

PUBLIC SERVICE COMMISSION OF MARYLAND

Offshore Wind Awardee Minority Business Enterprise and Community Benefit Agreement Compliance Report 2024

Submitted to the Maryland General Assembly
Annapolis, Maryland
Pursuant to the Clean Energy Jobs Act of 2019
§7-704.1 of Public Utilities Article,
Annotated Code of Maryland

February 1, 2024



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I. Introduction

The Clean Energy Jobs Act of 2019 (Senate Bill 516/House Bill 1158)¹ created a second application period (Round 2) for offshore wind (OSW) renewable energy credits (ORECs) in Maryland. The legislation also required the Public Service Commission (Commission) to report on the compliance of the awardees with the minority business enterprise (MBE) goals and community benefit agreement (CBA) requirements of OREC awards. Specifically, §7-704.1 of the Public Utilities Article (PUA) requires the Commission to report on or before March 1 each year to the Governor, Senate Education, Energy, and the Environment Committee, and House Economic Matters Committee on:

- (i) compliance by applicants with the minority business enterprise participation goals under subsection (d)(4) of this section;² and
- (ii) with respect to the community benefit agreement under subsection (e)(1) of this section:
 - 1. the availability and use of opportunities for local businesses and small, minority, women-owned, and veteran-owned businesses;
 - 2. the success of efforts to promote career training opportunities in the construction industry for local residents, veterans, women, and minorities; and
 - 3. compliance with the minority workforce goal under subsection (e)(1)(i)5 of this section.³

¹ Act of Maryland 2019, Chapter 757 (Senate Bill 516).

² Subsection (d)(4) of §7-704.1 requires the OSW project developers to make serious, good faith efforts to solicit and interview minority investors and contractors and subcontractors that are minority business enterprises (“MBEs”).

³ Subsection (e)(1)(i)(5) essentially requires that the use of “best efforts and effective outreach” to obtain, as a goal, the use of a workforce including minorities, to the extent practicable. The term “minority” as used in this statute refers to an individual who is a member of any of the groups listed in § 14-301(k) of the State Finance and Procurements Article.

As a condition of the Commission’s orders approving ORECs for OSW projects discussed in more detail below, awardees are required to file semi-annual compliance reports on their MBE goals and to notify the Commission within 30 days of executing their CBAs. This report contains the information reported through November 2023 for US Wind.^{4,5}

II. History of OSW in Maryland

In 2013, the General Assembly passed the Offshore Wind Energy Act⁶ establishing a carve-out for offshore wind energy under the State Renewable Portfolio Standard⁷ (RPS) and an application and review process (Round 1) at the Commission for OSW projects seeking ORECs. The Commission established Case No. 9431 to review applications.⁸ On May 11, 2017, the Commission issued Order No. 88192 approving US Wind, Inc. (US Wind) and Skipjack Offshore Energy, LLC (Skipjack) for ORECs. Table 1 illustrates the project capacities, ORECs awarded, ratepayer impacts, and MBE goals of the Round 1 projects.

Table 1 Round 1 Summary

	Skipjack	US Wind
Project Capacity	120 MW	248 MW
ORECs (2012\$)	\$131.93	\$131.93
ORECs (#)	455,482	913,845
Total Residential Impacts	\$1.40 per month (combined Skipjack and US Wind)	
Total Non-Residential Impacts	1.4% annually (combined Skipjack and US Wind)	
MBE Goal	29%	15%

⁴ Maillog No. 306051.

⁵ Skipjack announced that it was withdrawing from its OREC orders on January 25, 2024. This report will no longer provide updates on Skipjack since there are no longer awarded ORECs.

⁶ Acts of Maryland 2013, Chapter 3 (House Bill 226).

⁷ See PUA §7-701 et seq.

⁸ *In the Matter of the Applications of U.S. Wind, Inc. and Skipjack Offshore Energy, LLC for a Proposed Offshore Wind Energy Project(s) Pursuant to the Maryland Offshore Wind Energy Act of 2013.*

In 2021, the Commission established Case No. 9666 to review Round 2 applications.⁹ On December 17, 2021, the Commission issued Order No. 90011 approving US Wind and Skipjack for additional ORECs. Table 2 illustrates the project capacities, ORECs awarded, ratepayer impacts, and MBE goals of the Round 2 projects.

Table 2 Round 2 Summary

	Skipjack	US Wind
Project Capacity	846 MW	808.5 MW
ORECs (2012\$)	\$71.61	\$54.17
ORECs (#)	3,279,207	2,513,752
Total Residential Impacts	\$0.88 per month (combined Skipjack and US Wind)	
Total Non-Residential Impacts	0.9% annually (combined Skipjack and US Wind)	
MBE Goal	29%	15%

Following the grant by the Commission of ORECs during the Round 2 solicitation in 2020, both OSW project developers subsequently filed notices with the Commission which delayed by several years the estimated commercial operation date (COD) of both OSW projects awarded in Round 1. On February 25, 2021, Skipjack reported a new COD for its revised OSW project schedule as being the second quarter of 2026, and on April 13, 2022, US Wind reported an updated COD of its OSW project schedule of December 2026.¹⁰ On January 25, 2024, Skipjack withdrew from both OREC orders and no longer has awarded ORECs with the state.¹¹

As of the date of this report, US Wind is still awaiting the completion of its federal permitting. The main impact of the delay in the project schedules of US Wind’s projects is that the anticipated extensive contracting, employment, and spending associated with the construction of the OSW projects has yet to occur. Therefore, while the minority and MBE contracting goals during this pre-construction period of limited contracting and employment are currently being met by US Wind, a more complete gauge of the success of the OSW

⁹ *Skipjack Offshore Energy, LLC and US Wind, Inc.’s Offshore Wind Applications under the Clean Energy Jobs Act of 2019.*

¹⁰ Maillog Nos. 240177 and 233931. The OSW project applications approved in the 2020 Round 2 application period under the Clean Energy Jobs Act have CODs of 2026.

¹¹ Maillog No. 307274.

project's programs in meeting these goals will only occur during the actual construction phase of the projects.

III. MBE Goals

As conditions of Order Nos. 88192 and 90011, US Wind is required to file semi-annual MBE compliance reports with the Commission. Included in the semi-annual reports are status updates on the various statutorily required MBE requirements and goals for US Wind. The requirements are largely the same for both Round 1 and Round 2. The most up-to-date information the Commission has received from US Wind is summarized below.

a. MBE MOUs

US Wind was required to sign Memoranda of Understanding (MOUs) with the Commission related to opportunities for MBE participation, minority investors, and workforce diversity within 90 days of Order Nos. 88192 and 90011. US Wind in coordination with the Commission's Consumer Affairs Division (CAD) developed, signed, and filed MOUs with the Commission on August 14, 2017.¹² The MOUs signed during Round 1 satisfy Round 2 requirements. US Wind reports that it has identified three potential minority investors and will continue discussions into the next reporting period.¹³

b. MBE Plans

US Wind was required to coordinate with the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and Office of the Attorney General (OAG) on MBE goals and plans within six months of Order Nos. 88192 and 90011 and to file the coordinated plans with the Commission. US Wind filed its Round 2 MBE plan on June 17, 2022.¹⁴

¹² Maillog Nos. 216489 and 216490.

¹³ See 2023 US Wind Supplier Diversity Report, Maillog No. 306051.

¹⁴ Maillog No. 241145.

As discussed previously, US Wind is in the pre-construction phase of development which is reflected in the level of employment of contractors and subcontractors for the developer. US Wind requires prime contractors to create opportunities for MBE certified subcontractors and has met with and sought out MBE owned firms and entered into contractual arrangements with them. US Wind has, on a non-public basis, reported its levels of spending with diverse suppliers on a semi-annual basis in filings to the Commission.

c. MBE and Workforce Reporting

Order No. 88192 required US Wind to coordinate with the Director of CAD to develop MBE reporting templates and workforce diversity reporting templates within 90 days of Order No. 88192 and use those templates in the semi-annual MBE reports. Order No. 90011 required US Wind to review the templates created for Round 1 with the Director of CAD and update if necessary for Round 2. US Wind coordinated with CAD to develop templates during Round 1 and subsequently reviewed them with the Director of CAD to make appropriate changes for Round 2.

d. Implement MBE Goals

US Wind is required to make serious, good faith efforts to implement its MBE goals as conditions of both Order Nos. 88192 and 90011. Order No. 90011 required US Wind to use its best efforts to obtain MBE contractors and subcontractors to the extent practicable as supported by a disparity study.

As of the most recent semi-annual report, US Wind reports progress towards achieving its MBE goals. US Wind requires its general contractors to support the state's interest in expanding procurement opportunities for contractors and vendors who are MBEs, as that term is defined in §14-301 of the State Finance and Procurement Article. US Wind has an MBE Program Compliance Manager and Outreach Team to assist contractors in meeting the company's MBE goals. The company reports 17 MBEs are currently providing services to US Wind, an increase of four from the previous report, and the continued engagement with hundreds of additional MBE firms. US Wind also reports that it met with state and local

agencies, companies, and MBEs and participated in workshops, conferences, and meetings as part of its outreach and workforce development efforts.

IV. CBA Implementation

CBAs were a new requirement for Round 2 awardees. US Wind is still working to finalize its CBAs. US Wind is required to notify the Commission within 30 days of executing its CBAs. US Wind has not signed a CBA.¹⁵ US Wind reports that it has executed agreements with three unions. US Wind is also working on implementing a small business incubator program and is currently in the review phase of implementation.

V. Conclusion

The Commission appreciates the opportunity to provide the General Assembly with a status update on the compliance of US Wind with the MBE goals and CBA requirements of the Round 1 and Round 2 OREC awards. US Wind is working towards meeting the State's goals and will continue providing updates to the Commission on a semi-annual basis. The Commission will continue to monitor the progress of US Wind as its projects complete their permitting and move into the construction phase.

¹⁵ See US Wind Fourth Quarter 2023 Progress Reports, Maillog No. 306051.