

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 284 - L.D. 994

Resolve, To Require the Approval by the Public Utilities Commission of a Proposal for a Long-term Contract for Deep-water Offshore Wind Energy

Preamble. Whereas, legislative power is defined by limitation, not by grant, and is absolute except as restricted by the Constitution of Maine; and

Whereas, regulation of public utilities is a function of the Legislature, or a subordinate body, in the exercise of the police powers, as an attribute of sovereignty; and

Whereas, the Legislature's delegation of authority to the Public Utilities Commission may be withdrawn, modified or superseded in whole or in part from time to time by the Legislature by specific legislative act or resolve exercising the Legislature's absolute authority; and

Whereas, in 2010, the 124th Legislature enacted An Act To Implement the Recommendations of the Governor's Ocean Energy Task Force, Public Law 2009, chapter 615, finding that development of offshore wind energy projects in the Gulf of Maine is in the public interest; and

Whereas, Public Law 2009, chapter 615, Part A, section 6 directed the Public Utilities Commission to conduct a competitive solicitation for proposals for long-term contracts to supply installed capacity and associated renewable energy and renewable energy credits from one or more deep-water offshore wind energy or tidal energy demonstration projects and further directed the commission to make every effort to effectuate any such project; and

Whereas, on July 9, 2013, the Public Utilities Commission issued a request for proposals for long-term contracts for deep-water offshore wind energy pilot projects; and

Whereas, on August 30, 2013, Maine Aqua Ventus I, GP, LLC submitted a responsive proposal to the Public Utilities Commission in response to the request for proposals; and

Whereas, the Public Utilities Commission evaluated the Maine Aqua Ventus proposal and by orders issued February 13, 2014 and February 19, 2014 in Docket No.

2010-00235 selected Maine Aqua Ventus as the seller to transfer to Central Maine Power Company transmission and distribution capacity and associated energy produced by its deep-water offshore wind energy pilot project, subject to certain terms and conditions, referred to as "the term sheet," set forth in the February 13, 2014 and February 19, 2014 orders; and

Whereas, in its February 19, 2014 order approving the term sheet, the Public Utilities Commission found that Maine Aqua Ventus had satisfied each of the 6 criteria enacted by the Legislature in Public Law 2009, chapter 615, Part A, section 6, subsection 1, paragraphs A to F as prerequisites to ordering a transmission and distribution utility to enter into a long-term contract for the purchase of energy and capacity from Maine Aqua Ventus; and

Whereas, consistent with the terms and conditions set forth by the Public Utilities Commission in its February 2014 orders, Maine Aqua Ventus and Central Maine Power Company negotiated and drafted a long-term contract for capacity and associated energy following a series of meetings involving Maine Aqua Ventus, Central Maine Power Company, the Office of the Public Advocate and commission staff and legal counsel and filed the final draft with the Public Utilities Commission in December 2017; and

Whereas, in January 2018, the Public Utilities Commission delayed the contract's approval and solicited public comment on whether to reconsider the February 2014 orders approving the term sheet; and

Whereas, on June 12, 2018, the Public Utilities Commission decided, despite objections from Maine Aqua Ventus and the great majority of public commenters, to not act on the long-term contract between Maine Aqua Ventus and Central Maine Power Company filed with the commission in December 2017 and by order issued August 6, 2018 reopened the proceeding to reconsider the February 2014 orders; and

Whereas, since 2010, scientists and energy experts in the State and around the world have increasingly concluded that offshore wind will make a major contribution to the expansion of essential renewable energy generation, reducing reliance on fossil fuels and greatly assisting in the transition to a reduced carbon future; and

Whereas, since 2010, offshore wind energy development has rapidly accelerated in southern New England and other states on the Atlantic Coast, with fixed-bottom offshore wind energy projects contracting to deliver thousands of megawatts of power to regional electricity consumers and hundreds of millions of dollars being invested in projects and related onshore logistical and construction support; and

Whereas, the finite locations available for siting fixed-bottom offshore wind energy projects in the State, the United States and much of the world limit such development, creating a clear need for and public interest in the prompt development of cost-effective floating offshore wind energy technology, especially for regions such as the Gulf of Maine that lack the shallow water and sandy ocean floor necessary for fixed-bottom technologies; and

Whereas, in 2019, floating offshore wind energy technology remains essential to the State to reach its carbon reduction goals in a cost-effective manner, to mitigate the destructive warming of the Gulf of Maine and to benefit the economy through becoming an international source of floating offshore wind energy technology and manufacturing; and

Whereas, the Legislature finds that the public interest in prompt action by the State to determine the feasibility of the Maine Aqua Ventus floating offshore wind energy technology in the Gulf of Maine requires that the Legislature make certain findings and require the Public Utilities Commission to order execution of the December 2017 long-term contract between Maine Aqua Ventus and Central Maine Power Company necessary to effectuate the deep-water offshore wind energy pilot project; and

Whereas, the Legislature finds that it is in the best interest of the State to approve the December 2017 long-term contract between Maine Aqua Ventus and Central Maine Power Company as previously negotiated and drafted except with only such revisions as may be commercially necessary in light of the passage of time and the maturation of the offshore wind industry so that the deep-water offshore wind energy pilot project may move forward expeditiously and generate the benefits to the State and its people sought by the Legislature in Public Law 2009, chapter 615 and subsequent legislation; now, therefore, be it

Sec. 1. Findings. Resolved: That, notwithstanding any provision of law to the contrary or prior action or failure to act by the Public Utilities Commission, in order to best and most expeditiously effectuate the policies, goals and mandates set forth in the Maine Revised Statutes, Title 35-A, section 3202, subsection 1 and Title 35-A, section 3404, subsections 1 and 2; complete the competitive solicitation initiated by enactment of Public Law 2009, chapter 615, Part A, section 6; and make every effort to effectuate the Maine Aqua Ventus I, GP, LLC floating deep-water offshore wind energy demonstration project, the Legislature:

1. Finds that based on information filed by Maine Aqua Ventus I, GP, LLC, referred to in this resolve as "Maine Aqua Ventus," and others in the Public Utilities Commission Docket No. 2010-00235 and information otherwise in the public domain regarding the rapid worldwide development of offshore wind energy since 2010 and most recently offshore of the states of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland and Virginia, including hundreds of millions of dollars of planned investment in onshore logistical support and construction, the Public Utilities Commission correctly concluded in its February 19, 2014 order that Maine Aqua Ventus, referred to in this subsection as "the supplier," had satisfied each of the 6 criteria enacted by the Legislature in Public Law 2009, chapter 615, Part A, section 6, subsection 1, paragraphs A to F, as follows:

A. "Supplier proposes sale of renewable energy produced by a deep-water offshore wind energy pilot project or a tidal energy demonstration project as defined in this RFP";

B. "Supplier has the technical and financial capacity to develop, construct, operate and, to the extent consistent with applicable federal law, decommission and remove

the project in the manner provided by Title 38, section 480-HH, subsection 3, paragraph G";

C. "Supplier has quantified the tangible economic benefits of the project to the State, including those regarding goods and services to be purchased and use of local suppliers, contractors and other professionals, during the proposed term of the contract";

D. "Supplier has experience relevant to tidal power or the offshore wind energy industry, as applicable, including, in the case of a deep-water offshore wind energy pilot project proposal, experience relevant to the construction and operation of floating wind turbines, and has the potential to construct a deep-water offshore wind energy project 100 megawatts or greater in capacity in the future to provide electric consumers in Maine with project-generated power at reduced rates";

E. "Supplier has demonstrated a commitment to invest in manufacturing facilities in Maine that are related to deep-water offshore wind energy or tidal energy, as applicable, including, but not limited to, component, turbine, blade, foundation or maintenance facilities"; and

F. "Supplier has taken advantage of all federal support for the project, including subsidies, tax incentives and grants, and incorporated those resources into its bid price";

2. Finds that the development and operation of Maine Aqua Ventus technology under the long-term contract will:

A. Meet and surpass the substantial economic and professional opportunities and other societal benefits to the State anticipated by the Legislature in Public Law 2009, chapter 615 and subsequent legislation;

B. Provide benefits to providers of supervisory control and data acquisition systems and other monitoring services, systems controls providers, marine and construction engineering firms, marine transport services technology apprenticeship programs and other industries and service providers in the State;

C. Promote the public interest in development of reasonably priced, high load factor, winter-peaking renewable energy at projected and stable rates to serve the State and the regional power grid; and

D. Achieve several public purposes, including creating offshore-wind-related employment in the State, decreasing reliance on fossil fuels and increasing availability of renewable energy, mitigating the destructive warming of the Gulf of Maine and greatly assisting the State in achieving its carbon reduction goals; and

3. Finds that the public interest requires that the State Government maintain consistent, transparent and predictable regulatory processes and that the State Government thus be known to the world to keep its word.

Sec. 2. Maine Aqua Ventus to file draft contract with Public Utilities Commission. Resolved: That, within 15 days of the effective date of this resolve, Maine Aqua Ventus shall file with the Public Utilities Commission a draft revised

contract, which must be the same as the contract filed with the commission on December 13, 2017, in Docket No. 2010-00235, except for revisions necessary for the purposes of updating the previously negotiated contract in light of the passage of time and the maturation of the industry and facilitating the financing, construction and operation of the demonstration project in current circumstances.

Sec. 3. Contract negotiations; final draft contract. Resolved: That, within 60 days after the filing of the draft revised contract under section 2, the Public Utilities Commission shall initiate and complete negotiations among commission staff, Maine Aqua Ventus, Central Maine Power Company and the Office of the Public Advocate and shall approve a final draft contract. The final draft contract must be the same as the contract filed with the commission on December 13, 2017, in Docket No. 2010-00235, except for revisions necessary for the purposes of updating the contract in light of the passage of time and the maturation of the industry and facilitating the financing, construction and operation of the demonstration project in current circumstances, within the cost limitations established in Public Law 2009, chapter 615, while not increasing or decreasing the annual energy production cap or, except as needed to reasonably accommodate for construction inflation costs since 2014, the cost per kilowatt-hour previously set in the base energy price.

Sec. 4. Contract executed between Maine Aqua Ventus and Central Maine Power Company; cost recovery. Resolved: That, within 90 days of the effective date of this resolve, the Public Utilities Commission shall order the final draft contract approved under section 3 to be executed by Maine Aqua Ventus and Central Maine Power Company. The commission shall permit a transmission and distribution utility that it has directed to enter into a long-term contract under this section to recover the full cost of the purchases made under that contract in appropriate rate-making proceedings.

Sec. 5. Project monitoring; contract amendments. Resolved: That the Public Utilities Commission shall monitor the deep-water offshore wind energy pilot project developed by Maine Aqua Ventus and shall advise and consult with the parties to the project with regard to the exploration, assessment and implementation of all commercially reasonable actions to accomplish the objectives of Public Law 2009, chapter 615 through the financing, construction and operation of the demonstration project. The commission shall approve requested amendments to the contract executed under section 4 between Maine Aqua Ventus and Central Maine Power Company that are reasonably designed to accomplish the objectives of Public Law 2009, chapter 615 and to facilitate the financing and operation of the deep-water offshore wind energy pilot project as Maine Aqua Ventus may request from time to time, except that an amendment to the contract may not modify the annual energy production cap or, except as needed to reasonably accommodate for construction inflation costs since 2014, the cost per kilowatt-hour set in the base energy price under the contract.

Sec. 6. Authority for legislation. Resolved: That the Joint Standing Committee on Energy, Utilities and Technology may report out a bill relating to deep-water offshore wind energy to the Second Regular Session of the 129th Legislature.