



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

Maryland Public Service Commission
6 Saint Paul Street, 16th Floor
Baltimore, MD 21202

May 15, 2020

Chairman Stanek and Members of the Commission:

We, the undersigned members of the Maryland General Assembly, appreciate the important work of the Public Service Commission to implement the state's clean energy mandate, especially during this difficult time. Due to an unprecedented and unforeseeable set of events, we are reaching out to you on an issue of significant importance and urgency.

We are writing to urge the PSC to operationalize our legislative intent in the Clean Energy Jobs Act of 2019 (CEJA) by asking developers bidding into the Round 2 Offshore Wind Renewable Energy Credit (OREC) process to submit contingency bids and including these contingencies in the PSC OREC orders.

As you are aware, in December 2019, the Federal Energy Regulatory Commission approved a plan to subject certain energy generation technologies to a high and arbitrary Minimum Offer Price Rule (MOPR) requirements in their bids in the PJM capacity market. As a result, technologies like offshore wind are likely to be excluded entirely from this market. The MDGA had created a work group during the 2020 Session to consider how best to respond to this order, to protect the development of clean energy resources in Maryland and to protect ratepayers. However, the global health crisis led to an early adjournment of the Legislative Session and the work group was not able to consider statutory changes to respond to the MOPR rule.

As the Commission is currently preparing to consider bids for Round 2 of the OREC opportunity, we are concerned that with the MOPR order, as it currently stands, offshore wind developers would not be able to include expected capacity payments in their bids and this will result in a lower installed nameplate capacity than would be possible with capacity payments.

Under CEJA, the legislature clearly calls for Maryland to accommodate at least 1,200 megawatts (MW) of new offshore wind projects but prospectively "caps" projected impacts on ratepayers at \$0.88/month. Because Maryland's offshore wind program under CEJA offsets offshore wind rate impacts by returning capacity revenues to ratepayers, the loss of capacity revenues very likely makes it impossible to achieve the 1,200 MW goal and adhere to the rate impact "cap". In fact, industry analysis indicates that this change to the PJM capacity market could reduce the overall

deployment under CEJA from 1,200 MW to 800 MW.

However, there has been significant resistance to the FERC decision, both legal and political. State policymakers and attorneys general have argued that the FERC decision is not legal, violates the Federal Power Act and does not result in just and reasonable rates. Political and legal developments could well result in a reversal of the decision. But this reversal may come too late to allow consideration of capacity payments for developers bidding into Round 2 of the OREC process.

We are, therefore, asking the Commission to request that bidders present alternative contingent bids that anticipate different outcomes of the ongoing dispute over the availability of capacity payments to offshore wind projects. For example, a developer could propose 800 MW of deployment if FERC continues to restrict capacity revenues to offshore wind energy, and 1,200 MW of deployment if those revenues become available. (The same principle applies to smaller bids in each tranche of Round 2 awards: a developer could propose 300 MW under MOPR restrictions and 400 MW if they are lifted). An OREC award that is conditional on the outcome of the capacity market issue would allay developer concerns around the need to reopen the docket, restart negotiations over pricing and subject the project to further delays and regulatory risk. At the same time, it could maximize the likelihood that Maryland will develop as much offshore wind as possible within the rate cap set by CEJA.

The General Assembly, in passing CEJA, was very clear in its legislative intent to develop at least 1,200 MW of offshore wind, and to keep ratepayer impacts below a certain price threshold. At that time, we could not have anticipated an unprecedented and widely disputed FERC policy change in the PJM capacity market, nor could we have expected that a global health crisis would prevent us from fully addressing that change. It is critical that under these exigent circumstances, the Commission provide bidders an opportunity to achieve that legislative intent with flexibility to optimize available revenues.

In summary, we request that the Commission move as quickly as possible to adjust the guidance on the OREC Round 2 process, to request that bidders submit contingency bids outlining one proposal without capacity payments and a second with capacity payments. We request that the Commission issue all OREC orders reflecting these two options. We stand ready to support you in these efforts.

Thank you, in advance, for your efforts on this and for all you do for Marylanders.

Sincerely,

Senator Jill P. Carter
Vice Chair Brian Feldman
Chair Guy Guzzone
Senator Shelly Hettleman
Senator Nancy King
Senator Katherine Klausmeier

Delegate Michele Guyton
Delegate Terri Hill
Delegate Julian Ivey
Delegate Steve Johnson
Delegate Ken Kerr
Delegate Marc Korman

Senator Ben Kramer
Senator Clarence Lam
Senator Susan Lee
Chair Paul Pinsky
Senator Jim Rosapepe
Chair William C. Smith, Jr.
Vice Chair Jeff Waldstreicher
Senator Mary Washington
Delegate Gabriel Acevero
Vice Chair Vanessa Atterbear
Delegate Darryl Barnes
Chair Kumar Barve
Delegate Regina Boyce
Delegate Talmadge Branch
Delegate Jon Cardin
Delegate Al Carr
Delegate Lorig Charkoudian
Chair Luke Clippinger
Delegate Charlotte Crutchfield
Delegate Bonnie Cullison
Vice Chair Kathleen Dumais
Delegate Jessica Feldmark
Delegate Wanika Fisher
Delegate David Fraser-Hidalgo
Delegate Jim Gilchrist

Delegate Robbyn Lewis
Delegate Karen Lewis Young
Delegate Brooke Lierman
Delegate Mary Ann Lisanti
Delegate Lesley Lopez
Delegate Sara Love
Delegate Eric Luedtke
Chair Maggie McIntosh
Delegate David Moon
Delegate Nick Mosby
Delegate Julie Palakovich Carr
Delegate Edith J. Patterson
Delegate Susie Proctor
Delegate Kirill Reznik
Delegate Mike Rogers
Delegate Sheila Ruth
Delegate Emily Shetty
Delegate Stephanie Smith
Vice Chair Dana Stein
Delegate Vaughn Stewart
Delegate Veronica Turner
Delegate Kriselda Valderrama
Delegate Courtney Watson
Delegate Jheanelle Wilkins
Delegate Nicole Williams