “timetable and methods for solicitations.” Section 83C (b). Therefore, the Department declines to require revisions to the RFP bid evaluation criteria. At the time of our review of executed contracts resulting from this procurement, the electric distribution companies will bear the burden of demonstrating that they developed and implemented the solicitation method consistent with the intent of Section 83C, and that the solicitation process was fair, transparent, competitive, and non-discriminatory pursuant to Section 83C. See D.P.U. 17-32, at 65; D.P.U. 15-84, at 32; D.P.U. 09-77, at 22-23; D.P.U. 11-05; 11-06; 11-07, at 42, citing New England Gas Company, D.P.U. 10-114, at 221 (2011); NSTAR Electric Company, D.P.U. 07-64-A at 60-61 n.21 (2008); Boston Gas Company, Colonial Gas Company, and Essex Gas Company, D.T.E. 04-9, at 10 (2004). At that time, any party to a proceeding will have the opportunity to raise relevant substantive issues with respect to the evaluation of proposed

projects in the context of adjudication before the Department. D.P.U. 17-32, at 65; D.P.U. 15-84, at 34; D.P.U. 09-77, at 23-24. Should those substantive issues be raised in such a later forum, the Department will address those in the context of that future proceeding.

3. Other Evaluation Criteria in Stage Three

a. Introduction

Section 2.4 of the RFP describes the third stage of the bid evaluation process. In this stage, the Evaluation Team must select long-term contracts that are cost-effective mechanisms for procuring reliable renewable energy on a long-term basis for the benefit of ratepayers (RFP § 2.4). CLF maintains that there are vague evaluation criteria throughout the RFP and more specifically, takes issue with how the Evaluation Team will interpret certain evaluation criteria in the third stage of the evaluation (see, e.g., CLF Comments at 15-18). Section 2.4 of the RFP also states that the Evaluation Team will not select proposals for more than 400 MW unless it determines that a larger-scaled proposal is both superior to other proposals and is likely to produce significantly more economic net benefits to ratepayers compared to the alternative of procuring the additional MWs in a future solicitation after taking relevant risks into consideration (RFP § 2.4). Bay State Wind and Vineyard Wind address in their comments the higher standard of review for projects in excess of 400 MW (Bay State Wind Comments at 3-4; Bay State Wind Reply Comments at 2; Vineyard Wind Comments at 14-15).

b. Summary of Comments

CLF contends that the lack of specificity in the proposed evaluation criteria contravenes the electric distribution companies' goal of ensuring "the transparency, consistency, and

objectivity of the solicitation process” (CLF Comments at 15-17). CLF further argues that the Evaluation Team should apply the term “cost effective,” as used in Section 83C, in the context of offshore wind and not as it compares to other clean energy generation alternatives (CLF Comments at 17-18).

Bay State Wind asserts that the higher standard of review proposed for projects in excess of 400 MW is overly stringent and the Petitioners should remove it from the RFP (Bay State Wind Comments at 3-4; Bay State Wind Reply Comments at 2). Bay State Wind argues that the Evaluation Team should review bids of different sizes with different operating dates on a level playing field to secure the most benefit to ratepayers (Bay State Wind Reply Comments at 7-8). Vineyard Wind maintains that the higher standard the RFP sets for selection of alternative-sized projects (i.e., other than 400 MW) is appropriate (Vineyard Wind Comments at 14-15).

The electric distribution companies maintain that the Evaluation Team has not yet determined the weighting and method of evaluation for the evaluation criteria, including the environmental evaluation criteria (Petitioners Reply Comments at 9).

c. Analysis and Findings

CLF and Bay State Wind suggest alterations to the evaluation criteria (CLF Comments at 17-18; Bay State Wind Comments at 3-4; Bay State Wind Reply Comments at 2). As previously stated, we find that the above recommendations regarding clarifying the evaluation criteria implicate neither the timetable nor the method of solicitation for long-term contracts for offshore wind under this RFP and are outside of the scope of this proceeding. The Department

may address these issues during the contract review proceeding. Accordingly, the Department declines to accept these recommendations here.

G. Other Issues

1. Introduction

The MA Residents state that they support the swift, environmentally responsible, and large scale development of offshore wind power for the Commonwealth in order to reduce pollution, improve public health, protect wildlife, create jobs, stabilize electric rates, and demonstrate strong state action to confront climate change (MA Residents Comments at 1-32). AIM also supports the offshore wind contracts, and urges the Department to approve an RFP that is transparent, fosters competition, does not discriminate against or favor any eligible sources, and provides the Evaluation Team with sufficient flexibility to protect ratepayers should the initial bids not be reasonable (AIM Comments at 4). DOER contends that the clarifications mentioned in the electric distribution companies' reply comments are accurate and consistent with DOER's understanding and interpretation of the intent of the RFP (DOER Reply Comments at 2). Other commenters make recommendations for clarifications and refinements to the RFP, on various other topics, including: (1) bid pricing; (2) energy storage; and (3) the form PPA (Attorney General Comments at 7; CLF Comments at 19; RENEW comments at 5-6; UD Comments at 1, 3; Vineyard Wind Comments at 13-14).

2. Bid Pricing

a. Summary of Comments

RENEW and Vineyard Wind request that the Department direct the Petitioners to amend the RFP to clarify that the Evaluation Team will not favor any specific approach for

recovery of offshore delivery facility costs (RENEW Comments at 5-6; Vineyard Wind Comments at 13-14). RENEW and Vineyard Wind maintain that the provision in Section 2.2.1.4(ii)(b) of the proposed RFP requiring bidders to separately propose recovery of offshore delivery facilities costs under a FERC-filed tariff or rate schedule is internally inconsistent with both Section 2.2.1.3.1 of the RFP and Section 83C(d), which allows for, but does not require, recovery of transmission costs through FERC (RENEW Comments at 5 6; Vineyard Wind Comments at 13-14). The Petitioners assert that RENEW and Vineyard Wind's suggested revisions are unnecessary because Section 2.2.1.4(ii)(b) does not apply to project specific generator lead line proposals with an all in price schedule under Section 2.2.1.3.1 (Petitioners Reply Comments at 8-9).

The UD maintains that the bids should identify whether or not the quoted price is levelized (UD Comments at 1, 3). If the price is not levelized, the UD contends that there should be a standardized escalator rate because an arbitrary escalator does not comply with the Section 83C requirement to compare the levelized price in subsequent years (UD Comments at 1, 3).

CLF requests that the RFP clarify that any proposal including entitlement to RECs associated with the project should separately and distinctly identify the price for such entitlement (CLF Comments at 19). CLF contends that separately identified prices will better enable the Evaluation Team and the Department to evaluate the proposals (CLF Comments at 19).

The Attorney General advocates for the disclosure of the pricing of the winning proposal(s) upon the Department's approval of the long-term contracts (Attorney General Comments at 7). The Attorney General argues that Section 83C explicitly states that subsequent offshore wind energy solicitations should be less than the "levelized price per megawatt hour plus transmission costs that resulted from the previous procurement" (Attorney General Comments at 7). The Attorney General claims that absent public disclosure of the pricing of the winning proposal(s), the winning bidder(s) will maintain an unfair competitive advantage over other bidders in subsequent solicitations (Attorney General Comments at 7).

In response to the Attorney General's proposed change that the electric distribution companies should disclose the pricing of the winning proposals, the Petitioners argue instead, that the Department has previously found that a determination of whether it is appropriate to publicly disclose pricing terms should be a matter for consideration during a contract review proceeding (Petitioners Reply Comments at 10, citing Joint Petition of Fitchburg Gas and Electric Light Company et al, D.P.U. 17-32, at 90 (March 27, 2017)). The electric distribution companies request that the Department reach the same conclusion in this proceeding (Petitioners Reply Comments at 10).

b. Analysis and Findings

With regard to RENEW and Vineyard Wind's requests to modify the offshore delivery facility cost recovery approach requirements in Section 2.2.1.4(ii)(b) of the RFP, the Petitioners have clarified that this section does not apply to project specific generator lead line proposals with an all in price schedule under Section 2.2.1.3.1 (Petitioners Reply Comments at

8 9). Based on the Petitioners' representations, we decline to direct the Petitioners to revise Section 2.2.1.4(ii)(b) of the RFP.

With regard to two commenters' requests for levelized pricing and proposals to clearly identify the entitlement of RECs, the Department reiterates that, as set forth in Section IV.A, above, the scope of our review in this proceeding is to review the timetable and method for solicitation and execution of contracts that may result from the RFP. We have determined that these comments regarding pricing are outside the scope of this proceeding, and represent subject matter that the Department may consider in the context of a contract review proceeding resulting from this solicitation. D.P.U. 17-32, at 90. Accordingly, we decline to direct the electric distribution companies to make any revisions to the RFP with regard to pricing.

Regarding the Attorney General's request to disclose the pricing of the winning bid, the Department finds that this issue also is outside the scope of this proceeding. Therefore, the Department finds it appropriate to make a determination of whether it is appropriate to publicly disclose pricing terms during a contract review proceeding. D.P.U. 17-32, at 90.

3. Energy Storage

a. Summary of Comments

FLPR recommends that the Department avoid restricting the definition of paired energy storage to incremental new storage or specific technologies in order to capture the most cost-effective means of storage available (FLPR Comments at 2). FLPR maintains that the ratepayers of the Commonwealth will benefit from the leveraging of existing resources (FLPR Comments at 2). Lastly, FLPR argues that the Department should continue to include paired

energy storage in each stage of the evaluation process (FLPR Comments at 1-2). CLF maintains that the RFP should require bidders to include key information about energy storage benefits in order to have a robust evaluation and comparison of storage-pairing proposals (CLF Comments at 19). In particular, CLF argues that the RFP should require bidders to specify how they will offer additional products into the market, provide expected sale prices for any ancillary services, and detail the expected impact of any such product on energy deliveries (CLF Comments at 19).

b. Analysis and Findings

Section 83C requires only that proposals “allow offshore wind energy generation resources to be paired with energy storage systems.” Section 83C (d)(5)(vii). The Department declines to place restrictions on energy storage to allow for a broader range of proposals in response to the RFP. As described in Section IV.A, above, parties to any adjudication of individual long-term contracts for Offshore Wind Energy Generation that an electric distribution company submits to the Department for approval pursuant to Section 83C(e) will have the opportunity to raise relevant concerns including the evaluation of proposed projects, all phases of contract development and negotiation, and the specific terms and conditions contained in the resulting PPA(s). See D.P.U. 17-32, at 85; D.P.U. 15-84, at 21; D.P.U. 09-77, at 22. Accordingly, we find that the Department may consider matters pertaining to energy storage that are not explicitly required pursuant to Section 83C as part of the Department’s contract review proceeding.

4. Form Power Purchase Agreement

a. Summary of Comments

Bay State Wind requests that the electric distribution companies release the form PPA for public comment as soon as possible (Bay State Wind Comments at 12). Bay State Wind argues that knowing the contractual expectations well in advance will ensure that each bidder can submit a responsive and cost-effective proposal (Bay State Wind Comments at 2, 12-13). Bay State further claims that having access to the form PPA is critical, because the draft RFP discourages bidders from recommending material changes to the form PPA once the final RFP is issued (Bay State Wind Comments at 2).

In response to Bay State Wind's comments, the electric distribution companies maintain that they will post the form PPA to the Section 83C RFP website (Petitioners Reply Comments at 10). The electric distribution companies contend that making the form PPA publicly available should resolve issues raised by commenters related to delivery requirements, liquidated damages, and negative locational marginal pricing (Petitioners Reply Comments at 10).

b. Analysis and Findings

The Department is required to approve the timetable and method for the solicitation and execution of long-term renewable contracts for offshore wind as set forth in the RFP. Section 83C. While public review of form PPAs prior to bid submission would allow stakeholders an opportunity to comment on the form PPAs, the Department has not required

the opportunity for such public review in previous solicitations.¹³ See DPU 17-32, at 41-42, citing D.P.U. 15-84, at 53, citing Long-Term Contracts for Renewable Energy, D.P.U. 13-57.

We note that although bidders are discouraged from proposing material changes to the form PPAs, they are not prohibited from proposing any changes, material or otherwise, to the form PPAs should they determine that such changes are appropriate (RFP § 2.2.1.10). Because bidders have an opportunity to propose revisions to the form PPAs when they submit their bids, we decline to accept Bay State Wind's proposal that the Department require the Petitioners to provide the form PPAs for public review prior to the issuance of the RFP. However, we continue to encourage all Petitioners in future solicitations to make the form PPAs and other required bidder forms available for public review prior to issuance of an RFP, as appropriate.

VI. CONCLUSION

After review, and consistent with the Department's scope as identified herein, the Department finds that the method for the solicitation and execution of long-term contracts for Offshore Wind Energy Generation contained in the RFP is consistent with the requirements of Section 83C and 220 C.M.R. § 23.00 et seq. The Petitioners propose to solicit proposals and, provided that they receive reasonable proposals, to enter into cost-effective long-term contracts with a term of between 15 and 20 years for Offshore Wind Energy Generation for between 400 MW and 800 MW of aggregate nameplate capacity by June 30, 2027, consistent with

¹³ The Department notes that a draft form PPA for Eversource Energy and Unitil was posted to the Section 83C RFP website at <https://macleanenergy.com/83c/83c-documents/> during the comment period.

Section 83C and 220 C.M.R. § 23.04(5) (RFP §§ 1.1, 2.2.1.6). The Department finds that, in developing the provisions of long-term contracts, the electric distribution companies appropriately considered long-term contracts for RECs, for energy, or for a combination of RECs and energy as required by Section 83C and 220 C.M.R. § 23.04(1). The Department also finds that the RFP defines eligible products as (1) Offshore Wind Energy Generation with a project specific generator lead line proposal; and (2) Offshore Wind Energy Generation with an expandable transmission proposal under a FERC tariff (RFP § 2.2.1.3).

Section 83C and 220 C.M.R. § 23.05(1) require the Department to determine that an Offshore Wind Energy Generation resource: (1) provides enhanced electricity reliability within the Commonwealth; (2) contributes to reducing winter electricity price spikes; (3) will be cost-effective to Massachusetts ratepayers over the term of the contract taking into consideration potential economic and environmental benefits to the ratepayers; (4) avoids line loss and mitigates transmission costs to the extent possible and ensures that transmission cost overruns, if any, are not borne by ratepayers; (5) adequately demonstrates project viability in a commercially reasonable timeframe; (6) allows Offshore Wind Energy Generation resources to be paired with energy storage systems; (7) mitigates environmental impacts where possible; and (8) creates and fosters employment and economic development in Massachusetts, where feasible. The RFP includes these criteria in the first and second bid evaluation stages (RFP §§ 2.2, 2.3).

Section 83C and 220 C.M.R. § 23.05(5) require that proposals for long-term contracts include associated transmission costs and that, if proposals include transmission costs and if the

Department finds that recovery to be in the public interest, the Department may authorize or require the contracting parties to seek recovery of such transmission costs of the project through federal transmission rates, consistent with FERC policies and tariffs. The electric distribution companies have included this provision in the RFP's allowable forms of pricing (RFP § 2.2.1.4). Further, consistent with Section 83A and 220 C.M.R. § 23.05(4), the RFP provides that the electric distribution companies will allocate the products purchased under the contracts on a pro-rata basis based on total energy demand (RFP § 2.5). Finally, consistent with Section 83C and 220 C.M.R. § 23.06, DOER and the Attorney General jointly selected, and DOER contracted with, an IE to monitor and report on the solicitation (RFP § 1.5).

After review, and consistent with the Department's scope as identified herein, the Department directs the Petitioners to revise the proposed timetable for the solicitation and execution of long-term contracts for Offshore Wind Energy Generation contained in the RFP. The Department finds that the revisions to the RFP's proposed timetable discussed in this Order will allow project developers to structure reasonable proposals and will provide the electric distribution companies sufficient time to appropriately evaluate such proposals, complete contract negotiations, and submit any resulting cost-effective contracts to the Department while enhancing the potential for selected projects to qualify for higher 2018 federal tax credits to the benefit of electric distribution company ratepayers. Hence, we direct the Petitioners to amend the RFP to include the timetable provided in Section V.A of this Order.

The Department finds that the proposed timetable, as revised in accordance with the Department's findings in this Order, and the method for solicitation and execution of long-term contracts for renewable energy included in the RFP are consistent with the requirements of Section 83C and 220 C.M.R. § 23.00 et seq. Accordingly, with the inclusion of the modifications directed in this Order, the Department approves the Petitioners' proposed timetable and method for solicitation and execution of long-term contracts for Offshore Wind Energy Generation.

VII. ORDER

Accordingly, after due notice, opportunity for comment, and consideration, it is

ORDERED: That the petition of Fitchburg Gas and Electric Light Company, d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, and NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy, for approval of a proposed timetable and method for solicitation and execution of long-term contracts for offshore wind energy generation is APPROVED, subject to the directives contained herein; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company, d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, and NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy, shall comply with all other directives contained in this Order.

By Order of the Department,

/s/

Angela M. O'Connor, Chairman

/s/

Robert E. Hayden, Commissioner

/s/

Cecile M. Fraser, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.