



February 25, 2021

Via Electronic Filing Only

Submitted via MARFP83C@gmail.com

RE: Request for Public Comment on Draft Request for Proposals for Long-Term Contracts for Offshore Wind Energy Projects

To the 83C III RFP Drafting Team:

This letter responds to the Request for Public Comment on the Draft Request for Proposals for Long-Term Contracts for Offshore Wind Energy Projects ("**Draft RFP**") issued on February 8, 2021, by Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, NSTAR Electric Company d/b/a Eversource Energy, and the Massachusetts Department of Energy Resources, to be issued pursuant to Section 83C of Chapter 169 of the Acts of 2008 ("**Section 83C**"), as amended by the Energy Diversity Act. We appreciate the opportunity to provide this input and your willingness to include offshore wind developers in the Request for Proposal ("**RFP**") development process.

Solicitations yield the best results when the parties issuing the RFP have communicated clear goals and priorities. This can be achieved through straightforward evaluation metrics and explicit RFP requirements. Without full transparency and clear priorities, the soliciting party runs the risk of receiving bids that may not fully align with its needs.

The Draft RFP, as written, sends a mixed signal to bidders and should be improved and clarified to the benefit of all, in our view, before finalization. For example, the Draft RFP requires bidders to create packages that are even more comprehensive than prior rounds by adding, among other things, an increased focus on economic development and environmental justice. While we agree that these are critical issues, the RFP makes these additions without attaching explicit evaluation criteria to these proposal elements. Despite similar requests in prior Section 83C solicitations, Massachusetts historically has prioritized leveled prices in the selection process. Other States such as New York, New Jersey, and Connecticut have placed a priority on economic development, and have enjoyed the benefit of this priority, as it has yielded:

- major construction ports,
- multiple regional O&M hubs,
- several manufacturing facilities,
- grants to facilitate the participation of minority and women-owned businesses, and
- significant training consortiums.

This economic stimulus created by the offshore wind industry is expected to bring tens of billions of dollars in future economic benefits to those States. If Massachusetts intends to

capture these benefits, then it should be clear in the final RFP by giving proper and transparent evaluation weighting to these components. If, however, price continues to be the driving factor for the selection, then the RFP should clarify this by simplifying the evaluation which should strongly reflect a ranking based on the levelized price.

Further, the legislative price cap makes it more difficult for the Commonwealth to adjust its priorities in subsequent rounds, having already prioritized price above other criteria and with the prior awardees focused on delivering basic offshore wind projects as a result. Economic development, environmental justice, and other benefit programs require price premiums. The Commonwealth should be cognizant of the tradeoffs between price and other policy goals. Again, if more than a low price is desired, then Massachusetts should reconsider how the legislative price cap is handled, define what the Commonwealth cares most about in the RFP, and develop an evaluation framework which prioritizes those desires. If not, then these additional RFP requirements should be removed, and a simplified evaluation applied.

The following additional comments are primarily intended to enhance and/or clarify the Draft RFP, with the goal of establishing a fair and transparent solicitation process consistent with the requirements of Section 83C.

1. *Coordinated Solicitation.*

The Draft RFP should be revised to contemplate that future requests for proposals for offshore wind generation may be issued before the September 16 submission date. For example, Rhode Island has indicated that its request for proposals for offshore wind generation will be released in the near term. The Massachusetts Clean Energy Center recently released a request for information regarding the use of Massachusetts port facilities for offshore wind which could affect offshore wind economic development in the Commonwealth.

To leverage multiple solicitations pertaining to the offshore wind industry, the Draft RFP should be revised to allow a proposal linked to (conditioned on) another proposal in another solicitation. With that flexibility, developers can leverage their portfolios to improve pricing through, among other things, economies of scale.

2. *Economic Development Commitments.*

The Draft RFP Section 2.2.2.8 should be clarified to allow appropriate documentation regarding economic benefit commitments to include more than governmental entities as counterparties. Also, to the extent that the appropriate documentation does not exist at the time of award, the PPAs should address the future documentation obligation through an appropriate covenant. Delaying the execution of the PPA pending finalization of economic development documentation is not in the interest of any parties, including the potential recipient(s) of the economic benefit commitment. That is especially true for governmental entities that may require a comprehensive authorization process that precluded the execution of documentation pre-submission.

3. *Project Viability.*

Project viability is very important for new generation proposals and Massachusetts will only be served if projects get built. The Draft RFP requires many studies and plans related to project viability such as multiple interconnection and transmission studies, procurement plans, engineering plans, real estate acquisition plans, siting and permitting plans, project schedule forecasts, and energy production forecasts among other project aspects. As discussed previously, if the RFP requires detailed information on these subjects, then the evaluation should weigh project viability more significantly and transparently than its current form.

4. *Form PPAs.*

The Draft RFP does not include the Form PPAs. The Form PPAs should be provided before the Draft RFP has been finalized, and adequate time should be allowed for bidders to appropriately assess them and give feedback.

5. *Clean Peak Energy Standard.*

The Form PPAs should include the same commercially operative provisions regarding the Clean Peak Energy Standards as the PPAs with Mayflower Wind Energy LLC ("**Mayflower**"), including the redacted provisions relating to Events of Default under those PPAs.

6. *NGrid Pricing Proposal.*

The alternative price cap provision proposed by National Grid in Section 2.2.1.4 ("**Alternative Price Cap**") should be removed as it will only serve to complicate and undermine this RFP.

A decreased price in the 2020 Mayflower PPAs will, per the contracts' own terms, only be applicable if Mayflower "is able to qualify for an ITC that is in excess of twelve percent," meaning that the final Mayflower tax credit utilization and resulting price will not be known with certainty for several years, and that Mayflower will have no obligation to lower its price if it is unable to qualify.¹ This is a scenario that cannot be ignored, given the dynamic nature of Federal tax incentives for renewable energy in recent years. Conversely, the Alternative Price Cap structure would give bidders no protection against the risk of their own inability to qualify for a particular tax-credit regime, instead simply tying their fates to Mayflower's. Furthermore, the Alternative Price Cap structure would require developers to carry this unhedgeable risk years into the future (until Mayflower's actual ITC qualification is known). This will likely create project execution issues and drive up costs and risks, as prudent developers must make provisions for the uncertainty introduced (e.g., in securing financing or even tax equity itself). The flip side of this coin is that instructing bidders to compete with one another on alternative pricing that is solely contingent on the actions of a third party wholly unrelated to their bids—and not on any merit of the bidders themselves—would not be the best way to effectuate the purposes of this RFP. It must also be noted that the Alternative Price Cap could have the

¹ The price will not be known for several years as the final cost of the project determines the realizable benefit.

unintended consequence of favoring Mayflower and its affiliates in this RFP (should they choose to bid) on account of their far better information regarding Mayflower’s tax-credit strategy and its consequent effects under the prior PPAs’ pricing.

We note that the Alternative Price Cap is not required by the plain language of the applicable statutes, and indeed could complicate adherence to them. The Energy Diversity Act forbids the DPU from approving PPAs with pricing higher than that which "resulted from the previous procurement." The price identified in the DPU’s November 2020 order approving the Mayflower PPAs is \$77.76, and that should be deemed the price that "resulted from" the previous RFP. To require, instead, that the DPU evaluate PPAs arising out of this RFP against the price (or prices) that would result from Mayflower’s hypothetical ITC qualification years in the future would create an overly complicated and potentially unworkable standard, and that effect would only be compounded and exacerbated in regulatory-approval proceedings arising out of RFPs subsequent to this one.

The Alternative Price Cap proposal also will complicate (and possibly compromise) the efforts of the Evaluation Team. For example, how will the Evaluation Team handle two bids where one has a lower price based off the \$77.76 price cap, but a higher alternative price than that of another bidder? Below is an illustrative example.

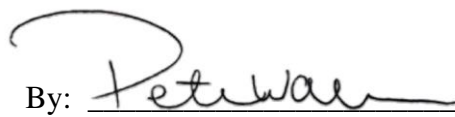
Bidder 1		Bidder 2	
Standard Price Cap	Alternative Price Cap	Standard Price Cap	Alternative Price Cap
75.00	70.25	77.75	68.00


Will the Evaluation Team choose the bid with the lower Standard Price Cap or the one with the lower Alternative Price Cap? And on what basis in the bids themselves could it possibly justify its decision? As stated above, final Mayflower pricing from the 2019 solicitation will not be established for years, with bidders (other than Mayflower itself and its affiliates) having no control over the outcome. And, looking ahead, which price from the winning proposal would set the cap for the round 4 solicitation given Mayflower’s 2020 PPA pricing will not be known for years?

Thank you for allowing us to comment on the Draft RFP. Please do not hesitate to contact the undersigned if you have any questions regarding our input.

Respectfully submitted,

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