

**BEFORE THE
PUBLIC SERVICE COMMISSION
STATE OF NEW YORK**

Application of Empire Offshore Wind LLC for a
Certificate of Environmental Compatibility and
Public Need for the Construction of
Approximately 12 Miles of Transmission Lines
from the Boundary of New York State
Territorial Waters to a Point of Interconnection
in Town of Hempstead, Nassau County, New
York

Case No.: 22-T-0346

Empire Offshore Wind LLC

Empire Wind 2 Project

MATTER OF APPLICATION

APPLICATION

Pursuant to Article VII of the New York Public Service Law (PSL) and Subpart 85-2 of the Commission's Procedural Rules, 16 NYCRR Subpart 85-2 (2020), Empire Offshore Wind LLC (Empire, or the Applicant) hereby petitions the New York State Public Service Commission (Commission) for a Certificate of Environmental Compatibility and Public Need (the Certificate) authorizing the Applicant to construct, operate and maintain the New York portion of the transmission facilities required to interconnect Applicant's proposed Empire Wind 2 Offshore Wind Generating Facility with a potential capacity of supplying at least 1,260 megawatts (MW) of renewable electricity, to be located within the Bureau of Ocean Energy Management (BOEM) designated Renewable Energy Lease Area OCS-A 0512, to a Point of Interconnection with the New York State Transmission System (the POI), located at an expansion of the Barrett 138-kV Substation located in Oceanside in the Town of Hempstead, New York.

In accordance with Sections 3.3, 85-2.2, 85-2.4 and 85-2.8 of the Commission's Procedural Rules, the Applicant hereby submits its Application and exhibits, along with the information required by Section 122 of the PSL and Parts 86 and 88 of the Commission's Rules of Procedure, the testimony comprising the Applicant's direct case in support of its Application.¹ Further in compliance with PSL Sections 122(2) and 122(5), Applicant also submits an affidavit of service of this Application, a copy of the newspaper notice (with an affidavit of publication of such notices to be provided promptly upon receipt), a copy of the landowner notice, and a check in the amount of \$100,000 for intervenor funding.

¹ See Case 22-T-0346. On June 6, 2022, the Applicant filed a motion with the Commission for waiver of certain filing requirements of the PSL.

REQUEST FOR EXPEDITED ACTION

On July 18, 2019, the State of New York signed into law the Climate Leadership and Community Protection Act (CLCPA), “the most aggressive climate change legislation in the nation.”² A key part of this new legislation was the requirement that the Commission establish a program under which New York’s jurisdictional load serving entities would secure sufficient renewable energy to serve at least 70 percent of their loads by 2030 and 100 percent of their loads by 2040.³ As part of this aggressive clean energy mandate, the Commission was also directed to ensure that New York’s load serving entities procure at least 9,000 megawatts (MW) of electricity from offshore wind resources by 2035.⁴

These ambitious clean energy mandates require expedited action by the Commission on this Article VII Application, as the facilities proposed herein are required to connect Empire’s approximately 1260 MW offshore wind facility to the New York State Transmission System and thereby supply renewable electricity from the offshore wind facility to consumers in New York State, as required by Empire’s contract with the New York State Energy Research and Development Authority (NYSERDA). Prompt action on this Application will also further the public interest in a number of other important ways, as the Commission explained in its July 12, 2018 Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement in Case 18-E-0071:

[O]ffshore wind is projected to provide numerous benefits in addition to playing a significant role in contributing toward achieving the [Clean Energy Standard] targets and reducing greenhouse gas emissions. Because of its proximity and direct access

² [Governor Cuomo Executes the Nation's Largest Offshore Wind Agreement and Signs Historic Climate Leadership and Community Protection Act \(ny.gov\)](#)

³ N.Y. Pub. Serv. L. § 66-p(2).

⁴ N.Y. Pub. Serv. L § 66-p(5).

to load centers, offshore wind would provide substantial reliability and diversity benefits to the electric system. Offshore wind also has the potential to create thousands of jobs for New Yorkers, both in construction of the facilities and in the operations and maintenance of the completed projects. It may also produce significant public health benefits by displacing fossil-fired generation in the downstate area.⁵

Expedited action on this Article VII Application is required to achieve all of these important objectives and to protect New York's leadership position in the burgeoning offshore wind industry.

In conformance with Section 85-2.8 of the Commission's Procedural Rules, the Applicant further states as follows:

I. DESCRIPTION OF THE PROPOSED PROJECT

The Applicant is seeking a Certificate of Environmental Compatibility and Public Need for the New York portion of the Empire Wind 2 Project (NY Project). The NY Project is anticipated to be constructed almost entirely underground or under the waters of New York State and includes the following components:

- Three three-core 230-kV high-voltage alternating-current (HVAC) submarine export cables located within an approximately 7.7-nautical mile (nm, 14.2-km)-long submarine export cable corridor from the boundary of New York State waters 3 nm (5.6 km) offshore to the cable landfall;
- A cable landfall in the City of Long Beach, New York;
- Three 230-kV onshore export cable circuits, each with three single-core HVAC onshore export cables within an approximately 1.5-mi (2.4-km)-long onshore export cable corridor from the cable landfall to the onshore substation;
- An onshore substation in the Village of Island Park, within the Town of Hempstead, New York, which will step up the voltage to 345-kV for the onshore interconnection cables; and
- Up to three 345-kV interconnection cable circuits, each with three single-core HVAC interconnection cables within an approximately 1.7-mi (2.8-km)-long interconnection cable corridor from the onshore substation to the POI.

⁵ Case 18-E-0071, *In the Matter of Offshore Wind Energy*, Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement, slip op. at 3 (Issued and Effective July 12, 2018).

II. THE LOCATION OF THE PROPOSED RIGHT OF WAY

The NY Project will extend a total of approximately 12.1 miles (mi) (19.5 kilometers [km]) within the State of New York and includes 230-kV export cable circuits and 345-kV interconnection cable circuits. The NY Project will interconnect to the New York State Transmission System operated by the New York Independent System Operator, Inc. (NYISO) at the Oceanside POI, located at an expansion of the Barrett 138-kV Substation. The Barrett 138-kV Substation is owned by the Long Island Power Authority (LIPA) and operated by PSEG Long Island (PSEG-LI) and is located in Oceanside in the Town of Hempstead, New York. The NY Project will enter LIPA's substation at 345 kV, where the voltage will be converted to 138-kV within the POI. The onshore portion of the NY Project will be located entirely within Nassau County, New York. Detailed maps, drawings and explanations showing the proposed, primary route for the NY Project and alternate configurations considered by the Applicant are set forth in Exhibits 2 and 5 to the Application.

III. SUMMARY OF ENVIRONMENTAL STUDIES AND ENVIRONMENTAL IMPACT

The NY Project will be designed, constructed and operated in a manner that avoids or minimizes impacts to environmental resources and the general public to the maximum extent practicable. The Applicant, through its consultants, has conducted field investigations, environmental impact studies, literature reviews and agency consultations (where appropriate) to identify and assess existing environmental conditions within the NY Project's Study Areas. A detailed description of these studies and the potential environmental impacts of the NY Project is set forth in the resource-specific sections of Exhibit 4 to the Application, including:

- Marine Physical and Chemical Conditions;

- Topography, Geology, Soils and Groundwater;
- Wetlands and Waterbodies;
- Terrestrial Vegetation and Wildlife;
- Fisheries and Benthic Resources;
- Important Habitats and Protected Species;
- Cultural and Historic Resources;
- Visual and Aesthetic Resources;
- Land Use;
- Noise;
- Air Emissions; and
- Electric and Magnetic Fields

Study and technical reports, agency correspondence and environmental assessments for the NY Project are provided in the following appendices:

- Agency Outreach and Correspondence (Appendix A);
- Public Involvement Plan (PIP) (Appendix B);
- Sediment Transport Analysis Reports (Appendix C)
- Wetland and Terrestrial Vegetation Report (Appendix D)
- Benthic Resource Characterization Reports (Appendix E)
- Coastal Zone Management Consistency Statement (Appendix F)
- Electric- and Magnetic-Field Assessment (Appendix G)
- Confidential Marine Archeological Resources Assessment (MARA) Summary Report (Appendix H)
- Visual Impact Assessment (VIA) (Appendix I)

- Analysis of Visual Effects on Historic and Architectural Properties Summary Memorandum (Appendix J)
- Phase I Terrestrial Archeological Survey Summary Memorandum (Appendix K)
- In-Air Acoustic Assessment (Appendix L)
- Copies of Local Ordinances (Appendix M)
- Confidential System Reliability Impact Study (Appendix N)

In sum, these studies show that the potential environmental impacts of the construction and operation of the NY Project will be generally minor to negligible and limited in both scope and duration and will occur primarily during the construction phase. Because the Applicant has designed the NY Project to be constructed and operated almost entirely under water or underground with the exception of the portion of interconnection cable route across an inland waterway (Barnums Channel) between Island Park and Oceanside, New York, which may utilize an above-water cable bridge, and because the Applicant has proposed a number of mitigation measures, construction and operation of the proposed NY Project would not have any significant adverse impacts on environmental resources or on business or the general public in Nassau County, New York. A summary of the anticipated potential impacts of the NY Project on each of the identified resources is presented below. Where applicable, mitigation strategies that will be employed to minimize any potential environmental impacts that cannot be avoided are also described.

Marine Physical and Chemical Conditions

As detailed in Section 4.2 of Exhibit 4, no significant impacts to tides, currents, bathymetry, or water temperature are anticipated from NY Project-related construction, operations or maintenance activities. NY Project construction activities will result in short-term, minor

disturbance of seabed sediment, minor to negligible physical changes from cable protection on the seafloor, and minor to negligible bathymetry changes from pre-sweeping and dredging activities.

Topography, Geology, Soils and Groundwater

For the reasons explained in greater detail in Section 4.3 of Exhibit 4 of the Application, NY Project construction is not expected to result in significant alterations to topography, geology, soil or groundwater, and is not expected to significantly change stormwater runoff patterns or volumes. Site specific erosion and sediment control measures will be provided as part of the Environmental Management & Construction Plan (EM&CP). As such, the NY Project is not expected to impact surface water or groundwater quality during onshore soil disturbing activities.

Wetlands and Waterbodies

Section 4.4 of Exhibit 4 of the Application discusses wetland and waterbody habitats; potential impacts to these resources as a result of the NY Project's onshore construction and operation will be short-term and minor to negligible. This exhibit also discusses potential impacts to the affected existing environment, resulting from the construction and operation of the NY Project, as well as avoidance, minimization, and mitigation measures proposed to offset such impacts to the maximum extent practicable. To minimize potential impacts to offsite water resources, the Applicant will implement a soil erosion and sediment control plan for the cable landfall, onshore substation and onshore cable installation that satisfies the requirements detailed in the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book), and a Stormwater Pollution Prevention Plan (SWPPP) will be provided as part of the Applicant's EM&CP. The Applicant will also site the onshore components of the NY Project within previously disturbed areas, existing roadways and road rights-of-way to the extent practicable.

Terrestrial Vegetation and Wildlife

Section 4.5 of Exhibit 4 of the Application describes the terrestrial vegetation and wildlife resources that have been observed, or have the potential to occur, in the vicinity of the NY Project Area. Potential impacts to terrestrial vegetation and wildlife resources associated with construction and operation within the onshore portion of the NY Project Area landward of cable landfall are also discussed. The Applicant will implement measures to avoid, minimize, and/or mitigate potential impacts to terrestrial vegetation and wildlife.

Fisheries and Benthic Resources

As detailed in Section 4.6 of Exhibit 4 and Appendix E, to the extent possible, the Applicant has sited the NY Project to avoid sensitive benthic habitats to the extent practicable. Short-term minor direct disturbance, changes in water quality, entrainment, disturbance of softbottom sandy habitat, and project-related noise and vibrations may temporarily affect fisheries and benthic resources during construction activities. Long-term changes potentially affecting fisheries and benthic resources include the introduction of artificial habitat resulting from cable protection measures, electric and magnetic fields from the submarine export cables, and risk of bottom disturbance upon secondary interaction of fishing gear and vessel anchors with the cables during operations.

Important Habitats and Protected Species

As detailed in Exhibit 4, due to the placement of the onshore portion of the NY Project within a highly developed area, potential impacts to protected species and important habitat associated with onshore NY Project construction are anticipated to be negligible. The Applicant proposes to implement measures to avoid, minimize, and mitigate impacts to protected species

during construction and operation of the NY Project, including: the development and enforcement of an Oil Spill Response Plan; providing appropriate NY Project-related personnel onboard NY Project vessels with relevant training in wildlife sighting, recording and reporting procedures, vessel-strike avoidance and minimum separation distances, and awareness training to emphasize individual responsibility for protected wildlife awareness and protection, as necessary; and vessel lighting that minimizes illumination of the sea surface where feasible and in compliance with regulatory requirements.

Cultural and Historic Resources

Section 4.8 of Exhibit 4 of the Application indicates that there are no archaeological sites or sites of undetermined status under the National Register of Historic Places (NRHP) that occur within the NY Project's onshore archaeological preliminary Area of Potential Effects (PAPE). There is one NRHP-listed individual property within the visual APE for historic properties. Potential visual and aesthetic impacts, including potential visual impacts to nearby sensitive receptors (including historic properties) could occur. However, there are expected to be no adverse effects to Cobble Villa house by the introduction of the onshore substation. The onshore substation has been designed to be consistent with the visual character and land use of the surrounding area and will incorporate measures to reduce strong visual contrast to the extent practicable (e.g., selection of visually appealing materials and building colors).

During construction, the impacts to marine cultural resources have the potential to include disturbance to known and/or unknown submerged marine archaeological resources. Based on the results of the survey activities and marine archaeological analysis completed to date, potential sources of marine archaeological resources have been identified within the submarine export cable corridor. The Applicant plans to implement a horizontal buffer of at least 164 ft (50 m) for

identified potential submerged cultural resources, unless further investigation and/or consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) warrants the revision of that plan. Therefore, adverse effects to these resources are not anticipated.

Visual and Aesthetic Resources

As described in greater detail in Section 4.9 of Exhibit 4 of the Application, long-term visual effects during operation of the onshore substation will result from the visibility of the aboveground components associated with the onshore substation buildings, outside electrical equipment, static masts, and perimeter security fence. During construction, short-term, minor impacts will be associated with offshore and onshore construction activities. During operations, the onshore substation will introduce tall, rectangular forms and vertical and geometric structures into the landscape setting, which already is highly developed with similar forms and structures. The burial of the onshore cables will mitigate many of the potential visual effects of the NY Project that would otherwise occur.

Land Use

As described in greater detail in Section 4.10 of Exhibit 4 of the Application, the NY Project will not conflict with current or planned land uses within the NY Project Area and will have at most a minimal impact on any future planned uses. Construction of the NY Project will result in minor, short-term impacts, including a short-term increase in construction vehicle traffic and activity, as well as the short-term implementation of safety zones. The Applicant proposes to avoid, minimize, and mitigate impacts through the addition of security measures to monitor and properly mark active construction sites; the development of a Traffic Management Plan; and implementation of the NY Project's Public Involvement Plan (see Appendix B), including regular updates to the local

community through social media, public notices, the Empire Wind Project website, and/or other appropriate communications tools.

Noise

Section 4.11 of Exhibit 4 and Appendix L of the Application describe the potential noise impacts resulting from construction and operation of the NY Project. Construction will primarily result in short-term, minor increases in in-air noise levels associated with support vessels and construction of the onshore substation and installation of the onshore cables. Construction equipment will be well-maintained and vehicles using internal combustion engines equipped with mufflers will be routinely checked to ensure they are in good working order; quieter backup alarms will be used for vehicles, as feasible; noisy construction equipment will be located as far as possible from noise sensitive areas; and a noise complaint hotline will be made available to help actively address all noise related issues.

Electric and Magnetic Fields

As detailed in Section 4.13 of Exhibit 4 and Appendix F of the Application, the magnetic field is not expected to exceed the Commission's standard of 200 milligauss (mG) at the edge of the right-of-way (ROW). The electric-field levels at the edge of the NY Project ROW will be below the electric-field limit of 1.6 kilovolts per meter (kV/m).

IV. NEED FOR THE FACILITY

The NY Project is required to connect the Empire Wind 2 Offshore Wind Generating Facility (the OSW Facility) to the New York State Transmission System, so that the Applicant can supply renewable electricity produced from that OSW Facility to consumers in New York State, as required by the Applicant's contract with NYSERDA. As the Commission explained in

establishing a special program of renewable energy credits for offshore wind generating facilities selected by NYSERDA, projects like the EW 2 Project play a crucial role in achieving New York's ambitious clean energy objectives:

The reasons for adopting an Offshore Wind procurement requirement are compelling. Achieving the State's ambitious carbon reduction goals will require contributions from a variety of sources – no single technology or simple formula will suffice – and offshore wind will be an essential contributor. Offshore wind addresses the transmission and siting constraints that would otherwise inhibit the development of renewable power in the downstate area, and it has a higher capacity factor than other weather-variable renewable sources of generation. It is particularly well suited for the Atlantic coast, from siting and operations to system efficiency and potential output. Clean power delivered directly to the downstate capacity zones will also have the effect of displacing local fossil generation and reducing local air contaminants.⁶

V. DESCRIPTION OF REASONABLE ALTERNATIVE ROUTES AND TECHNOLOGY

Exhibit 3 of this Application provides a description and evaluation of alternatives, including a description of the comparative merits and detriments of each alternative and an explanation of why the proposed route is best suited for the NY Project. The Applicant evaluated alternatives for the submarine export cable route, onshore substation, cable landfall and onshore export and interconnection cable routes.

VI. OTHER RELEVANT INFORMATION

Exhibit 1 to the Application provides the name, address and phone number of the Applicant; the principal officer name and address for the Applicant; and the names and addresses of those persons upon whom documents and correspondence are to be served. Exhibits 2, E-1 and E-2 to the Application provide a detailed description of the location and design of the facilities comprising

⁶ Case 18-E-0071, *In the Matter of Offshore Wind Energy*, Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement, slip op. at 15-16 (footnotes omitted) (Issued and Effective July 12, 2018).

the NY Project. Exhibit 6 to the Application sets out the economic effects of the construction and operation of the NY Project.

Exhibit 7 to the Application provides information on local laws, codes and ordinances (Local Laws) that are applicable, or potentially applicable, to the NY Project. As indicated in Exhibit 7, the Applicant requests that the Commission grant waivers of specified provisions of those Local Laws that Applicant believes would be unreasonably restrictive if applied to the NY Project. Exhibit 8 to the Application describes other pending filings associated with the Application. Exhibit 9 to the Application provides estimated cost information regarding the proposed NY Project.

Exhibit E-4 to the Application presents the engineering justification for the NY Project. Exhibit E-5 to the Application explains why the NY Project is not expected to cause any material adverse impacts to television, radio or other communications systems. Exhibit E-6 to the Application evaluates the impacts of the NY Project on airports, railroads, roads, marine transportation, and pedestrian areas. This analysis demonstrates that the NY Project will be designed and constructed in a manner that will avoid interference with any of these transport modes except for impacts on roads and marine traffic during construction, which impacts will be temporary and minimized by appropriate safety measures. Appendix B contains the Applicant's most recent PIP.

Key features of the PIP include identifying key stakeholders in the NY Project Area; advancing the public's understanding of the NY Project; and encouraging and collecting input from, and disseminating information to, stakeholders and the communities surrounding the NY Project area. The PIP is intended to provide relevant information to the public and stakeholders, consider stakeholder input and to ensure consistent, frequent and transparent outreach and

communications with stakeholders. Various communication methods will be used as part of the Applicant's PIP, including but not limited to: public information meetings, presentations, a website, direct mail, NY Project brochures or newsletters, and electronic mail.

To date, as part of its comprehensive PIP, the Applicant has:

- met with certain key stakeholders, including State agency staff (including that of NYSDPS, NYSDEC and NYSDOS) and local elected leaders, informing them of the proposed NY Project;
- held public open house sessions in (both virtual and in person);
- published notice of the filing of the Article VII Application in newspapers of general circulation;
- sent letters to the landowners on which the NY Project would be located and adjacent landowners, notifying them of the NY Project;
- established a website at EW 2 Project and contact information is available on www.empirewind.com and <https://www.empirewind.com/environment-and-sustainability/environmental-protection/article-vii>, which will be updated regularly with NY Project information; and
- established a telephone number (833-699-1965) to receive calls regarding the NY Project.

VII. CONCLUSION

For the reasons set forth above, the Applicant respectfully requests that the Commission:

- i. grant the Applicant’s request for expedited treatment of this Application; and
- ii. grant a waiver of those Commission rules and regulations specified in the Motion for Waivers from Application Requirements filed with the Commission on June 6, 2022,; and
- iii. grant a waiver of those applicable Local Laws specified in Exhibit 7 pursuant to Section 126.1(g) of the Public Service Law and 16 N.Y.C.R.R. § 86-8; and
- iv. grant any other and further authorizations, consents, permissions, approvals, waivers and permits, as necessary, for the construction, operation and maintenance of the NY Project described herein; and
- v. issue an order granting a Certificate of Environmental Compatibility and Public Need authorizing the Applicant to construct, operate and maintain the NY Project as described in this Application and in the attached exhibits and appendices.

Dated: June 17, 2022
Albany, NY

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