

“OREC Mechanism” proposal

Background

The Offshore Wind Economic Development Act (PL 2010, Chapter 57; “the Act”) in Section 38.d.(4) requires the BPU of Public Utilities (BPU) to establish an offshore wind renewable energy certificate (OREC) program, the intent of which is to enable non-recourse financing of offshore wind projects that benefit New Jersey. The key requirements of the law relevant to a project’s ability to sell ORECs, and suppliers’ obligations to buy ORECs, are:

1. A percentage of the kilowatt-hours sold in New Jersey by each electric power supplier and each basic generation service provider (“suppliers”) must be from offshore wind energy, the percentage to be established by the BPU in order to support at least 1100MW of offshore wind generation.
2. The percentage established shall reflect the projected OREC production of each qualified offshore wind project for twenty years from the commercial operation start date of the project.
3. This production projection and “[...]OREC purchase requirement shall, once approved by the BPU, not be subject to reduction.”
4. An electric power supplier or basic generation service provider will comply with the OREC program through the purchase of ORECs at a price and for the time period required by the BPU “...through a renewable energy trading program approved by the BPU”. Such a renewable energy trading program is what is proposed in this document.
5. If there are insufficient ORECs, the power suppliers or basic generation supplier shall make an “offshore wind alternative compliance payment” which shall be refunded to the ratepayers.
6. ORECs can be used by suppliers to comply with the OREC requirement during the compliance year in which the ORECs are generated, and the subsequent two years.
7. “An order issued by the BPU pursuant to this subsection shall not be modified by subsequent BPU orders, unless the modifications are jointly agreed to by the parties.”

This document focuses on the mechanics of how offshore wind project owners are to sell their ORECs to electricity supply companies (who are required to buy them), how the Alternative Compliance Payment would work and how it is set, and how ratepayers receive any refunds owed to them pursuant to the law.

This document does not address other issues regarding implementing the Offshore Wind Economic Development Act, such as details regarding coordination with the RPS, the OREC application and approval process, etc.

Definitions

The following shorthand terms are used in this document:

“Act”: The Offshore Wind Economic Development Act.

“BPU”: the Board of Public Utilities

“EDC”: The four regulated electric distribution companies

“OACP”: The offshore wind alternative compliance payment, which suppliers are required to make for any ORECs not purchased and which gets refunded to ratepayers, per the Act.

“PJM payments”: Payments that a project receives from selling any and all energy products, aside from RECs, into a PJM market. For example, proceeds from selling energy into the hourly or day-ahead market.

“projects”: Offshore wind project owners, which are entitled to sell ORECs from the project at a price specified in a BPU order.

“ratepayers”: Any and all electricity customer in the state, whether a customer of a third-party supplier or the basic generation service.

“suppliers”: Both third-party electricity suppliers, as well as suppliers with contracts to provide basic generation service

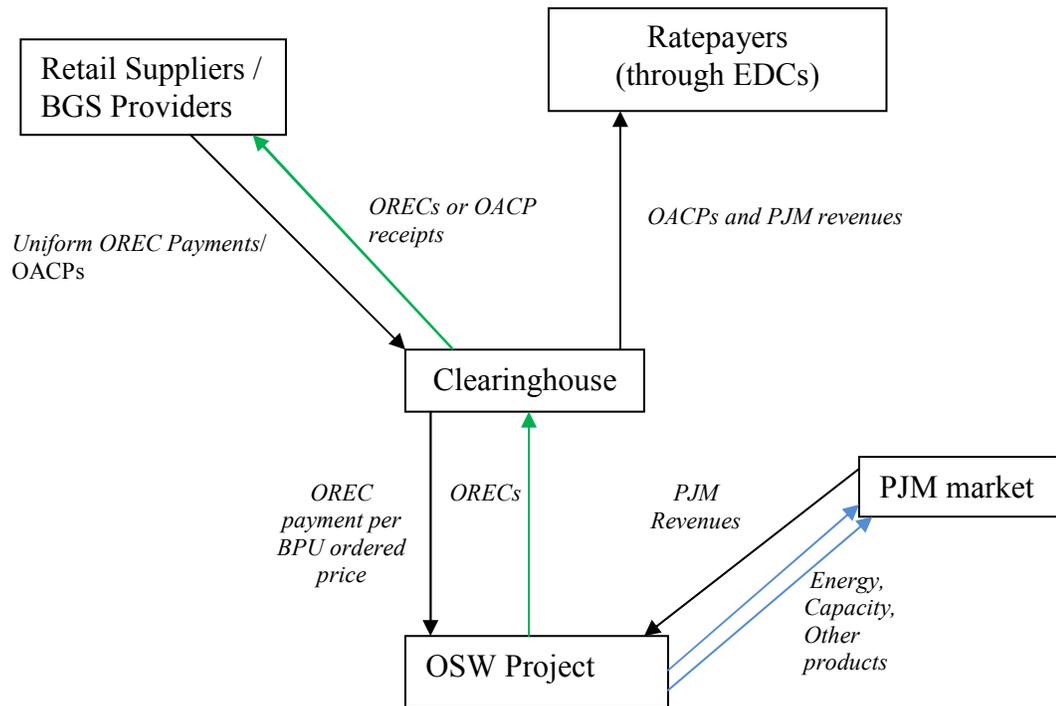
Key features of this proposal

- A third-party, central clearinghouse that simplifies the compliance process for suppliers, facilitates owners getting paid the correct amount for their ORECs in a timely manner, and provides greater transparency (and thus facilitates BPU oversight). All suppliers are required to meet their offshore wind obligation under the Act through this clearinghouse, and all projects that wish to sell ORECs under the Act must also use this clearinghouse.

- Uniform OREC/OACP payments are made by the suppliers to meet their obligations under the Act. These payments equal the weighted average of all the OREC orders in effect, which is also the OACP amount. In this way, all suppliers are effectively buying proportional amounts from every project. The payments are used first to purchase ORECs, and if ORECs are not available then the payments are treated as an OACP and refunded to the ratepayers. This makes compliance simple and fair for the suppliers, and better ensures the projects that they receive full and timely payment for their ORECs.

- An “all-in” OREC price, which will achieve the purposes of the Act at the least cost to ratepayers, keep open the possibility of additional “upside” to ratepayers should energy prices increase, and simplify administration of the program (thus reducing costs for everyone and increasing transparency).

Description of OREC program



1) The BPU issues an “OREC Order”, specifying that a particular project has the right to sell, and therefore supplies the obligation to buy, ORECs generated by the project. The Order specifies:

- a) Operation date and period during which ORECs may be sold (term).
- b) Annual allowance of ORECs: the total amount of ORECs that the project is allowed to sell in a year through the program.
- c) Price to be received for the project’s ORECs through this program.
- d) Requirements and specifications regarding PJM payments, and requirements for returning them to the ratepayer using the system described here.
- e) Allowance for retaining some of the PJM revenues as a cash reserve against delayed payments from the clearinghouse or insufficient OREC demand. Ultimately these reserves need to be returned to ratepayers, and the amount needed for such reserve (if any) can be project specific.
- f) Require on-going contribution to paying for the clearinghouse operation, as described further below.

2) After issuance of an OREC Order(s) the BPU will amend the existing RPS regulations (NJAC14:8-2.3) to:

a) Establish (if the Order is the first one made) or increase a carve out for offshore wind based on the amount of electricity that the approved offshore wind project(s) is expected to produce and the anticipated operation date of the facility(ies). This carve-out is established by using the estimated annual amount of generation from the project and the state's estimated total energy usage for each year to calculate a percentage requirement for each Energy Year. Note that projects will not be operational for three years after an OREC order is issued, so there is no issue of unanticipated OREC obligation for suppliers.

b) Establish an Offshore wind Alternative Compliance Payment (OACP) equal to the weighted average of all the OREC Orders issued at that time. This minimizes the possibility for any over-collection of funds from ratepayers because of differences in OREC prices, while at the same time streamlines administration. In order to allow for this OACP mechanism and to ensure equity among all projects, the BPU regulations shall require that each supplier meet its offshore wind carve-out obligation by purchasing ORECs only through the program described here.

3) Six months before the first project is scheduled to begin operation, the BPU [EDCs?] contracts for a third party entity to provide clearinghouse services. This entity could be a law firm, a bank, a consulting firm, or a non-profit organization. The clearinghouse establishes a PJM-EIS account so that it can receive ORECs from the projects, and then assign them to the suppliers. The clearinghouse also establishes an escrow bank account, through which it receives payments from suppliers, receives revenues from the projects for liquidating PJM products, and disburses these funds to projects and ratepayers (all as described in following sections). The clearinghouse is selected and managed by the BPU [EDCs], but is paid for by the projects. Each project's contribution is proportional to the project's OREC revenues relative to the total OREC revenues managed by the clearinghouse. The clearinghouse invoices each project using the clearinghouse.

4) During each year for which an OREC requirement is in effect (i.e. after the first project goes on-line), suppliers make a monthly offshore wind payment to the clearinghouse. The amount paid is based on the offshore wind RPS requirement for the year, the supplier's estimated sales for the month, and the OREC/OACP in effect for the year. These payments will ensure that suppliers satisfy their requirements under the Act, whether through an OREC purchase or OACP.

5) Once an offshore wind facility goes on-line, the ORECs are created on a monthly basis utilizing PJM-EIS (GATS), in the same manner as other RECs. Also during a given month, the project sells energy, capacity, and any other products (aside from environmental attributes) to generate "PJM revenues" which are returned to the ratepayer at the end of the year (see section 10). However, the projects are allowed to keep these PJM revenues until the end of the year, as a reserve to ensure full payment for all ORECs provided, up to the project's annual allowance.

6) At the end of each month, the projects transfer the ORECs to the clearinghouse. The clearinghouse then pays the project owners for the ORECs received, at the price stipulated in

the OREC Order, using the revenues received from the suppliers (per Section 4). Projects are allowed to submit any amount of ORECs in any given month, so long as the total amount of ORECs submitted in a year does not exceed the annual allowance per the OREC order.

7) If the number of ORECs a project generates in any given year exceeds its annual allowance, the project may retain ownership of the ORECs and use them, at the project's sole discretion, in either of the following ways:

a) Hold the ORECs in order to make up for a future year in which there might be a production deficit. ORECs are eligible for offshore wind carve-out compliance the year they are produced, and the following two years.

b) Sell the ORECs to any party, for example for use to comply with a regulatory obligation that can be met with a general wind REC, such as New Jersey's RPS Class 1 obligation. Note that ORECs sold in this manner would receive current market prices, not necessarily the OREC Order price, but the project could keep PJM revenues related to the MWh (energy) associated with the RECs. Revenues from capacity and any other MW based products would still need to be submitted to the EDC, in accordance with the OREC Order.

8) The clearinghouse distributes ORECs received from the projects to the suppliers in accordance to the amount of payment the suppliers made per Section 4. If the clearinghouse has not received sufficient ORECs from projects to provide the suppliers, the clearinghouse instead simply confirms to the supplier that the payment was received (and that the supplier shall be entitled to either an OREC or OACP acknowledgement, to be determined at the end of the year per section 10).

9) During the course of the year, the clearinghouse shall monitor energy usage in the state to determine whether it is likely to meet or exceed the total annual usage estimate used by the BPU to establish the offshore-wind carve-out. Should it appear the estimate will not be met or exceeded, this means that there might be insufficient OREC demand to enable all projects to sell their full annual allowance of ORECs. The clearinghouse shall immediately bring this finding to the BPU staff. In addition, any project may also file a notice with the BPU staff that it believes there is likely to be insufficient OREC demand to be able to sell all its ORECs. If the BPU staff confirms that there is likely to be insufficient OREC demand, the clearinghouse shall then be authorized to a) utilize PJM revenues held in reserve to pay projects for ORECs received and/or b) sell any ORECs found to be in excess into the general REC market to the highest bidder, and apply these revenues to any arrearage owed to projects. Any arrearage for OREC payments shall be distributed by the clearinghouse equitably across all the projects in proportion to the OREC annual allowances. Insufficient OREC demand shall also trigger additional actions during the end of the year true-up, as described in section 10.

10) At the end of each Energy Year (within a 90 day period after 5/31) a true-up is conducted by the BPU, consisting of the following:

a) Each supplier's total annual OREC obligation is calculated based on actual sales and the offshore wind carve-out to the RPS. Suppliers make any additional OREC purchase

or OACPs through the clearinghouse, as necessary to comply with the offshore wind carve-out. The supplier may also receive a refund for any overpayment, so long as the appropriate amount of OREC or OACP is returned to the clearinghouse. Suppliers are penalized for under payments only if they did not make monthly payments as described above, and/or if they do not true-up payments through this true-up process. If a supplier made a payment for which it received a receipt and not an OREC during the year, the supplier is provided with an OREC, if found available during the true-up process. If no OREC is available, the payment is converted to an OACP and an acknowledgement of the OACP is provided to the supplier. The OACP itself (the dollars) is returned to the ratepayer. This refund is made by providing the amount to the EDCs on a load proportional basis, who then return it to the ratepayer through either a line item on the bill [or by offsetting the societal benefits charge.]

b) Each project's total annual OREC contribution is confirmed as not exceeding the amount allowed under its OREC order. Any excess ORECs received by the clearinghouse are returned to the project, so long as the clearinghouse receives back the full OREC price from the project. The project owner can then use the OREC per section 7, without penalty. If it is determined that a project did not meet its annual OREC allowance, it has the opportunity to make-up the short fall as part of the true-up, but has no recourse if it does not have the ORECs to provide.

c) Projects shall provide to the clearinghouse any PJM revenues received during the year less a) any cash reserve allowed per section 1(e), and b) any amount necessary to make up for any balance due to the developer from the clearinghouse because of insufficient OREC demand, as described in section 9, c) any amount owed to it because of failure of the clearinghouse to pay for an OREC for any other reason. The clearinghouse then distributes any PJM revenues received to the EDCs on a load proportional basis, and the EDCs refund these funds to ratepayers through either a line item on the bill [or by offsetting societal benefits charges]. However, the clearinghouse shall retain in escrow some portion of the PJM revenues, with BPU approval, as may be necessary to ensure sufficient liquidity to make prompt payments to the projects for the ORECs, even in the event of insufficient OREC demand because of lower than estimated total energy usage.

d) If there was insufficient OREC demand during the year to allow every project to receive the full OREC price per section 9, then the clearinghouse shall liquidate all unallocated ORECs in the Class 1 REC market, and use the proceeds to make further payments against any arrearage with the projects. In addition, the BPU shall open a docket to increase, if necessary, the offshore wind carve-out in future years, so as to avoid further instances of insufficient OREC demand. Projects shall be authorized to apply PJM funds from the following year to the amount owed to them because of the lack of OREC demand.

e) If during the true-up the BPU determines that a supplier defaulted on its OREC obligation, the BPU shall initiate whatever action necessary to ensure compliance and full payment, and may revoke a suppliers license to operate in keeping with existing regulations. If a supplier exited the NJ market because of bankruptcy or any other reason, the BPU shall ensure that the OREC obligation is met for any electricity delivered, and that any supplier that steps into the exiting supplier's energy delivery obligations also meets the corresponding OREC obligations.