

ORDER NO. 88004

IN THE MATTER OF THE
APPLICATIONS OF US WIND, INC. AND
SKIPJACK OFFSHORE ENERGY, LLC
FOR A PROPOSED OFFSHORE WIND
PROJECT(S) PURSUANT TO THE
MARYLAND OFFSHORE WIND ENERGY
ACT OF 2013

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9431

Issue Date: February 1, 2017

On December 16, 2016, the Public Service Commission of Maryland (“Commission”) issued Order No. 87945 in the above-captioned proceeding finding, *inter alia*, that its independent expert consultant in this matter, Levitan & Associates, Inc. (“LAI”), is not a party to the case and thus not subject to discovery.¹ Subsequently, on January 11, 2017, the Maryland Office of People’s Counsel (“OPC”) filed a Motion to Direct Levitan & Associates, Inc. to Produce Limited Documents to Support the Findings Made in Its Report (“Discovery Motion”).² In its Motion, OPC contends that without access to certain underlying assumptions “a thorough and complete understanding, review, and analysis of the LAI Report is impossible.”³ Therefore, OPC requests that the Commission direct LAI to provide certain information used to prepare the report within five business days.⁴

The Maryland Offshore Wind Energy Act of 2013 directed the Commission to contract for the services of independent consultants and experts to assist in the evaluation

¹ Order No. 87945 (Dec. 16, 2016) at 3, note 3. The Commission did state, however, that should the LAI report be entered into evidence during the evidentiary hearings, representatives of LAI will be made available for cross-examination. *Id.*

² ML#209705: *Office of People’s Counsel Motion to Direct Levitan & Associates, Inc. to Produce Limited Documents to Support the Findings Made in Its Report* (“OPC Discovery Motion”) (Jan. 11, 2017).

³ *Id.* at 2.

⁴ *Id.* at 2-3.

and comparison of a potential applicant(s)' proposed offshore wind project. The team of independent consultants and experts who were retained by the Commission in response to this legislative directive produced the LAI Report referenced by OPC in its Discovery Motion.

We find that the underlying methodologies are sufficiently described in the LAI Report so that another expert in the field could ascertain whether the approach used by LAI is reasonable.⁵ However, the parties are entitled to understand all assumptions made by LAI that underlie the Report, and the identity of any proprietary software employed. Consequently, in order to facilitate efficient cross-examination during the hearing in this matter, we will grant the limited discovery requested by OPC, subject to the following conditions. *First*, LAI is not required to create any new work papers or reports in response to the requested discovery. *Second*, the responsive documents shall be provided by LAI to any party to the case that has executed the individual protective agreements sponsored by US Wind and Skipjack.

Finally, we note that while we have authorized limited discovery regarding LAI's Report as discussed herein, we will look with disfavor on additional motions of this nature given our prior ruling outlined in Order No. 87945. As previously stated, to the extent that the LAI Report is entered into evidence during the evidentiary hearings, representatives of LAI will be made available for cross-examination.

IT IS THEREFORE, this 1st day of February, in the year Two Thousand Seventeen, by the Public Service Commission of Maryland,

⁵ See, e.g. ML#206526: *Levitan & Associates, Inc. Evaluation and Comparison of US Wind and Skipjack Proposed Offshore Wind Project Applications* (Dec. 11, 2016), at 4 - 21 [confidential version].

ORDERED: (1) That LAI shall produce, within five business days, the following documents to OPC and any party to the case that has executed the individual protective agreements sponsored by US Wind and Skipjack, subject to the conditions discussed herein:

- a. all work papers, in machine readable format, used to generate the energy, EMAAC capacity, natural gas, carbon, Maryland REC and gross OREC price forecasts across the study horizon;
- b. all modeling inputs and results, in machine readable format, of all sensitivity analyses performed on the energy, capacity clearing, natural gas, and carbon price forecasts and net OREC prices to determine net ratepayer impacts; and
- c. all modeling inputs and results, in machine readable format, of all sensitivity analyses performed on the gross OREC prices provided by U.S. Wind, Inc. and Skipjack Offshore Energy, LLC in their respective applications to determine net ratepayer impacts.

/s/ W. Kevin Hughes

/s/ Harold D. Williams

/s/ Jeannette M. Mills

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell
Commissioners