

N.J.A.C. 14:8-6.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 52 No. 13, July 6, 2020

NJ - New Jersey Administrative Code TITLE 14. PUBLIC UTILITIES CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

§ 14:8-6.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1 and 14:4-1.2.

"All project revenues" shall mean all revenues generated by a qualified offshore wind facility, during the 20-year term of the Board Order, resulting from the sale of energy, capacity, or any ancillary service in PJM, or any other revenue that is generated by a qualified offshore wind facility.

"Annual OREC allowance" means the Board-approved maximum number of ORECs for which a qualified OSW project can be paid during each year of its qualification life.

"Annual OREC allowance schedule" means the schedule included in each qualified OSW project's OREC Order, representing the scheduled amount of ORECs that the project may submit to the OREC payment agent for payment for each month of the year, with the monthly amounts totaling to equal the annual OREC allowance. A project may exceed its monthly allocation due to higher production or output, as long as it does not exceed the annual OREC allowance.

"Annual total projected load" means the State's total load in the energy year immediately proceeding the year during which suppliers must meet their OREC obligation and is used in calculating the OREC purchase percentage.

"Commercial operations date (COD)" means the date upon which a qualified OSW project, or a phase of a qualified OSW facility, which is interconnected to the transmission system in New Jersey, begins to generate power for which it is eligible to receive ORECs.

"Controlling interest" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the company, whether through the ownership of voting securities, by contract, proxy, or otherwise.

"Energy year (EY)" means the 12-month period from June 1st through May 31st and shall be numbered according to the calendar year in which it ends (for example, EY 2019 runs from June 1, 2018 through May 31, 2019).

"Generation attribute tracking system (GATS)" means the environmental and emissions attribute tracking system for electric generation that is administered by PJM Environmental Information Services (EIS).

"Key employee" means any individual employed by the applicant in a supervisory capacity or empowered to make discretionary decisions with respect to the project.

"Offshore wind administrative cost" means the reasonable costs incurred by the EDCs in serving as payment agent and for contracting the OREC administrator, which shall be recoverable by the EDCs.

"Offshore wind alternative compliance payment (OACP)" means a payment made on behalf of a supplier during annual true up due to insufficient OREC supply that shall be equal to the price of an OREC.

"Offshore wind energy" means electric energy produced by a qualified offshore wind project.

"Offshore wind facility qualification life" means, for any qualified offshore wind generation facility, or project phase of a qualified OSW facility, the period beginning on the commercial operation date (COD) when the facility or project phase of a qualified OSW facility, is authorized to operate under this subchapter and ending on the conclusion of the energy year that is 20 years after the date of authorization to operate. An offshore wind facility's qualification life applies to the facility itself, or project phase of a qualified OSW facility, and to each piece of equipment included in the facility, regardless of any interruption

in the offshore wind facility's operation; or of any disassembly, relocation, sale, or transfer of any piece of equipment included in the facility.

"Offshore wind renewable energy certificate" or "OREC" means a certificate issued by the Board or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project.

"OREC administrator" means the independent entity jointly contracted by EDCs to oversee and verify all OREC transactions, the refund of all revenues to ratepayers, and annual compliance with the OSW Renewable Portfolio Standard (RPS) obligation.

"OREC payment agent" means the electric distribution company that shall facilitate the transfer of funds pursuant to this subchapter.

"OREC purchase percentage" means the percentage of load for which all suppliers must purchase and retire ORECs, or receive an OACP credit, per this program, as set forth in the OSW carve-out.

"OREC purchase price" means the amount that must be paid for an OREC through this program as established by the Board for each project for each energy year.

"OREC qualification life" means the eligibility period of an OREC. ORECs are eligible to be applied toward the OSW RPS carve-out during the energy year in which they are produced, and the following two energy years, pursuant to the Offshore Wind Economic Development Act, N.J.S.A. 48:3-87.1 et seq.

"OREC surcharge" means a non-bypassable surcharge on ratepayers, to be set annually by the Board, and collected by the EDCs to cover the OREC costs for all qualified offshore wind facilities in operation that year.

"OREC Transaction Management Agreement" means a uniform agreement entered into between each qualified OSW project and the OREC administrator. This OREC Transaction Management Agreement shall serve as the detailed management plan or "operating manual" describing how the OREC administrator will oversee and report out on all OREC transactions and shall require Board approval before going into effect.

"OWEDA" means the Offshore Wind Economic Development Act, N.J.S.A. 48:3-87.1 et seq.

"Qualified offshore wind project" means a wind turbine electric generation facility in the Atlantic Ocean and connected to the electrical transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the Board pursuant to section 3 of P.L. 1999, c. 23 (N.J.S.A. 48:3-51).

"Ratepayer surcharge" means "OREC surcharge" as defined in this section.

"Supplier" means basic generation service (BGS) suppliers and third-party suppliers.

"Term" means the period after the COD, during which ORECs may be generated, priced, and sold by a qualified OSW project.

History

HISTORY:

Amended by R.2013 d.039, effective February 19, 2013.

See: 44 N.J.R. 2102(a), 45 N.J.R. 336(a).

Added definition "Controlling interest".

Amended by R.2019 d.009, effective February 19, 2019.

See: 50 N.J.R. 1879(a), 51 N.J.R. 219(b).

Rewrote the section.

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2020 by the New Jersey Office of Administrative Law NEW JERSEY ADMINISTRATIVE CODE Copyright by the New Jersey Office of

Administrative Law

N.J.A.C. 14:8-6.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 52 No. 13, July 6, 2020

NJ - New Jersey Administrative Code TITLE 14. PUBLIC UTILITIES CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

§ 14:8-6.2 Offshore wind renewable portfolio standards requirements

- (a)** Each supplier/provider that sells electricity to retail customers in New Jersey shall ensure that the electricity it sells each reporting year in New Jersey includes at least the minimum percentage of offshore wind (OSW) energy required for that energy year as set by the Board following the approval of a qualified offshore wind project.
- (b)** The total OSW energy requirement for an energy year shall reflect the projected OREC production of qualified OSW projects, for the period covered by the granted ORECs, from the commercial operation start date of the qualified OSW projects.
- (c)** OREC obligations are a component of Class I renewable energy requirements, and satisfaction of OREC obligations shall be counted toward Class I renewable energy requirements.
- (d)** A Statewide OREC target will be determined by the Board based on projected OSW production. The total will be allocated among all suppliers/providers in proportion to their retail sales.
- (e)** A supplier/provider shall meet the requirements for OSW energy generation through:
- 1.** Retirement of offshore wind renewable energy certificates through a renewable energy trading program approved by the Board; or
 - 2.** Submittal of offshore wind alternative compliance payments.
- (f)** Any offshore wind alternative compliance payments collected shall be refunded to the ratepayers.
- (g)** The offshore wind carve-out to the RPS schedule is as follows:
- 1.** The OSW carve-out shall establish for each energy year:
 - i.** The total number of MWhs that the Board has authorized as eligible to receive ORECs;
 - ii.** Annual RPS requirement or OSW purchase percentage set as a percentage of retail sales a supplier must cover by purchasing ORECs; and
 - iii.** The OREC purchase price that each individual qualified OSW project has been authorized to receive in OREC Orders in effect for the energy year.
 - 2.** The OSW carve-out shall:
 - i.** Become effective in the first energy year in which the first approved OSW project's commercial operations date falls, and then be adjusted by the Board on an annual basis to reflect subsequent projects;
 - ii.** Continue for each energy year during which any qualified OSW project is operational, up to and including the energy year in which the last qualified OSW project reaches the end of its term as established in its OREC order;
 - iii.** Be published annually by the Board no less than three months prior to the BGS auction;

- iv. Be set and maintained by the Board in order to ensure that sufficient revenues from suppliers, or designated payment agent, are received by the qualified OSW projects for ORECs generated up to each project's approved OREC allowance;
 - v. Account for any payments made in excess of a project's approved OREC allowance and these payments shall be refunded to ratepayers;
 - vi. Require the OREC administrator to advise the Board on an annual basis to determine if the OREC purchase percentage is set too high or too low and needs to be reset to meet the annual OREC allowance;
 - vii. Require the OREC administrator to advise the Board on an annual basis, the amount of the surcharge to be collected by each EDC in order to meet the annual OREC allowance for each qualified offshore wind facility; and
 - viii. Be evaluated annually, and adjusted if necessary, by the Board to ensure sufficient OREC purchase percentage, including adjustments needed to account for any new OREC orders issued in the previous year and changes to the annual total projected load.
3. The OREC administrator shall conduct a true up twice annually at six months and at 12 months and no later than 120 days after the close of each energy year during each year of supplier obligations, to ensure compliance and provide the Board recommendations for any adjustments to the OSW purchase percentage and OSW carve-out.
4. Any adjustment to the OSW purchase percentage and OSW carve-out schedule shall be made at least three years in advance of the applicable energy year. Adjustments to the Class I requirements, necessitated by a change in the OSW requirement percentage, shall be made in tandem and three years in advance.
5. Suppliers shall:
- i. Meet the OSW carve-out requirement by obtaining ORECs from each qualified OSW project in sufficient amounts as verified by the OREC administrator;
 - ii. Set up a PJM-EIS GATs account to receive ORECs from qualified OSW projects on a quarterly basis through the OREC administrator; and
 - iii. Retire ORECs from qualified OSW projects on an annual basis in order to meet the OSW carve-out obligation, in the same manner they would retire other types of RECs to meet other RPS obligations.

History

HISTORY:

Amended by R.2019 d.009, effective February 19, 2019.

See: 50 N.J.R. 1879(a), 51 N.J.R. 219(b).

Added (g).

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2020 by the New Jersey Office of Administrative Law
NEW JERSEY ADMINISTRATIVE CODE Copyright by the New Jersey Office of
Administrative Law

N.J.A.C. 14:8-6.3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 52 No. 13, July 6, 2020

NJ - New Jersey Administrative Code TITLE 14. PUBLIC UTILITIES CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

§ 14:8-6.3 Application process

- (a) An entity seeking to receive ORECs in connection with an offshore wind project shall submit an application to the Board for approval as a qualified offshore wind project. The application must meet the requirements set forth in this section, as well as all applicable requirements of this chapter, and of other applicable State and Federal laws.
- (b) The Board will announce the open and close dates for all application periods, which shall be set at the Board's discretion.
- (c) The Board shall approve, conditionally approve, or deny the application within 180 days of the receipt of a completed application. The parties may consent to an extension beyond 180 days.
- (d) The applicant shall meet with Board staff and representatives of the Division of Rate Counsel no less than 30 days prior to submission of an application to discuss all aspects of the application.
- (e) All applications must be consistent with Board application standards as set forth in Title 14 of the New Jersey Administrative Code.

History

HISTORY:

Amended by R.2013 d.039, effective February 19, 2013.

See: 44 N.J.R. 2102(a), 45 N.J.R. 336(a).

Rewrote (b).

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2020 by the New Jersey Office of Administrative Law
NEW JERSEY ADMINISTRATIVE CODE Copyright by the New Jersey Office of Administrative Law

N.J.A.C. 14:8-6.4

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 52 No. 13, July 6, 2020

NJ - New Jersey Administrative Code TITLE 14. PUBLIC UTILITIES CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

§ 14:8-6.4 Determination of completeness of application

- (a) Upon receipt of the application, Board staff, in consultation with any consultants or other experts retained pursuant to N.J.A.C. 14:8-6.5(a)16, will review the application for administrative completeness in accordance with the requirements set forth in N.J.A.C. 14:8-6.5.
- (b) Board staff will notify the applicant within 30 days of the submission if the application is administratively complete or is deficient. If the application is deficient, the applicant will be advised which items must be remedied to correct the deficiency or deficiencies.
- (c) Once Board staff notifies the applicant that the application is complete as filed, the 180-day period for the Board to approve, conditionally approve, or deny the application will commence on the date the complete application was filed.
- (d) If Board staff has notified the applicant that a deficiency or deficiencies exist, the 180-day period will not commence until all deficiencies have been remedied and the filing is deemed by Board staff to be administratively complete.
- (e) If Board staff notifies the applicant that the application with the remediation of the deficiency or deficiencies is now complete, the 180-day period for the Board to approve, conditionally approve, or deny the application will commence on the last filing date of the remediation of all deficiencies.

History

HISTORY:

Administrative correction.

See: 43 N.J.R. 3198(a).

Amended by R.2013 d.039, effective February 19, 2013.

See: 44 N.J.R. 2102(a), 45 N.J.R. 336(a).

In (a), inserted ", in consultation with any consultants or other experts retained pursuant to N.J.A.C. 14:8-6.5(a)16,".

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2020 by the New Jersey Office of Administrative Law NEW JERSEY ADMINISTRATIVE CODE Copyright by the New Jersey Office of

Administrative Law

N.J.A.C. 14:8-6.5

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 52 No. 13, July 6, 2020

NJ - New Jersey Administrative Code TITLE 14. PUBLIC UTILITIES CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

§ 14:8-6.5 Application requirements

(a) Each application shall meet the requirements set forth in (a)1 through 16 below. The application shall include:

- 1.** Full business information, including the developer's name, primary contact person, website, telephone numbers, e-mail address, and street address;
 - i.** The proposal must list all key employees and include resumes of employees that have an identifiable track record in construction and operation of power plants of similar size and scope;
 - ii.** The applicant shall describe any work done to date by the key employees in developing projects of similar scope, especially any ocean-based energy project or New Jersey large scale energy project siting work;
 - iii.** If the work described was not performed by the entire team, the applicant must delineate the experience or work performed by key employees;
 - iv.** The applicant shall disclose, in detail, any prior business bankruptcies, defaults, disbarments, investigations, indictments, or other actions against either the applicant, its parent company, affiliates, subsidiaries, or any key employees identified in (a)1i above;
 - v.** The applicant shall, for the duration of the project, commit to: notifying the Board, within 30 days, of the departure of any key employee; submitting the expertise and qualifications for any new key employee for approval by the Board; seeking Board approval for any changes to the organizational structure of key employee positions and the level of expertise and qualifications of those key employees; and obtaining prior Board approval for an entity to assume a controlling interest in the proposed project or the approved qualified offshore wind project. Enforcement of this provision shall be a condition of the order granting ORECs;
 - vi.** The applicant is not permitted to reallocate or replace the personnel/resources or key employees they used to obtain the OREC, without prior approval of the Board;
 - vii.** The applicant shall provide documentation, including, but not limited to, letters of intent/commitment/contract, to substantiate any claims that manufacturing services related to the qualified offshore wind project will be sourced from a New Jersey location;
- 2.** A detailed description of the project, including maps, surveys, and other visual aides. The description shall include, but need not be limited to: the type, size, and number of proposed turbines and foundations; the history, to date, of the same type, size, and manufacturer of installed turbines and foundations globally; the configuration of turbine array, location of cable and balance of system equipment, and a description of points of interconnection; a detailed implementation plan and schedule that highlights key milestone activities and completion dates during the permitting, financing, design, equipment solicitation,

manufacturing, shipping, assembly, in-field installation, testing, equipment commissioning, and service start-up; a letter of intent or memorandum of understanding from the turbine manufacturer/supplier to supply the selected turbines; a demonstration of the financial strength of the selected turbine manufacturer/supplier; a declaration from the foundation manufacturer/supplier that states their ability to manufacture and deliver all foundation components within the targeted schedule; a declaration from the undersea cable manufacturer/supplier that states their ability to manufacture and deliver all undersea cable components within the targeted schedule; a letter of intent or memorandum of understanding from the proposed engineering, procurement, and construction (EPC), balance of plant (BOP) contractor, and/or key construction contractors or vendors; a demonstration of the applicant's experience in projects of similar size and scope proposed, including the use of other turbine types; and either selected certified wind turbine generators or provide a detailed certification plan that is underwritten by a certifying body.

i. The project developers shall:

- (1)** Demonstrate applicable experience in projects of the size and scope proposed;
- (2)** Demonstrate that the wind technology is viable, cost competitive, and suitable for use in New Jersey's offshore environment under varying and expected meteorological and climate conditions;
- (3)** Indicate the areas used for all aspects of the project including the location(s), the construction staging area(s), and port usage;
- (4)** Include a map with the location of the site(s) clearly marked by longitude and latitude and the Federal Bureau of Ocean Energy Management, Regulation and Enforcement block numbers;
- (5)** Describe any current uses, conflicts, or characteristics of the ocean and land areas identified pursuant to (a)2i(4) above;
- (6)** Specify whether the project is located at one site, or divided among several sites;
- (7)** Define the attributes which make the site(s) attractive and list any potential problems, constraints or limitations with siting an energy facility at that location or locations;
- (8)** To the fullest extent possible, indicate the major types of equipment that have been selected to be installed, and the characteristics specified;
- (9)** Indicate whether the project team plans to own or lease equipment;
- (10)** Describe the selected equipment, the specifications, warranties, how long it has been commercially available, approximately how many are currently in service, and where they are installed;
- (11)** Include a description of the ability of the equipment to work in New Jersey's offshore and near shore climates and the basis for that conclusion; and
- (12)** Indicate the equipment's delivery time once an order has been placed;

ii. For actual construction, successful applicants are permitted to replace or update equipment identified in the proposal with more technologically advanced equipment that is equal to or better than the equipment identified in the proposal, subject to Board approval.

iii. Applicants shall describe construction plans in detail, identifying proposed subcontractors, with evidence of the capability of performing necessary tasks, as well as proposed time frames for completion of all necessary tasks.

iv. Applicants shall identify all applicable Federal and State statutes and regulations and municipal code requirements, with the names of the Federal, State and local agencies to contact for compliance, and a commitment to provide proof of all such compliance on an ongoing basis.

v. Applicants shall indicate the proposed nameplate capacity for the entire project and the anticipated number of individual units for the selected technology; and estimate the net yearly energy output for the project, accounting for losses and include any assumptions, such as the assumed capacity factor, that are the basis for the estimate. Applicants shall provide a wind resource and energy assessment from a wind energy consultant for the exact manufacturer, model, and specifications of turbines selected for the project. Applicants shall also provide the professional qualifications for the wind energy consultant as an attachment to the application to demonstrate sufficient expertise.

vi. Applicants shall account for, to the fullest extent possible, the coincidence between time of generation for the project and peak electricity demand; provide an estimate, with documented support, of the amount of electrical capacity the project will

make available, that is calculated consistent with PJM rules and procedures; provide an estimate, with support, of the amount of energy being generated over the term of the life of the turbines; and estimate, with support, the level of generation that their proposed project will be able to provide over the life of the equipment, assuming the project runs for the equipment's full life;

3. A complete financial analysis of the project, which includes:

i. Pro forma income statements;

ii. Balance sheets;

iii. Cash flow projections for the proposed OREC period, including the internal rate of return, and a description and estimate of any State or Federal tax benefits that may be associated with the project;

iv. A comprehensive business plan with fully documented estimates of all associated and relied upon revenue and expense projections;

v. A full cost accounting of the project, including total construction, the feasibility study used to determine the construction costs, and decommissioning costs;

vi. Two years of audited financial statements, including accompanying financial notes to these statements, of the applicant and/or parent company in US GAAP. If not in US GAAP, the applicant shall provide an opinion from an accounting firm that attests to the financial statements and accompanying financial notes and the strength of the applicant and/or parent company and has provided professional qualifications that demonstrate that expertise; and

vii. Audited financial statements for two years, in US GAAP, including accompanying financial notes to these statements, for key projects suppliers including, but not limited to, the turbine manufacturer and EPC contractor. If not in US GAAP, the applicant shall provide opinions from an accounting firm that attests to the financial statements, including accompanying financial notes to these statements, and the strength of the key project suppliers and has provided professional qualifications that demonstrate that expertise;

4. The proposed method of financing the project, which includes:

i. Identification of equity investors, fixed income investors, and any other sources of capital;

ii. Evidence such as: a letter of intent to offer credit from credible financiers; a letter of commitment from equity investors; and/or a guarantee from an investment grade party;

iii. A demonstrated ability to finance construction through market sources, which may include tax exempt bond financing through the New Jersey Economic Development Authority;

iv. A detailed financial plan including all sources of capital including, but not limited to, equity, long and short term debt, and other sources. Such financial plan shall include the names, functions and fees of all financial and legal advisors. The plan shall specify if and under what conditions equity or other ownership interests in the project can be transferred to other parties and consideration involved. The developer shall notify the Board in writing of any changes within 30 days and such changes will be subject to Board approval pursuant to this subchapter; and

v. A commitment that audited financial statements shall be filed with the Board on a quarterly and annual basis;

5. Documentation to demonstrate that the developer has applied for all current eligible State and Federal grants, rebates, tax credits, and programs available to offset the cost of the project or provide tax advantages.

i. The developer shall document all Federal or State tax incentives for which it is applying or has applied or otherwise are applicable, even if such incentives have not been sought or approved.

ii. Applicants shall provide in a financial pro forma all tax credits or other subsidies upon which they are relying on in their pricing proposal.

iii. The applicant shall commit that the cost difference in the event that changes in the project reduces or eliminates tax benefits, or tax benefits do not materialize for any reason including changes in tax laws, will not be made up by ratepayers, suppliers, or providers.

iv. The applicant shall demonstrate a commitment to pass along tax credits or other governmental benefits to ratepayers that are greater than projected. This pass along of benefits will be effective without the need for any subsequent Board

approval/confirmation following an initial Board Order approving OREC pricing, and will serve as a condition of the OREC approval;

6. The projected electrical output and anticipated market prices over the anticipated life of the project, including a forecast of electricity revenues from the sale of energy derived from the project and capacity, as well as revenues anticipated by the sale of any ORECs, Renewable Energy Certificates (RECs), air emission credits or offsets, or any tradable environmental attributes created by the project.

i. The applicants shall submit a project revenue plan which forecasts revenues as well as identifies the strategy for offering the electricity provided in the electric market and for generating all expected revenues;

ii. The project revenue plan must link the anticipated revenues to the project time schedule and costs for the entire project lifecycle term extending to the expected life of the turbines and eventual decommissioning;

iii. Applicants shall specify financial expectations and marketing strategies for securing revenue from expected capacity based payments in PJM markets, energy based payments in PJM markets, Renewable Energy Certificate (REC) revenue from Renewable Portfolio Standard (RPS) or voluntary markets, and emission credits from various air emission reduction cap and trade programs;

iv. Proposals must include the total installed capacity in megawatts for the entire project as well as expected term of OREC energy production in megawatt-hours; and

v. The total amount of clean energy being generated over the term of the OREC program and the life of the turbines must also be provided.

7. An operations and maintenance plan for the initial OREC term of the project is required and must:

i. Detail routine, intermittent and emergency protocols;

ii. Demonstrate that the applicant has the financial capacity and technical expertise to perform all necessary upkeep/maintenance over the life of the project;

iii. Identify the primary risks to the built infrastructure and how the potential risks, including, but not limited to, hurricanes, lightning, fog, rogue wave occurrences, and exposed cabling, shall be mitigated;

iv. Describe emergency shut down provisions in the event of a need for the immediate stoppage of turbine blades;

v. Identify specific and concrete elements to ensure both construction and operational cost controls;

vi. Provide proof of insurance;

vii. Be integrated into the financial analysis of the project, and must identify the projected plan for the subsequent operational term, assuming any necessary Federal lease agreements are maintained and renewed; and

viii. Include a complete operation and maintenance plan for the life of the plant;

8. The anticipated carbon dioxide emissions impact of the project. Data must be supplied on the environmental air impacts of each proposed wind-farm;

9. A decommissioning plan for the project including provisions for financial assurance for decommissioning and which complies with any applicable State and Federal statutes and/or regulations.

i. Proposals must estimate an expected useful economic life as well as specify a project decommissioning plan for the technology and installation area proposed.

ii. The decommissioning plan must include the anticipated cost of decommissioning the project based on applicable and/or anticipated regulatory and engineering requirements and provide for the necessary future funding. Segregated decommissioning funds shall be required;

iii. The applicant shall commit that any decommissioning costs in excess of the anticipated costs stated in the application shall not be made up by ratepayers, suppliers, or providers;

10. A list of all State and Federal regulatory agency approvals, permits, or other authorizations required pursuant to State and Federal law for the offshore wind project, and copies of all submitted permit applications and any issued approvals and permits for the offshore wind project.

i. An award to build an OSW facility is contingent upon the successful entity obtaining all required local, State and/or Federal permits and/or approvals.

- ii.** Applicants shall show that they are currently in the PJM queue or that the proposed project is PJM queue eligible.
- iii.** Each applicant shall identify all local, State and/or Federal permits and/or approvals required to build and operate the project and the expected time to obtain such permits and/or approvals. Developers shall provide the Board with copies of each permit or approval within 14 days of receipt by the developer. This is a continuing obligation upon the developer and shall serve as a condition of any OREC award.
- iv.** Applicants shall identify the nature of its ocean lease and land ownership requirements for all aspects of the project including all required interconnection areas.
- v.** Progress must be demonstrated in securing leases and land required, and applicants shall propose a plan for accomplishing remaining steps toward acquiring leases or land ownership. The type and number of entities securing leases or owning land must be indicated.
- vi.** Applicants shall identify each appropriate State or Federal agencies they will be contacting for land acquisition issues and provide the Board with a summary of the required arrangements.
- vii.** Applicants are required to demonstrate adequate financial resources to acquire any land or leases needed to undertake this project.
- viii.** The books and records of the applicant shall be subject to review and audit by the Board, or any other State entity or State designee.
- ix.** The applicant shall supply the Board with filings made to any other regulatory, governmental administrative agency. This includes, but is not limited to, any compliance filings or any inquiries by these agencies;
- 11.** The cost-benefit analysis for the project, to show net benefits for the State, which shall include at a minimum:
 - i.** A detailed input-output analysis of the impact of the project on income, employment, wages, indirect business taxes, and output in the State with particular emphasis on in-State manufacturing employment.
 - (1)** The Board will not specify what input-output models are acceptable, and will allow applicants to use any model that successfully captures New Jersey economic benefits. Suggested models include, but are not limited to:
 - (A)** Rutgers R/ECON model;
 - (B)** Regional Economic Models, Inc. (REMI);
 - (C)** MIG Inc. IMPLAN model; and
 - (D)** The Bureau of Economic Analysis RIMS II model;
 - ii.** Ratepayer net costs with explicit listing of foundations, assumptions and conditions;
 - iii.** Environmental net benefits with explicit listing of foundations, assumptions and conditions;
 - iv.** Other benefits, such as increased in-State activity from construction, operations and maintenance, and equipment purchases;
 - v.** In-State impacts or benefits that need to be included in the cost-benefit analysis-income include, but are not limited to:
 - (1)** Employment;
 - (2)** Wages;
 - (3)** Indirect business taxes; and
 - (4)** Output, with a "particular emphasis" on manufacturing employment. Output refers to the sales of sectors or industries that would be supplying the offshore wind project with materials (such as turbines, steel and cement for support structures, wire for transmission cables) and services (such as construction and installation services, as well as engineering, legal, finance, and other professional services);
 - vi.** Detailed information, including location, type or occupation, and salary for assumed employment impacts within New Jersey. Confirmation of employment impacts must be provided;
 - vii.** The Board will evaluate the credibility of asserted economic benefits. The applicants shall propose consequences if claimed benefits do not materialize, and the employment impact may become conditions of any OREC award;
 - viii.** Applicants shall provide information on any State grants or other subsidies from the New Jersey Economic Development Authority or other agencies associated with the proposed wind project and include the subsidy as part of the project cost-benefit analysis;

- ix.** Direct, indirect and induced effects will be considered in the evaluation, as such effects should be considered as part of the evaluation associated with construction and operation of the project;
- x.** The major assumptions and inputs used in the modeling must be specified by the applicant;
- xi.** The Board staff may ask the applicant to rerun the model with other assumptions and inputs to be provided by the Board staff;
- xii.** The Board staff may test an applicant's cost benefit analysis on its own model, which, preferably, would be the same one used by an applicant but it could be a different one, by replicating the analysis using model inputs supplied by the applicant;
- xiii.** Applicants shall also submit an explanation of the location, type and salary of employment opportunities to be created by the project with job totals expressed as full-time equivalent positions assuming 1,820 hours per year;
- xiv.** Applicants shall provide an analysis of the anticipated environmental benefits and environmental impacts of the project.
- (1)** Each project must document all associated impacts from pre-construction activities through decommissioning including, but not limited to, environmental, water use, water quality, avian, marine mammals, sea turtle, noise, aesthetics, tourism, navigation and endangered species. This includes sea-bed disruption of marine life, morbidity or mortality among avian, mammal or benthic populations, emissions of combustion by-products to the air or oil or other toxic releases to the ocean, or solid waste generation.
- (2)** Applicants shall specifically describe how their activities will be coordinated with the New Jersey Department of Environmental Protection (NJDEP) Ecological Baseline Studies, and indicate how each resource issue, if impacted, will be addressed.
- (3)** The applicant shall provide information regarding the direct emissions impacts of the project, including carbon dioxide, sulfur dioxide, particulate emissions, as well as other relevant environmental impacts, such as impacts on the marine environment.
- (4)** The applicant shall provide an assessment of environmental impacts from the project compared to other similar Class I renewable energy projects.
- (5)** Environmental impacts (direct and comparative) must be quantified to the extent they are significant and it is possible to quantify them.
- (6)** The comparative environmental impacts shall be monetized, to the extent possible, for evaluation as part of the overall cost-benefit analysis; and
- xv.** Applicants shall submit an analysis of the potential positive and negative impacts on residential and industrial ratepayers of electricity rates over the life of the project that may be caused by OREC requests;
- 12.** A proposed OREC pricing method and schedule for the Board to consider.
- i.** An electric power supplier or basic generation service provider shall comply with the OREC program through the purchase of ORECs at a price and for the time period required by the Board.
- ii.** Payment will not occur until electricity is produced by a qualified offshore wind project.
- iii.** The burden remains on the applicant to propose a reasonable OREC price. The Board will then accept, modify or reject the proposed price of the OREC and the associated term. The Board requires a fixed, flat OREC price for the proposed term or a fixed price for every contract year. All proposals must include a total price that reflects capacity, energy and other elements of generation.
- iv.** OREC pricing will be on a pay for performance basis, with payments to be on a \$/MWh basis, subject to any quantity caps, with the offshore wind developer responsible for any cost overruns. Ratepayers will not be responsible for any cost overruns and for costs associated with non-performance.
- v.** If the pricing proposal satisfies the cost-benefit standards set forth in the statute and the Board's regulations, the Board may approve the application subject to the application satisfying other required conditions.
- vi.** The Board may conditionally approve an application at a lower OREC price if that OREC price would allow an applicant to satisfy the cost-benefit standards. The applicant may then accept or reject the lower OREC price.
- vii.** The OREC pricing method shall represent the calculation of the price based on the total revenue requirements of the project over a 20-year period including the cost of equipment, financing, taxes, construction, operation, and maintenance,

offset by any state or Federal tax or production credits and other subsidies or grants. The value of the electricity and related capacity payments associated with the ORECs shall not be deducted when calculating the OREC price.

viii. OREC pricing proposals shall specify:

- (1)** Total equipment, construction, operation, and maintenance costs of the project;
- (2)** Tax credits, subsidies, or grants the project will qualify for;
- (3)** Debt service costs and return on equity assumptions;
- (4)** Taxes and depreciation assumptions;
- (5)** The nameplate capacity of the project;
- (6)** The expected energy output of the project;
- (7)** The assumed capacity factor and the number of ORECs to be produced by the project; and
- (8)** The price per OREC (megawatt hours (MWh)) necessary to make the project commercially viable.

ix. The value of electric energy, capacity payments, and any other environmental attributes or other benefits shall be returned to ratepayers for the term of the OREC pricing method. Such other benefits include, but are not limited to, tax credits, subsidies, grants, or other funding not previously identified in the application and not included in the calculation of the OREC price submitted to the Board. To the extent that the project produces energy revenues exceeding those associated with the sale of ORECs, the applicant may propose that it retain up to 25 percent of the incremental energy revenues, but not any other environmental attributes or other benefits, with the remainder to be returned to ratepayers. The annual amount of revenues from whatever source expected to be generated by the project shall be reflected in the revenue plan;

13. A timeline for the permitting, licensing and construction of the proposed offshore wind project. The proposal must specify the expected project time requirements in the aggregate from start to finish as well as the time required to accomplish each specific activity related to project design, resource monitoring, impact studies, permitting, construction, and decommissioning activities with associated milestones delineated for each category of activity;

14. A plan for interconnection, including engineering specifications and costs.

i. Applicants shall document tasks required and discuss issues associated with electrical interconnection, including the distance between the project and a suitable point to interconnect with the electrical grid. Each proposed point of interconnection shall be discussed.

ii. Land acquisition requirements, new equipment to be installed, upgrades to existing equipment required, and any feasibility studies required and the time frame for review must be identified.

iii. A detailed description of how the proposed project will address and mitigate load constraints in the electric distribution and PJM transmission system must be included for each site.

iv. The proposal must demonstrate to the greatest extent possible how the project will address current or potential future load pocket or constraint problems with the electric distribution system and the PJM transmission system.

v. The applicant shall indicate the location of transmission lines and all points of interconnection to the PJM system serving New Jersey.

vi. Applicants shall provide information to the Board for costs associated with network upgrades that flow from the project even if not directly caused by the interconnection;

15. All applicants must place a minimum of \$ 100,000 on deposit with the State to reimburse the Board for the costs of consultants and other costs associated with the review of the application.

i. Board staff will direct the applicant, if appropriate, to place an additional amount on deposit with the State, based upon the current and expected costs associated with the application review and related administrative proceedings.

ii. Failure to replenish the account to the level required by Board staff within 21 days of notification will serve to render the application incomplete and toll the time for review.

iii. Subsequent to approval of a qualified offshore wind facility, the successful applicant may, at the direction of Board staff, be required to place additional amounts on deposit with the State for the purpose of reimbursing the Board for costs related to regulatory review of the project, including, but not limited to, consulting services, oversight, inspections, and audits; and

16. Any other information deemed necessary by the Board in order to conduct a thorough evaluation of the proposal. The Board may hire consultants or other experts if the Board determines that obtaining such outside expertise would be beneficial to the review of the proposal.

(b) In considering an application for a qualified offshore wind project, submitted pursuant to (a) above, the Board shall determine that the application satisfies, at a minimum, the following conditions:

- 1.** The filing must be consistent with the New Jersey Energy Master Plan, adopted pursuant to section 12 of P.L. 1977, c. 146 (N.J.S.A. 52:27F-14), in effect at the time the Board deems the application complete;
- 2.** The cost-benefit analysis must demonstrate positive economic and environmental net benefits to the State because it is a key component of the legislation;
- 3.** The comparison of purchases of Class I RECs to out-of-State wind projects;
- 4.** An applicant's cost-benefit analysis must provide three basic types of information:
 - i.** Impacts on New Jersey ratepayers: an analysis of the potential impacts on residential and industrial ratepayers of electricity rates over the life of the project that may be caused by incorporating any State subsidy into rates;
 - ii.** Net benefits to the New Jersey economy through impacts on income, employment, wages, indirect business taxes, and output, with particular emphasis on in-State manufacturing employment; and
 - iii.** Net environmental effects of the project;
- 5.** Applicants shall show that the financing mechanism is based upon the actual electrical output of the project, and fairly balances the risks and rewards of the project between ratepayers and shareholders. Applicants shall ensure that any costs of non-performance, in either the construction or operational phase of the project, shall be borne by shareholders; and
- 6.** Applicants shall demonstrate financial integrity and sufficient access to capital to allow for a reasonable expectation of completion of construction of the project.
 - i.** Applicants shall prove that they have the financial resources to perform the proposed work, appropriate technical expertise, access to adequate facilities or the ability to get them, a good performance record and be qualified under all applicable laws and regulations.
 - ii.** Applicants shall submit audited financial statements or other evidence of adequate financial capacity to the Board in order to ensure that the project can be successfully completed as proposed.

History

HISTORY:

Amended by R.2013 d.039, effective February 19, 2013.

See: 44 N.J.R. 2102(a), 45 N.J.R. 336(a).

Rewrote (a).

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2020 by the New Jersey Office of Administrative Law
NEW JERSEY ADMINISTRATIVE CODE Copyright by the New Jersey Office of Administrative Law

N.J.A.C. 14:8-6.6

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 52 No. 13, July 6, 2020

NJ - New Jersey Administrative Code TITLE 14. PUBLIC UTILITIES CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

§ 14:8-6.6 Funding mechanism

(a) Once the Board has approved an offshore wind project under this subchapter, the qualified OSW project shall be funded through an Offshore Wind Renewable Energy Certificate (OREC) as set forth in this subsection and in accordance with the following fundamental principles:

1. A Board Order that approves a qualified OSW project shall be binding and enforceable on all parties referenced therein;
2. The total annual OREC allowance for a qualified OSW project, once approved by the Board, shall not be subject to reduction or modification during the term of each OREC order unless otherwise agreed to by both parties;
3. A developer of a qualified OSW project shall be eligible to receive the project's approved OREC rates and payments for 20 years subject to the terms and conditions of the Board Order;
4. Qualified OSW projects shall only be entitled to OREC revenues for megawatt hours (MWhs) actually generated over the 20-year term delineated in the Board Order, and shall have no recourse against the Board, the suppliers, the EDCs, the OREC administrator, or the ratepayers for any additional payments;
5. ORECs from a qualified offshore wind project shall have a qualification life of three years, including the year it was generated and the following two years, thus, allowing ORECs to be banked for future use; and
6. All revenues generated by an OSW project shall be returned to ratepayers.

(b) The Board Order granting approval of a qualified OSW project, pursuant to the provisions of N.J.A.C. 14:8-6.5 for designation as a qualified OSW project, shall conform to the provisions of this section and shall include, but not be limited to:

1. A commercial operations date (COD) after which ORECs may be generated, priced, sold, or otherwise attributed to the project;
2. The annual OREC allowance expressed as the total number of MWhs for which a project may be eligible to receive payment of ORECs. This amount shall be based on the total installed capacity of the project, projected capacity factor, and total number of hours of operation per year and any other factors identified by the applicant, consistent with this subchapter;
3. An OREC schedule showing the scheduled amount of ORECs that a project may submit for payment for each month of the year, with the total monthly scheduled amounts equal to the annual OREC allowance;
4. A qualified offshore wind project may not exceed the annual OREC allowance in any given year. Any unmet OREC allowances in a given year may be carried forward to the next year;
5. A requirement that the qualified OSW project comply with the standard participation agreement with the OREC administrator. The standard participation agreement and any subsequent modifications shall be developed by the OREC administrator and approved by the Board;

6. A requirement that all project revenues are refunded to ratepayers;
7. A calculated OREC surcharge for the OSW project, using the anticipated in-service or COD date, based on the OREC price of each approved OSW project multiplied by the estimated annual OREC production in MWhs and divided by the total forecasted load of EDCs plus any applicable sales tax;
8. A directive to each EDC to serve as payment agent on behalf of the suppliers in the EDC's territory;
9. A requirement that the project report annually to the OREC administrator and to the Board on actions taken by the developer to maximize production and revenues;
10. A requirement that the project reports on the policies that may be adopted by the Board to help reduce future OREC pricing and the total ratepayer impact;
11. Annual reporting requirements to ensure RPS compliance and to facilitate the OREC administrator's annual true up to ensure that all obligations have been met;
12. A fixed, flat OREC price for the proposed term or a fixed price for every contract year pursuant to this section;
13. An approved decommissioning plan; and
14. An approved plan for the OSW project, if it is not decommissioned immediately at the conclusion of the approved 20-year term of OREC funding.

(c) The Board shall direct each EDC to serve as payment agent on behalf of the suppliers in each EDC territory to facilitate the transfer of OREC funding payments from ratepayers to offshore wind developers. As payment agent, each EDC shall:

1. File with the Board a tariff no later than 180 days prior to the COD date to collect a non-bypassable OREC surcharge to be assessed as a distribution charge that will be sufficient to meet each supplier's OREC obligation;
2. Implement the ratepayer surcharge based on the Board-approved total annual OREC allowance multiplied by the OREC price, and expressed as a per kilowatt hour (kWh) charge to be collected from all ratepayers on behalf of the suppliers;
3. The amount of the OREC surcharge shall be set by the Board annually, and shall become effective on the first day of each energy year, and shall be equal to the forecast revenue requirements of all OREC purchases divided by the total of estimated sales for each EDC, and shall include all applicable taxes and fees;
4. Begin collecting the OREC surcharge four months in advance of the OSW project COD to ensure that adequate funds will be available to complete the initial OREC payment to the OSW developer;
5. Establish separate accounts for each OSW project to ensure that OREC funds for an OSW project are collected and dedicated to each OSW project individually and shall not be intermingled with any other OSW project;
6. Make monthly OREC payments to OSW developers based on the actual number of MWhs produced by the OSW project, until the total annual OREC allowance approved by the Board Order has been reached;
7. Facilitate and execute the transfer of all revenues generated by an OSW project from the OSW developer to the ratepayers as directed by this section and in accordance with N.J.S.A. 48:3-87.1;
8. Provide detailed, monthly accounting reports to the OREC administrator of all transactions, account balances, and any other information requested by the Board or the OREC administrator related to the obligations identified in this section;
9. Participate in any and all true up proceedings, to be conducted by the OREC administrator, as prescribed by the Board; and
10. File with the Board annually for recoverable charges for the administrative fees incurred as payment agent and for the OREC administrator fees.

(d) The Board shall direct the EDCs to enter into a joint contract to retain an OREC administrator. The contract shall be competitively bid to ensure the most efficient and cost competitive price for ratepayers. The OREC administrator shall:

1. Be independent of any supplier, EDC, or qualified OSW developer, affiliate, investor, and/or employee;
2. Serve as the sole administrator for accounting, compliance, invoicing, and other administrative matters related to or arising from the OREC obligations of qualified OSW facilities pursuant to OWEDA;
3. Notify the EDCs at the beginning of each energy year the total offshore wind carve-out obligation and total surcharge on ratepayers to be collected consistent with the Board Order, as well as the amount to be collected for each qualified offshore wind project and to be held in a separate account;
4. Facilitate all transactions between ratepayers, suppliers, EDCs, and OSW developers;

- 5.** Set up a PJM-EIS GATs account to facilitate the transfer of ORECs from the OSW developers to suppliers;
 - 6.** Develop a payment tracking and verification system, subject to Board approval, to track all transactions that shall account for, at a minimum:
 - i.** All payments due by EDCs on behalf of suppliers to OSW developers;
 - ii.** All project revenues from OSW developers to be refunded to ratepayers through the EDCs;
 - iii.** All project revenues held by OSW developers in a reserve account;
 - iv.** All ORECs held in PJM EIS GATs accounts for transfer from OSW developers to suppliers;
 - v.** The final retirement of all ORECs by suppliers in compliance with the RPS offshore wind carve-out;
 - vi.** Supplier load data from PJM in order to confirm each supplier's annual OREC obligation;
 - vii.** EDC load data in order to confirm each EDC's relative share of the annual OREC obligation and ratepayer surcharge;
 - viii.** OSW production data from OSW developers and PJM in order to confirm project performance and all associated revenues in the form of ORECs and project revenues;
 - ix.** All project revenues including PJM revenues paid to the project for energy, capacity and ancillary services as well as any penalties incurred by the project.
 - x.** The monthly transfer of ORECs from qualified OSW projects to a PJM-EIS GATs account managed by the OREC administrator and the transfer of all project revenues to EDCs for refund to ratepayers;
 - xi.** The transfer of ORECs on a quarterly basis via a PJM-EIS GATs account to the suppliers;
 - xii.** Receipt of payment by a qualified OSW project for its annual OREC allowance, based on actual generation and at the price and quantities established in their OREC order issued by the Board;
 - xiii.** Receipt of all project revenues by EDCs for which ratepayers are entitled to a refund;
 - xiv.** Refunds of all project revenues to ratepayers; and
 - xv.** All ORECs that have been banked by OSW developers to meet the supplier obligations in any given year;
 - 7.** Conduct a true up two times each energy year at six months and at 12 months of the energy year. The 12-month true up shall be completed and submitted to the Board no later than 90 days after the close of the energy year in accordance with this subchapter to ensure compliance with the OSW RPS and to advise the Board in a technical capacity of any necessary modification to the OSW carve-out and annual RPS percentage three years out;
 - 8.** Reasonable administrative costs related to the OREC administrator shall be recoverable by the EDCs. An accounting of such costs will be provided by the EDCs in writing on an annual basis to Board staff and Rate Counsel. Board staff and Rate Counsel shall submit any objections within 60 days; and
 - 9.** Any changes proposed by the OREC administrator to a Board-approved system shall be submitted to the Board for approval.
- (e)** Offshore wind developers, for each qualified OSW project, in addition to any other responsibilities that may be required in the Board Order, shall:
- 1.** Take all reasonable efforts and due diligence to maximize revenues from the qualified OSW project;
 - 2.** Establish and maintain a PJM-EIS GATs account to track and document the number of ORECs generated, transferred, and retired.
 - i.** The PJM-EIS GATs account shall serve as the basis of verification of the issuance of one OREC for each MWh of electricity that is generated by the qualified OSW project;
 - 3.** Account for all ORECs held in the qualified OSW project's GATs account, which shall be the sole and exclusive property of such approved project and may be transferred to the OREC administrator on behalf of suppliers at the discretion of the project owner;
 - 4.** At the end of each month, each OSW developer shall provide to the OREC administrator proof of all ORECs that were issued into their GATs account in that month;
 - 5.** At the end of each month, each OSW developer shall submit an invoice to each of the EDCs, who act as the designated payment agent for suppliers, for payment of ORECs. The monthly invoice shall detail the total number of MWhs generated by

the project that month and the number ORECs available for sale multiplied by the approved OREC price. The invoice shall also include notice of all project revenues generated that month and due to be refunded to ratepayers;

6. The OREC administrator shall be copied on, and shall approve, all monthly invoices sent to the EDCs for payment;

7. A qualified offshore wind project may submit ORECs for payment based on its actual monthly production up to the approved annual OREC allowance. It may exceed the scheduled monthly allowance in a given month, but may not exceed the annual OREC allowance in a given year;

8. A qualified offshore wind project may carry forward any unmet OREC allowances in a given month to the following month; and

9. A qualified offshore wind project may carry forward any unmet annual OREC allowance in a given year to the next year.

(f) Offshore wind developers shall be responsible for the collection and transfer of all project revenues on behalf of ratepayers as follows:

1. A qualified OSW project shall return all revenues associated with the OSW project to ratepayers;

2. All project revenues shall be held in an interest bearing account to be distributed to ratepayers as set forth under this section;

3. A qualified OSW project may hold project revenues including, but not limited to, PJM revenues, which include all revenues paid to the OSW developers by PJM for the sale of electricity, capacity, and ancillary services to the grid, for a period of three months;

4. If held, PJM revenues shall at the expiration of three months, and upon confirmation of receipt by the OSW project of OREC payment for the corresponding MWhs, then be released for refund to ratepayers on a continuing, monthly basis. Any unmet OREC obligation may be covered by the PJM revenues contingent upon at least 10 days prior notice to the OREC administrator;

5. The qualified OSW project shall provide a monthly accounting to the OREC administrator of all project revenues received, held, and distributed;

6. The OREC administrator shall verify that all project revenues not used for an approved use, are refunded to ratepayers;

7. PJM revenues shall be available for use by the qualified OSW project to:

i. Cover the monthly OREC obligation until full payment is made;

ii. Cover OREC payments during the resolution of an event of EDC default, under-payment, or non-payment by the payment agent;

iii. Upon receipt of payment for ORECs, all PJM revenues associated with the OREC are due to be paid with interest to EDCs for refund to ratepayers; and then

iv. For any purpose deemed necessary, during the period in which they are held in an interest bearing account pending payment for the related ORECs, to ensure that all qualified OSW projects receive their full approved OREC revenues on a timely basis, including, but not limited to, covering seasonal mismatches between OREC purchases and OREC production.

History

HISTORY:

New Rule, R.2019 d.009, effective February 19, 2019.

See: 50 N.J.R. 1879(a), 51 N.J.R. 219(b).

Section was "Funding mechanism (Reserved)".

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2020 by the New Jersey Office of Administrative LawNEW JERSEY ADMINISTRATIVE CODE Copyright by the New Jersey Office of

Administrative Law

N.J.A.C. 14:8-6.7

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 52 No. 13, July 6, 2020

NJ - New Jersey Administrative Code TITLE 14. PUBLIC UTILITIES CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

§ 14:8-6.7 Annual true up

(a) Concurrent with the RPS compliance report required by N.J.A.C. 14:8-2.11, but no sooner than October 1st following the end of each energy year, an annual true up shall be conducted by the OREC administrator, suppliers, qualified OSW projects, and EDCs, with the oversight of the Board, consisting of the following:

1. Verification of supplier OREC obligation.

i. Each supplier's total annual OREC obligation is calculated based on actual retail sales and the OSW carve-out.

ii. Suppliers shall acquire additional OREC purchases or OACP credit, as necessary, to comply with the OSW carve-out.

iii. If, during the annual true up, the Board determines that a supplier did not meet its OREC obligation, the Board shall initiate whatever action necessary to ensure compliance, in accordance with existing RPS rules.

iv. If a supplier exits the New Jersey market because of bankruptcy or any other reason, the Board shall ensure that the OREC obligation is met for any energy delivered by that supplier, and that any supplier that steps into the exiting supplier's energy delivery obligations also meets the corresponding OREC obligations or the obligation shall be equally redistributed among all suppliers in the following energy year;

2. Verification of the annual OREC allowance.

i. Each qualified OSW project's total OREC submission for the energy year is confirmed as not exceeding its annual OREC allowance under its OREC order and consistent with the projects performance. Monthly OREC allowances may be exceeded, as long as the total OREC allowance is not exceeded.

ii. If it is determined that a qualified OSW projects did not meet its annual OREC allowance, it has the opportunity to submit any ORECs from the current year or banked ORECs to make up the short fall as part of the annual true up, but has no recourse if it does not have the ORECs to provide;

3. Verification of all project revenues.

i. Qualified OSW projects shall confirm or demonstrate to the OREC administrator that all project revenues have been delivered to the EDCs, which are to be refunded to ratepayers, with appropriate exceptions.

ii. Qualified OSW projects shall immediately make up any PJM revenue shortage to the EDCs to be refunded to ratepayers, except to the extent the OSW project retained PJM revenues for an allowable use such as reserve fund;

4. When an OSW project has reached the end of its 20-year term during the energy year, the Board shall confirm that all PJM revenues associated with, or necessary for, the project ending its 20-year term have been submitted to the EDCs to be refunded to ratepayers;

5. The EDCs shall submit as part of their annual filings, the revenues received from the OSW developers as verified by the OREC administrator to be credited against the OREC surcharge for the benefit of ratepayers or otherwise credited to the ratepayers as directed by the Board. The OREC administrator shall compare these filings with the annual OREC administrator reports to ensure that all revenues due to ratepayers were provided to the EDCs and that all of those revenues have been credited to the ratepayers as directed by the Board;
6. The OREC administrator shall review and report on all OREC administrator transactions and accounts, including those that took place during the annual true up. All reports or findings of this review shall be provided to the Board, each of the EDCs, Rate Counsel, and shall be made available to the public on a website;
7. The OREC administrator, in consultation with the Board shall, at the end of the annual true up, conduct a review of the OSW carve-out and annual ratepayer surcharge amount and, if necessary, recommend adjustments to the OSW carve-out and the ratepayer surcharge;
8. All adjustments to the RPS shall be made three years in advance, if at the end of the annual true up it is determined that:
 - i. All qualified OSW projects have submitted no more than their annual OREC allowance, but have ORECs remaining; and
 - ii. All suppliers have met their OSW carve-out requirement through the purchase of ORECs. Qualified OSW projects may hold any ORECs for an additional two years or sell the ORECs for Class I RPS compliance;
9. Adjustments to the OSW purchase percentage if set too low, within 30 days following the receipt of a notice of insufficient OREC demand by the OREC administrator, EDC, or a qualified OSW project, the Board shall direct the OREC administrator to adjust the OSW purchase percentage;
10. If the OREC administrator determines that there are not enough ORECs in a given year to meet the suppliers' obligation, and there are no banked ORECs available, the OREC administrator may direct the EDCs, as the suppliers' payment agent, to make OACP payments, from the pre-collected OREC surcharge funds, to satisfy the RPS; and
11. The qualified OSW project shall retain ownership of any excess ORECs. The qualified OSW project, at its sole discretion, may use excess ORECs in either of the following ways:
 - i. Hold the excess ORECs in order to submit them to the EDC for payment in a future month or year in which the project might have a production deficit; or
 - ii. Apply the excess ORECs toward the OSW carve-out during the OREC lifetime.

History

HISTORY:

New Rule, R.2019 d.009, effective February 19, 2019.

See: 50 N.J.R. 1879(a), 51 N.J.R. 219(b).

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2020 by the New Jersey Office of Administrative Law
NEW JERSEY ADMINISTRATIVE CODE Copyright by the New Jersey Office of
Administrative Law