



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
**DEPARTMENT OF ENERGY
RESOURCES**

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**DOER DETERMINATION ON SECTION 82 OF
AN ACT DRIVING CLEAN ENERGY AND OFFSHORE WIND**

Pursuant to *An Act Driving Clean Energy and Offshore Wind* (C. 179 of the Acts of 2022) (the Act) and Section 82 thereof (Section 82), having consulted with the Massachusetts Office of the Attorney General (AGO), the Department of Energy Resources (DOER) hereby determines that:

The two projects selected by the Maine Public Utilities Commission (MPUC): LS Power Base for a transmission project (Transmission Project) and Longroad Energy's King Pine wind generation project (Generation Project) (together, the Projects) would meet the following beneficial standards set forth in the Act with the Massachusetts electric distribution companies (EDCs) procuring up to 40 percent of the Projects:

- (i) provide cost-effective clean energy generation to electric ratepayers in the commonwealth and the region over the term of the contract; (ii) provide the benefits of clean energy and associated transmission towards meeting the commonwealth's decarbonization goals; (iii) reduce ratepayer costs in winter months and improve energy security during winter months;

Further, DOER determines that the Transmission Project and the Generation Project would meet the following Section 82 criteria if the Projects sign a binding Memorandum of Understanding (MOU) with DOER, including enforceable milestone commitments and all other terms and conditions at DOER's sole discretion that ensures the Projects:

- (iv) where possible, avoid, minimize, or mitigate, to the maximum extent practicable, environmental impacts, impacts on commercial and recreational fishing industries, and impacts to low-income populations; (v) demonstrate progress toward obtaining required permit approvals and interconnection, and (vi) have credible project schedule and construction plans, including plans for financing and stakeholder engagement.

Additionally, to meet the requirements of Section 82, all contracts under this beneficial determination must be contracts with terms of 10 to 20 years. DOER further finds that the clean

energy generation resource has a commercial operation date on or after January 1, 2022. The project has demonstrated that the clean energy generation resource would be eligible for the Renewable Energy Portfolio Standard (RPS) program under section 11F of chapter 25A of the General Laws and the project will be required to qualify. DOER finds that transmission costs are incorporated into the proposal.

As DOER, in consultation with the AGO, has determined that the Projects would satisfy the benefits listed in Section 82, DOER's evaluation further indicates that the greatest benefit for the residents of the Commonwealth comes from supporting project viability by contributing to paying for the costs of the Projects, while limiting the portion supported by Massachusetts ratepayers. Project viability shall mean that the Projects have received sufficient financial commitments (through state determinations or other binding commitments) to support the progression through critical milestones to commercial operation. DOER, therefore, determines that contracting for up to 40 percent of the Generation Project's electric generation and renewable energy certificate (REC) production and up to 40 percent of the Transmission Project's transmission service payments for less than or equal to 20 years can support project viability and contribute to paying for the project costs in general proportion to the expected regional benefit to Massachusetts. If the Projects have not received sufficient contracting commitments to support project viability by February 28, 2023, DOER's determinations hereunder shall terminate.

Background

On August 11, 2022, Governor Baker signed *An Act driving clean energy and offshore wind* (C. 179 of the Acts of 2022). Section 82 of the Act authorizes DOER to coordinate with other New England states to consider projects for long-term clean energy generation, transmission or capacity for the benefit of residents of the Commonwealth and the region. If DOER, in consultation with the AGO, determines that a project would satisfy all of the benefits listed in Section 82, the EDCs shall enter into cost-effective long-term contracts. On October 26, 2022, the MPUC announced its selection of the Transmission Project and the Generation Project to promote renewable energy development in northern Maine.

Statutory Mandate

Section 82 of the Act allows DOER to:

[C]oordinate with one or more New England states undertaking competitive solicitations to consider projects for long-term clean energy generation, transmission or capacity for the benefit of residents of the commonwealth and the region.

If [DOER], in consultation with the Attorney General, determines, not later than December 31, 2022, that a project would satisfy all of the benefits listed below, the electric distribution companies shall enter into cost-effective long-term contracts. In its determination, [DOER] shall determine if any proposals (i) provide cost-effective clean energy generation to electric ratepayers in the commonwealth and the region over the term of the contract; (ii) provide the

benefits of clean energy and associated transmission towards meeting the commonwealth's decarbonization goals; (iii) where possible, avoid, minimize, or mitigate, to the maximum extent practicable, environmental impacts, impacts on commercial and recreational fishing industries, and impacts to low-income populations; (iv) reduce ratepayer costs in winter months and improve energy security during winter months; (v) demonstrate progress toward obtaining required permit approvals and interconnection, and (vi) have credible project schedule and construction plans, including plans for financing and stakeholder engagement. For purposes of this section, a long-term contract shall be a contract with a term of 10 to 20 years. Eligible clean energy generation resources must (i) have a commercial operation date on or after January 1, 2022; and (ii) be qualified by the department of energy resources as eligible to participate in the renewable energy portfolio standard program under section 11F of chapter 25A of the General Laws. Associated transmission costs must be incorporated into a proposal.

All proposed contracts shall be subject to the review and approval of the department of public utilities. The department of public utilities shall consider both potential costs and benefits of such contracts and shall only approve a contract upon a finding that it is cost-effective, taking into account the factors outlined in this section.

Findings of Fact

Based on review and analysis of the Projects' confidential bid materials, inclusive of the Term Sheets with MPUC and the Projects' responses to DOER questions, with support from the Evaluation Consultant, Levitan and Associates, and in consultation with the AGO, DOER makes the following findings in connection with its determination:

- The two Projects selected by the MPUC provide energy benefits not only to Maine but to the whole region and system operated by Independent System Operator-New England (ISO-NE), including Massachusetts. The Projects create the greatest benefits for Maine with additional benefits to other New England states, including Massachusetts.
- The Projects increase the supply of clean energy in Maine and New England. The benefit of the additional energy increases as electric demand grows not only in Maine but across New England as the electrification of transportation and heating expands.
- DOER evaluated the anticipated amount of energy expected to be delivered over the life of the 20-year contract, including the availability of energy delivery to Massachusetts. Combined, the Projects deliver clean energy to Maine with power being supplied to New England in many hours.
- The Projects' increased supply of clean energy to the region can contribute to the Commonwealth's decarbonization goals through an increased supply of RECs available for Massachusetts to use for the Commonwealth's RPS program.
- When considering the Projects': (a) direct costs as bid; (b) the anticipated market benefits associated with the contracted energy; and (c) the forecasted indirect benefit of the Projects'

full generation and delivery, DOER anticipates it is likely that the Projects would provide positive net benefits to the ratepayers of Massachusetts levelized over the megawatt hours to be contracted by the Massachusetts EDCs.

- The Projects will provide winter energy security benefits by providing a new clean energy resource with energy production during winter months. This will displace fossil fuel resources during periods of constrained natural gas supply in the ISO NE region in the winter. This effect benefits Massachusetts and the New England region.
- Executing an MOU with enforceable milestone commitments between the project developers and DOER will ensure that the Projects continue to make progress towards key milestones related to project site control, permitting, environmental mitigation, stakeholder engagement and other project key criteria as they proceed with project development.

Determination of Benefits to Massachusetts and Region

Based on the findings above, DOER, in consultation with the AGO, hereby determines that the Projects would provide benefits to Massachusetts and the region. To support the viability of the Projects, Massachusetts will direct the Massachusetts EDCs to enter into long-term contracts for up to 40 percent of the Generation Project’s electric generation and REC production and up to 40 percent of the Transmission Project’s transmission service payments for 20 years or less. If the Projects do not have sufficient contracting commitments to support project viability by February 28, 2023, DOER’s determination hereunder shall terminate. Pursuant to authority granted in Section 82, the Massachusetts EDCs should commence negotiations with the Projects to enter into cost-effective long-term contracts that secure the benefits of the Projects for Massachusetts and the region as proposed in the bid materials and Projects’ response to questions, subject to the requirements of this determination, including the Projects signing a binding MOU with DOER before or concurrent with executing long-term contracts with the Massachusetts EDCs. DOER’s determination shall not include any additional costs not described in the materials evaluated. Any such long-term contracts related to Massachusetts’ share of the Projects shall be negotiated and executed by the Massachusetts EDCs and shall be subject to the review and approval of the Massachusetts Department of Public Utilities and any and all other necessary regulatory agencies.

December 30, 2022
Date

Robert H. Hoaglund

Robert H. Hoaglund
General Counsel