

**ORDER NO. 89395**

<p>U.S. Wind, Inc.’s Qualified Offshore Wind Project’s Compliance with Conditions Approved in 2017</p> <hr/>	<p>* * * * * * *</p>	<p>BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND</p> <hr/> <p>Case No. 9628</p> <hr/>
<p>Skipjack Offshore Energy, LLC’s Qualified Offshore Wind Project’s Compliance with Conditions Approved in 2017</p> <hr/>	<p>* * * * *</p>	<p><hr/></p> <p>Case No. 9629</p> <hr/>

**Issue Date: December 13, 2019**

**ORDER ESTABLISHING INQUIRY INTO MATERIAL CHANGES  
IN TURBINE SELECTION AND SETTING PUBLIC HEARING**

On October 25, 2019, the Maryland Public Service Commission issued a Notice of Opportunity to Comment regarding the public correspondence filed by Skipjack Offshore Energy, LLC (“Skipjack”)<sup>1</sup> and U.S. Wind, Inc. (“U.S. Wind”) announcing changes in the turbine selection size originally anticipated for use in their respective offshore wind projects.<sup>2</sup> Comments were filed by the following:<sup>3</sup> the Town of Ocean City, Maryland

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<sup>1</sup> On December 3, 2018, Skipjack filed notice that it and its parent company, Deepwater Wind Holdings, LLC, had been acquired by Ørsted A/S and that Skipjack had become a subsidiary of Ørsted. See Skipjack Notice of Merger & Acquisition, Mail Log No. 223118 at 1; Skipjack Comments at 1, n. 1.

<sup>2</sup> See Skipjack’s September 24, 2019 correspondence, Mail Log No. 226953; and U.S. Wind’s October 1, 2019 letter, Mail Log No. 226999.

<sup>3</sup> Party Comments can be found in the docket in Case No. 9431, *In the Matter of the Application 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*. Public comments were also filed by private citizens, legislators, labor organizations, and businesses. Those comments can be found by accessing the link below and searching for comments related to Case No. 9431:

<https://webapp.psc.state.md.us/newintranet/Comment/searchFrmuser.cfm>.

“Ocean City”), the Business Network for Offshore Wind (the “Business Network”), the Office of People’s Counsel (“OPC”), the Commission’s Technical Staff (“Staff”), Skipjack, and U.S. Wind.<sup>4</sup> For the reasons discussed below, the Commission establishes an inquiry in the above-captioned cases to consider the impacts related to the change in turbine size selected by U.S. Wind and Skipjack for their respective projects.

### **Background**

On May 11, 2017, the Commission issued Order No. 88192 in Case No. 9431,<sup>5</sup> which authorized the issuance of offshore wind renewable energy credits (“ORECs”) to two applicants—namely, U.S. Wind’s 248 MW project, with an estimated commercial operation date of January 1, 2020, and Skipjack’s 120 MW project, with an estimated commercial operation date of November 2022.<sup>6</sup> Order No. 88192 included dozens of conditions whose purpose was to mitigate risk to ratepayers and maximize value to the State of Maryland. Included therein was the requirement that U.S. Wind and Skipjack utilize “best commercially-reasonable efforts to minimize the daytime and nighttime viewshed impacts” of their respective projects, “including through reliance on best commercially-available technology at the time of deployment.”<sup>7</sup> Additionally, Commission regulations impose continuing obligations on U.S. Wind and Skipjack to

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<sup>4</sup> On October 21, 2019, the Maryland Energy Administration (“MEA”) filed correspondence related to the changes in turbine size announced by U.S. Wind and Skipjack, stating “MEA believes that these changes demand additional review by the Commission to ensure that the facts underlying the original Order have not been materially modified.” MEA October 21, 2019 correspondence at 1.

<sup>5</sup> On November 18, 2019, the Commission granted Skipjack’s Motion to Bifurcate Case No. 9431 and established separate dockets for the Skipjack and U.S. Wind projects. Those new dockets are Case No. 9628, *U.S. Wind, Inc.’s Qualified Offshore Wind Project’s Compliance with Conditions Approved in 2017*; and Case No. 9629, *Skipjack Offshore Energy, LLC’s Qualified Offshore Wind Project’s Compliance with Conditions Approved in 2017*.

<sup>6</sup> In its November 25, 2019 Annual Report, U.S. Wind stated that the commercial operation date of its offshore wind project has been changed to the year 2023.

<sup>7</sup> Order No. 88192 at Appendix A, U.S. Wind Condition 7, and Appendix B, Skipjack Condition 7.

apprise the Commission of project development. Specifically, Code of Maryland Regulations (“COMAR”) 20.61.06.18B requires U.S. Wind and Skipjack to report to the Commission within 30 days “[a]ny material change to the qualified offshore wind project,” including any change to the turbine model, the capacity of the project, the design of the foundation or support structure, or the project’s commercial operation date.

In its November 30, 2016 Application, U.S. Wind listed the 4 MW Siemens SWT 130 turbine as the turbine technology that the company had “preliminarily chosen” for its offshore wind project.<sup>8</sup> Similarly, in its November 2016 Application, Skipjack reported that the Siemens 8 MW offshore wind turbine had been selected for developing the Project's design basis for its offshore wind project.<sup>9</sup>

### **Recent Developments**

In a letter dated October 1, 2019, U.S. Wind indicated that the 4 MW Siemens turbine is no longer commercially available, and that the company is evaluating alternatives with higher megawatt ratings, including the Siemens Gamesa SG 8.0 MW 167 DD, the Siemens Gamesa SG 10 MW 193 DD, and the 12 MW General Electric Haliade-X turbines. Aside from the increased capacity, these alternative turbines all share significantly larger rotor diameter, blade length, swept area, hub height, and tip height.<sup>10</sup> Likewise, on June 4, 2019, Skipjack notified the Commission that it plans to use the GE Haliade-X 12 MW

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<sup>8</sup> Case No. 9431, U.S. Wind November 30, 2016 Application for Offshore Wind Project at 8, Mail Log No. 205809.

<sup>9</sup> Case No. 9431, Skipjack November 30, 2016 Application for Approval of a Qualified Offshore Wind Project at 23-24, Mail Log No. 205907.

<sup>10</sup> See Staff’s November 15, 2019 Comments at Appendix A. For example, the 4 MW Siemens turbine has a tip height of 502 feet, in contrast to the 853 foot tip height of the 12 MW General Electric Haliade-X.

turbine for the project.<sup>11</sup>

### Comments

Several parties filed comments in response to the Commission's October 25, 2019 Notice of Opportunity to Comment. Ocean City contends that the change in turbines represents a material change from the Applications that were approved by the Commission and that the Commission should hold a hearing to consider the material changes.<sup>12</sup> Ocean City also requests that the Commission reopen Case No. 9431 and reconsider Order No. 88192.

The Business Network argues that turbine size was a topic "thoroughly examined and considered" throughout the evidentiary proceeding in Case No. 9431.<sup>13</sup> The Business Network states that any reopening of Case No. 9431 now could "lead to private sector disinvestment in the State due to regulatory uncertainty" and concludes that the Commission should not reopen the prior proceeding.<sup>14</sup>

OPC comments that the size of the turbines proposed in the offshore wind Applications was a basis for the analyses of a number of issues decided by the Commission, including the cost impact on ratepayers, the economic impact on the State, and the cost-benefit analysis of the projects. Accordingly, OPC recommends that the Commission require U.S. Wind and Skipjack to present evidence on the turbines they intend to use, as well as the impacts the change in turbine selection will have on the analyses presented to

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<sup>11</sup> See Skipjack's September 19, 2019 correspondence (Mail Log 226897) at Exhibit A (containing previously confidential June 4, 2019 letter to the Commission).

<sup>12</sup> Ocean City Comments at 1, 4, 12.

<sup>13</sup> Business Network Comments at 1.

<sup>14</sup> Business Network Comments at 2.

the Commission. Staff observes that the increase in turbine size could “exacerbate existing concerns with local jurisdictions and their constituents...”<sup>15</sup>

### **Responses of U.S. Wind and Skipjack**

On November 15, 2019, U.S. Wind filed a response contending that its selection of a larger turbine will enable the project to utilize fewer turbines, further from shore.<sup>16</sup> U.S. Wind also states that its final turbine selection will be heavily scrutinized for impacts on the natural and human environment by the federal Bureau of Ocean Energy Management (“BOEM”), through its consideration of the company’s Construction and Operations Plan (“COP”).<sup>17</sup>

Skipjack observes that the GE Haliade-X 12 MW turbine will increase per-turbine output and efficiency, generate more power at low wind speed, and demonstrate less sensitivity to wind speed variation.<sup>18</sup> Skipjack argues that its turbine selection is consistent with its testimony during the proceeding that it would use “the best-available turbine model,” rather than the model depicted in its Application.<sup>19</sup>

### **Commission Decision**

The Commission finds that the proposed changes in turbine models and size by U.S. Wind and Skipjack constitute material changes to both companies’ qualified offshore wind projects. Accordingly, the Commission grants Ocean City’s request for a hearing to consider the impacts that may result from the change in turbine models announced by U.S.

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<sup>15</sup> Staff Comments at 6.

<sup>16</sup> U.S. Wind Comments at 4.

<sup>17</sup> U.S. Wind has not yet filed its COP at BOEM. On April 24, 2019, Skipjack filed its COP at BOEM and, as required by Condition 6 of Order No. 88192, it filed a copy of those documents with the Commission.

<sup>18</sup> Skipjack Comments at 4.

<sup>19</sup> Skipjack Comments at 8.

Wind and Skipjack since their original Applications were filed on November 30, 2016. The impact the turbines would have on viewshed was a significant focus of the proceeding in Case No. 9431, and the Commission determined that its approval of the projects was contingent on the applicants using “best commercially-reasonable efforts to minimize the daytime and nighttime viewshed impacts” of their respective projects.<sup>20</sup> The final turbines selected by U.S. Wind and Skipjack will significantly increase the turbines’ rotor diameter, blade length, swept area, hub height, and tip height.<sup>21</sup>

The Commission finds that the changes announced by both U.S. Wind and Skipjack are material for purposes of COMAR 20.61.06.18B, such that it is appropriate for the Commission to inquire into the changes to consider their impacts.

The Commission also reminds the parties that the environmental and viewshed impacts of the projects’ final turbine selection will be reviewed by BOEM. Each project developer is required to file a COP with BOEM, which will require a full review under the National Environmental Policy Act (“NEPA”), including the development of an Environmental Impact Statement as required under NEPA. BOEM’s proceedings will engage federal, state, and local agencies and stakeholders. Despite this rigorous federal review, however, the Commission finds that it must independently consider the impacts of the change in turbine selection by U.S. Wind and Skipjack.

Order No. 88192 recognized that technological advancements could drive down the cost of the projects by reducing engineering, procurement, and construction costs. The

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<sup>20</sup> Order No. 88192 at Appendix A, Condition 7, and Appendix B, Condition 7.

<sup>21</sup> See Staff Comments at Appendix A. As U.S. Wind and Skipjack contend, however, the increased turbine capacity may also allow for fewer turbines to be located in the project area.

Commission mitigated the risk that Maryland ratepayers would be unduly locked into a high fixed price while offshore wind technology costs continued trending downward in the future by requiring an “open books approach to development and construction costs.”<sup>22</sup> Specifically, Condition 23 (U.S. Wind) and Condition 24 (Skipjack) require that the project developers flow through 80% of any realized savings to Maryland ratepayers. U.S. Wind and Skipjack should therefore be prepared to address preliminary estimates of project costs relating to the turbine changes in relation to the open books, flow-through conditions of Order No. 88192.

This inquiry is limited to potential impacts related to a change in turbine size. The parties may conduct discovery limited to this topic. The Commission will not consider issues extraneous to that topic, including the issue of whether to grant ORECs. The Commission does not find it necessary or appropriate to reopen Case No. 9431 or reconsider Order No. 88192. Accordingly, Ocean City’s request to reopen the proceedings in Case No. 9431 and reconsider and/or revise Order No. 88192 is denied. To aid in the Commission’s consideration of impacts, the Commission will hold a hearing for public comment on Maryland’s Eastern Shore on Saturday, January 18, 2020, beginning at 12 noon.<sup>23</sup> Further proceedings on this limited matter may follow thereafter.

**IT IS THEREFORE**, this 13<sup>th</sup> day of December, in the year Two Thousand Nineteen, by the Commission,

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<sup>22</sup> Order No. 88192 at 3, 77-78, Appendix A Condition 23, Appendix B Condition 24.

<sup>23</sup> Additional details regarding the location of the hearing will be issued in a separate Notice by the Commission.

**ORDERED:** (1) That the Commission establishes an inquiry to consider the impacts related to the change in turbine size selected by U.S. Wind and Skipjack for their respective projects;

(2) That this inquiry will be limited to potential impacts related to a change in turbine size, and will not consider issues extraneous to that topic;

(3) That the Commission will hold a hearing for public comment on Maryland's Eastern Shore on Saturday, January 18, 2020, beginning at 12 noon; and

(4) That the parties may commence discovery limited to this topic.

By Direction of the Commission,

*/s/ Andrew S. Johnston*

Andrew S. Johnston  
Executive Secretary