

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

Petition of NSTAR Electric Company d/b/a
Eversource Energy for Approval of Proposed
Long-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; St. 2021, c. 8 §§ 91 *et. seq.*

D.P.U. 22-70

Petition of Massachusetts Electric Company
and Nantucket Electric Company d/b/a National
Grid for Approval of Proposed Long-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; St. 2021, c. 8
§§ 91 *et. seq.*

D.P.U. 22-71

Petition Fitchburg Gas and Electric Light
Company d/b/a Unitil for Approval of Proposed
Long-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; St. 2021, c. 8 §§ 91 *et. seq.*

D.P.U. 22-72

**COMMONWEALTH WIND, LLC'S
MOTION FOR A ONE-MONTH SUSPENSION OF PROCEEDINGS**

Pursuant to 220 C.M.R. §§ 1.02(5) and 1.04(5), Commonwealth Wind, LLC
("Commonwealth Wind") hereby moves that the Department of Public Utilities
("Department") suspend proceedings in the above-captioned dockets with regard to the
review of contracts between the Petitioners ("Petitioners" or "EDCs") and
Commonwealth Wind (the "PPAs") for one month and requests that the Hearing Officer
issue a ruling accordingly. As set forth below, a one-month suspension of these

proceedings would allow the parties to consider highly relevant developments that have occurred since Commonwealth Wind bid into the third solicitation under Section 83C¹ in September of 2021, the PPAs were signed in April of 2022, and the EDCs filed the PPAs in these dockets in May of 2022. In particular, this suspension would allow the parties to examine the effect of unprecedented commodity price increases, interest rate hikes, and supply shortages on the overall viability of Commonwealth Wind’s offshore wind generation project that is the subject of the PPAs (the “Project”), including whether it remains economic and whether it can be financed under the current terms of the PPAs. A one-month suspension would also enable the parties to consider potential approaches to restore the Project’s viability – including cost saving measures, tax incentives under the newly enacted Inflation Reduction Act, an increase in the PPA prices, and improvements to Project efficiencies – and to determine whether additional time, beyond the period requested in this Motion, is needed to resolve the appropriate path forward or provide a complete record.

An immediate suspension is crucial because, under the current PPAs, the Project is no longer viable and would not be able to move forward. *See* Section 83C(a) (stating that the purpose of Section 83C is to “facilitate the financing of offshore wind energy generation resources”). A one-month suspension would give the parties an opportunity to evaluate the current situation facing the Project and potentially agree upon changes to the PPAs, along with other measures, that could allow the Project to return to viability.

¹ More specifically, Section 83C of An Act Relative to Green Communities, St. 2008, c. 169, as amended by St. 2016, c. 188, § 12, St. 2021, c. 8, § 91 *et seq.*, St. 2021, c. 24, §§ 69 and 72, and St. 2022, c. 179, §§ 61 and 62 (“Section 83C”).

During this suspension, Commonwealth Wind is committed to working with the parties to identify the scope of the challenges faced by the Project and all feasible levers for overcoming those challenges to deliver the most beneficial and cost-effective solution to the Commonwealth of Massachusetts. A suspension would also allow the parties an opportunity to assess recent developments and ensure that the record before the Department reflects current realities by supplementing the record as necessary. It would be inefficient and unproductive to continue with briefing and deliberations on the PPAs in this proceeding without fully considering the effect of recent developments on the PPAs under review and whether, in light of those developments, amendments to the PPAs are necessary and in the public interest.

Commonwealth Wind recognizes that it is filing this Motion during the briefing period. Commonwealth Wind has discussed the issues addressed in this Motion with the other parties over the last month.

I. PROCEDURAL BACKGROUND

Pursuant to Section 83C, the EDCs filed petitions with the Department seeking approval of long-term contracts to purchase offshore wind energy generation with Mayflower Wind LLC (“Mayflower”) and Commonwealth Wind on May 25, 2022. The Department docketed the petitions as D.P.U. 22-70, D.P.U. 22-71, and D.P.U. 22-72. Commonwealth Wind petitioned to intervene as a full party on June 16, 2022; the Department granted that petition on June 22, 2022.

On August 2, 2022, the Department established a joint procedural schedule for all three dockets that set a deadline for filing initial briefs of October 24, 2022 and a deadline for filing reply briefs of November 7, 2022. On September 28, 2022, the

Hearing Officer amended the procedural schedule, finding that evidentiary hearings were unnecessary and accelerating the briefing schedule such that initial briefs were due by October 18, 2022 and reply briefs are now due by November 1, 2022.

II. STANDARD OF REVIEW

The Hearing 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 one month, and the Hearing Officer should issue a ruling granting this Motion and establishing the one-month suspension period. 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 Project.² As a result, the Project is no longer viable and would not be able to move forward absent amendments to the PPAs. *See* Section 83C(a) (stating that the purpose of Section 83C is to “facilitate the financing of offshore wind energy generation resources”).

² 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/>. Commonwealth Wind requests that the Department take official notice that these public statements have been made. *See* 220 C.M.R. § 1.10(2).

In addition, on August 16, 2022, President Biden signed the Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (the “IRA”). The IRA includes provisions that may affect and change the availability of tax credits to Commonwealth Wind in connection with the Project. The relevance of the IRA has only briefly been addressed in the record. *See* Exh. AG-5-1. Although the IRA benefits to the Project are not fully known at this time and not anticipated to make the Project economic absent other changes to the PPAs, Commonwealth Wind believes there may be potential opportunities to share benefits associated with the IRA with ratepayers and would be willing to explore those opportunities with stakeholders.

Commonwealth Wind remains fully committed to the Project and to delivering cost-effective renewable energy from the Project to the residents and businesses of Massachusetts in a manner that advances the purposes of Section 83C and the Commonwealth’s energy and climate policies. Indeed, the Project is more important than ever given the global, national, and state imperative to diversify our electric generating portfolio and the key role that the Project will play in meeting the Commonwealth’s ambitious climate and clean energy goals, and in creating jobs and economic development. Despite economic headwinds, the Project remains positioned to provide substantial benefits to the Commonwealth and its ratepayers. Even with a short delay to these proceedings, the Project, with its expected commercial operation date in 2028, can greatly help the Commonwealth in meeting its 2030 greenhouse gas emission limit of 50% below 1990 levels. *See* G.L. c. 21N, § 4 (as amended by An Act Creating a Next

Generation Roadmap for Massachusetts Climate Policy, St. 2021, c. 8); *see also* Massachusetts Clean Energy and Climate Plan for 2025 and 2030, June 30, 2022.³

Moreover, during the requested one-month suspension, Commonwealth Wind expects to demonstrate to the parties that the Project, even with a modest increase in the PPA price needed to achieve viability, will continue to be cost-effective, to reduce ratepayer bills, and to insulate ratepayers from the kinds of price spikes the Commonwealth is currently experiencing due to natural gas cost increases. Commonwealth Wind has been diligently exploring all options for improving Project efficiencies as mitigation for changed economic conditions and to ensure that Massachusetts and its ratepayers will receive the most cost-effective and beneficial offshore wind generation possible. Commonwealth Wind is prepared to explain these efforts, and how they, in tandem with modest PPA price increases, can deliver the best possible value for Massachusetts. These discussions will take time and necessitate the brief pause requested in this Motion. They are also likely to elucidate information that should be placed into the record before the Department renders a final decision on the PPAs.

In summary, granting this Motion would give the parties critical time to assess the significance of changed global economic circumstances and 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 its ratepayers. Absent time for the parties to assess the significance of these

³ The Massachusetts Clean Energy and Climate Plan for 2025 and 2030 is available at <https://www.mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download>.

developments to the PPAs and the ability of the PPAs to advance the purposes of Section 83C, the parties will brief issues disconnected from current conditions, and the Department will not have a record that puts it in the best position possible to evaluate the feasibility of the PPAs under applicable law. No one benefits from a Department decision concerning PPAs that do not allow the Project to move ahead.

Commonwealth Wind's purpose in pursuing this Motion is to advance the Project in an expeditious, transparent and ultimately successful manner, not to cause delay. Commonwealth Wind remains committed to working with the EDCs to keep the PPAs on track to obtain approval and to minimize the impact of any delays on that process.

Consistent with the Department's Standard Ground Rules, Commonwealth Wind has consulted with all other parties to these proceedings and with Mayflower regarding the filing of this Motion. Mayflower does not oppose this Motion.

IV. CONCLUSION

For the reasons set forth above Commonwealth Wind respectfully requests that the Department suspend proceedings in the above-captioned dockets with regard to review of the PPAs for one month, that the Hearing Officer issue a ruling granting this Motion and establishing the one-month suspension period, and that the Department and the Hearing Officer make such further findings and issue such further directives as may be necessary to grant the relief requested herein.

Respectfully submitted,

**COMMONWEALTH WIND,
LLC**

By its attorneys,

A handwritten signature in blue ink, appearing to read "Zachary Gerson", is written over a horizontal line.

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