

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

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Petition of NSTAR Electric Company d/b/a))
Eversource Energy for Approval of Proposed))
Long Term Contracts for Offshore Wind) D.P.U. 20-16
Energy Generation Pursuant to Section 83C of))
An Act Relative to Green Communities, St.))
2008, c. 169, as amended by St. 2016, c. 188,))
§ 12))
_____)

_____))
Petition of Massachusetts Electric Company))
and Nantucket Electric Company d/b/a))
National Grid for Approval of Proposed Long) D.P.U. 20-17
Term Contracts for Offshore Wind Energy))
Generation 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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Petition of Fitchburg Gas and Electric Light))
Company d/b/a Unitil for Approval of))
Proposed Long Term Contracts for Offshore) D.P.U. 20-18
Wind Energy Generation Pursuant to Section))
83C of An Act Relative to Green))
Communities, St. 2008, c. 168, as amended by))
St. 2016, c. 188, §12))
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**MOTION OF MAYFLOWER WIND ENERGY LLC
FOR A ONE MONTH SUSPENSION IN THE PROCEEDINGS**

Pursuant to 220 C.M.R. §§ 1.02(5) and 1.04(5), Mayflower Wind Energy LLC (“Mayflower Wind”) hereby moves the Department of Public Utilities (“Department”) to suspend proceedings in the above-captioned dockets with regard to the review of amendments to the long-term power purchase agreements (the “PPAs”) between the Petitioners (“Petitioners” or

“EDCs”) and Mayflower Wind for thirty days with the potential to extend that pause, as described further below.

As set forth herein, a one-month suspension would allow the parties time to consider highly relevant developments that have occurred since the initial Department approval of the PPAs, and since the EDCs negotiated, executed and filed the amended PPAs in the above-captioned proceedings in May, 2022. Specifically, this suspension would allow the parties to the PPAs to examine the economic effect of unprecedented commodity price increases and other inflationary impacts, interest rate hikes, and supply shortages on the PPAs and on the Mayflower Wind offshore wind generation project (the “Clean Energy Resource” or the “Project”), including whether the Clean Energy Resource remains economic and financeable, under the current terms of the PPAs.

A one month suspension would enable the parties to consider potential approaches to help ensure that the Clean Energy Resource is economic and financeable under the PPAs. That assurance is especially important in this case, because the Mayflower Wind Project is one of the few first-mover offshore wind projects in the region. As such it is a critically important project for advancing the Commonwealth’s public policy requirements. These requirements include, among others, substantial reductions in greenhouse gas emissions, significant increase in clean energy supply from offshore wind, and development of the offshore wind industry as an important driver of the Massachusetts economy. Approaches to be explored by the PPA parties during the suspension could include cost saving measures, any applicable tax incentives under the newly enacted Inflation Reduction Act (IRA),¹ and an appropriate increase in the PPA prices to help establish sound economics and financeability for the Clean Energy Resource.

¹ Pub. L. No. 117-169, 136 Stat. 1818, signed into law on August 16, 2022.

Mayflower Wind proposes to use the suspension to also determine whether additional time, beyond the period requested in this motion, is needed to resolve the appropriate path forward for the PPAs. Mayflower Wind commits to file a status report before the expiration of the thirty day suspension of the proceeding, and in the report to specify whether a further suspension of this proceeding would be appropriate to allow the PPA parties additional time to discuss potential solutions to identified issues.

A suspension at this time is needed and appropriate because, under the current PPAs, the Clean Energy Resource may no longer be economic and financeable without adjustments to the PPAs. A suspension now to examine and address the economics and financeability of the Clean Energy Resource under the PPAs would be consistent with Section 83C(a), which states that the purpose of Section 83C is to “facilitate the financing of offshore wind energy generation resources.”² A one-month delay would be appropriate because it would give the parties an opportunity to evaluate the current situation facing the Clean Energy Resource and potentially agree in concept upon changes to the PPAs, or other measures, that could help ensure the economics and financeability of the Clean Energy Resource, consistent with Section 83C, in light of the global inflation and supply chain issues that have only increased and accelerated since the execution and filing of the amended PPAs.

A suspension of this proceeding is also appropriate as a matter of administrative efficiency. It would allow the parties an opportunity to assess recent developments in the global economy and supply chain and ensure that the record before the Department reflects current realities. It would be inefficient and unproductive to continue with briefing and deliberations on the amended PPAs in this proceeding without fully considering the effect of these recent

² Green Communities Act, St. 2008 c. 169 § 83C.

macroeconomic developments on the PPAs under review and whether, in light of the circumstances, amendments to the PPAs are necessary and in the public interest. Otherwise, this process could run its course, culminating with a decision on the PPAs, only to have *further* amendments to the PPAs filed later, triggering a third adjudicative process.

Mayflower Wind has previously raised the issues addressed in this Motion with all other parties, and requested the parties' assent to pausing this proceeding with regard to the PPAs, but has not yet received that assent. Those discussions will continue and Mayflower Wind commits to diligently pursue good faith negotiations during the course of a pause in this proceeding.

I. PROCEDURAL BACKGROUND

On February 10, 2020, pursuant to Section 83C, the EDCs originally filed a Petition with the Department seeking approval of long-term contracts to purchase offshore wind energy generation with Mayflower Wind. The Department docketed the Petition in separate dockets for each EDC, Docket Nos. D.P.U. 20-16, D.P.U. 20-17 and D.P.U. 20-18. The agreements were entered into pursuant to a solicitation run by the Massachusetts Department of Energy Resources (DOER) in coordination with the EDCs pursuant to Section 83C II in 2019.³ On October 30, 2019, Mayflower Wind was announced as the winning bidder by the EDCs and on January 14, 2020, Mayflower Wind and the EDCs executed the final 83C II PPAs. After the PPAs were filed at the Department, an adjudicatory proceeding took place, which included discovery and testimony from DOER, the Massachusetts Office of the Attorney General (AGO) and the Department.⁴ An evidentiary hearing was conducted on July 27 and 28, 2020 and several parties

³ The 83C II solicitation was brought about by the passage of *An Act to Promote Energy Diversity*, St. 2016 c. 188.

⁴ Mayflower Wind intervened as a limited participant in the docket on March 6, 2020, which was accepted by the Department on March 20, 2020.

filed initial and reply briefs. On November 5, 2020, the Department issued an order approving the 83C II PPAs.

After approval of the 83C II PPAs, largely due to transmission and interconnection constraints on Cape Cod identified by ISO New England Inc., Mayflower Wind determined that the delivery point in the 83C II PPAs needed to move from Cape Cod to Brayton Point in Somerset, Massachusetts. The change in delivery point allows Mayflower Wind to take advantage of robust transmission infrastructure that exists at Brayton Point, which will allow for timely and feasible interconnection.

Due to this change and other amendments to the PPAs, the EDCs, pursuant to Section 83C, the EDCs filed a motion with the Department seeking approval of amendments to long-term contracts to purchase offshore wind energy generation with Mayflower Wind on May 25, 2022 in the same Department dockets (Docket Nos. D.P.U. 20-16, D.P.U. 20-17 and D.P.U. 20-18 (Motion to Amend)). Mayflower Wind, already a limited participant to the proceeding, filed comments in support of the Motion to Amend on June 14, 2022. On June 29, 2022, the Department established a deadline of July 14 for filing comments in response to the Motion to Amend; comments were received by DOER and the AGO. The proceeding is currently in the discovery phase.

II. STANDARD OF REVIEW

The Presiding Officer has discretion to establish and amend a procedural schedule in the interest of efficiently and fully developing the record necessary in an adjudicatory proceeding, including by extending applicable time limits. *See* 220 C.M.R. § 1.06(5)(b); *see also* 220 C.M.R. § 1.02(5) (regarding extensions of time).

III. ARGUMENT

The Department should suspend proceedings in the above-captioned dockets with regard to the review of the PPAs for thirty days, subject to Mayflower Wind filing a status report, individually or with other parties, before the expiration of thirty days from the date this motion is granted and indicating whether additional time may be needed to appropriately address the issues described above.

As has been publicly reported in recent weeks, global commodity price increases, in part due to ongoing war in Ukraine, sharp and sudden increases in interest rates, prolonged supply chain constraints, and persistent inflation have significantly increased the expected cost of constructing the Clean Energy Resource.⁵ On October 20, 2022, Commonwealth Wind Energy LLC moved for a similar suspension of the Section 83C III PPA approval proceeding in D.P.U. 22-70, 22-71 and 22-72. Today, Mayflower Wind filed its response in support of that motion.

Mayflower Wind has concerns regarding the economics and financeability of the Clean Energy Resource given the macroeconomic conditions described above. As stated above, the purpose of Section 83C is to facilitate the financing of offshore wind energy generation resources. Therefore, it would be appropriate to pause this proceeding to: (i) allow the PPA parties time to discuss the potential for further amendments to the PPAs; (ii) help ensure sound economics and financeability of the Project, consistent with the purpose of Section 83C; and (iii) help meet the important public policy requirements of the Commonwealth related to clean energy, climate change and offshore wind. Additionally, given current supply chain issues, the

⁵ For instance, the issue was noted in the Boston Globe on September 22, 2022. See John Chesto, *Supply Chain Issues slow Development of Major Mass. Offshore Wind Farm*, available at: <https://www.bostonglobe.com/2022/09/22/business/supply-chain-issues-slow-development-major-mass-offshore-wind-farm/>.

PPA parties should also consider whether adjustments to existing milestones in the PPAs are necessary or otherwise appropriate.

Mayflower Wind remains fully committed to the Clean Energy Resource and to its related transmission connector projects. Mayflower Wind is committed to having its Project help meet the important public policy requirements described above in a cost-effective manner for the benefit of the Commonwealth and the region. The need for the Clean Energy Resource is more evident than ever, given legislative requirements and the need for a diverse and secure energy supply from local clean energy resources.⁶ Failure to appropriately address deficiencies in the PPAs and recognize the impact of the extraordinary macroeconomic conditions that have developed recently will only be counter to successfully moving the offshore wind industry and its substantial benefits forward for Massachusetts and the region.

A short suspension of this proceeding would give the PPA parties needed time to assess the significance of changed global economic conditions. It would also put all parties and the Department in the best position to fully incorporate these realities into the record and their decision-making processes so as to deliver the best outcome for the Commonwealth and customers. Absent time for the PPA parties to assess the significance of these developments to

⁶ Massachusetts has indicated a strong public policy in favor of diversifying its energy supply to include the reliable energy produced by offshore wind, as well as the economic advancement of the offshore wind industry and the reduction of greenhouse gases by replacing carbon emitting resources with zero-emission resources like offshore wind. *See e.g., Global Warming Solutions Act*, St. 2008 c. 298, *the Green Communities Act*, St. 2008 c. 169, *An Act to Promote Energy Diversity*, St. 2016 c. 188, *An Act to Advance Clean Energy*, St. 2018 c. 227, *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy*, St. 2021 c. 8, *An Act Driving Clean Energy and Offshore Wind*, St. 2022 c. 179. As has been reported by ISO-NE and governmental authorities, offshore wind facilities in New England can help to reduce power costs and reduce stress on the grid during times of extreme winter weather. *See e.g.,* ISO New England, 2019 Economic Study: Offshore Wind Integration (2020) https://www.iso-ne.com/static-assets/documents/2022/07/2021_ncsp_pjm_nyiso_iso_ne_final.pdf; ISO New England System Planning Department, High-Level Assessment of Potential Impacts of Offshore Wind Additions to the New England Power System During the 2017-2008 Cold Spell (2018) https://www.iso-ne.com/static-assets/documents/2018/12/2018_iso-ne_offshore_wind_assessment_mass_cec_production_estimates_12_17_2018_public.pdf.

the PPAs and the ability of the PPAs to advance the purposes of Section 83C, parties in this proceeding will present evidence and file briefs on facts and issues not well connected to the PPAs under current macroeconomic conditions. The Department will not be in the best position possible to evaluate the PPAs realistically under applicable law. No one will benefit from a Department decision concerning PPAs that do not allow the Project to be economic and financeable and carry out the purpose of Section 83C and the public policy requirements of the Commonwealth related to clean energy, climate change and offshore wind.

Mayflower Wind's purpose in pursuing this Motion is to advance the Project in an expeditious, transparent and ultimately successful manner, not to cause undue delay. Mayflower Wind is committed to work with the EDCs to examine the PPAs in light of the extraordinary macroeconomic conditions, make any appropriate adjustments consistent with Section 83C, and minimize the impact of any delays.

Consistent with the Department's Standard Ground Rules, Mayflower Wind has consulted with all other parties to these proceedings regarding this Motion. No other party expressed support for this motion during those consultations.

IV. CONCLUSION

For the reasons set forth above Mayflower Wind respectfully requests that the Department suspend proceedings in the above-captioned dockets with regard to review of the amended PPAs for thirty days from the date of an order granting this motion, subject to Mayflower Wind filing a status report before the expiration of the thirty days and indicating whether additional time may be needed to appropriately address the issues described above, and make such further findings and issue such further directives as may be necessary to grant the relief requested herein.

Respectfully submitted,

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