

**Ocean Energy Task Force
Regulatory Subcommittee Meeting
Tuesday, September 8, 2009**

10:30 A.M. to 1 P.M.

**State House, Room 228 (Appropriations Committee hearing room)
Meeting Summary**

Attendees: *Members* - Kathleen Leyden (subcommittee chair); Angus King; Beth Nagusky, (OETF co-chair); Rep. Stacey Fitts; Sean Mahoney (by telephone) []
Interested parties - Chip Ahrens, Pierce Atwood; Tom Stoughton, Woodard and Curran; Marcia Bowen, Normandeau; John Ferland, ORPC; Anette Dearde, SEC Engineering; Peter Browne, HDR/DTA; John Pottle, Eaton Peabody; Elizabeth Butler, Pierce Atwood; and by telephone - Jeff Thaler, Berstein Shur; and Bob West, []
State staff: Todd Burrowes, SPO (staff to OETF and subcommittee); Dan Prichard, BPL; Samantha Horn-Olsen, LURC; Dana Murch, DEP; and James Cassida, DEP

1. Introductions. At Kathleen Leyden's request, those present at the meeting and participating by phone introduced themselves.

2. Presentation; Discussion - Straw Proposal Regarding State Decision Making Framework for Commercial Scale Wind Power Projects. Todd Burrowes presented the straw proposal, explaining that it was based on the analysis and recommendations made in Jeff Pidot's paper providing his independent assessment of the efficacy of Maine's land use and environmental permitting and submerged lands leasing laws as applied to commercial scale offshore wind energy development. Mr. Burrowes noted that the straw proposal, previously distributed to the subcommittee and interested parties for review prior to the meeting, was also meant to reflect the subcommittee's discussion of Mr. Pidot's paper. In discussing the straw proposal, subcommittee members and other meeting participants identified the following principal issues or concerns:

- Need to clarify that, as is the case with state law regarding siting of land-based grid-scale wind energy projects, project-related transmission facilities, for example a generator lead line to deliver electricity to the grid, are part of the "offshore wind energy development" for permitting purposes
- Further clarification of proposed articulation of state Public Trust Doctrine to ensure wind power development on state submerged lands may be considered, among other allowable uses, and consistent with and in furtherance of the state obligations as trustee of those submerged lands, and consultation with the Attorney General's office in drafting requisite legislation
- Assurance that LURC retains a permitting role regarding community wind projects proposed in proximity to islands in LURC jurisdiction, with assurance that the nature and scope of this LURC role is clearly defined

- Assurance that the procedural streamlining for commercial offshore wind (see bullet 2 of the straw proposal), such as permitting by DEP as opposed to BEP, would also apply to commercial tidal power development;
- Amend Site Law and NRPA to include statutory criteria well-tailored to avian (bird and bat), noise, and other issues that need to be assessed and addressed differently for ocean-based as opposed to land-based wind projects rather than defer development of such criteria to rulemaking as suggested in the straw proposal
- Explore options to develop baseline information on noise impacts and other potential issues that may be used in developing DEP standards and related permitting requirements
- Direct SPO to review and revise existing coastal inventories to update identification "scenic resources of state or national significance" used to define scope of scenic impact assessment under state permitting laws for wind power development
- Make scenic assessment method and standard for commercial offshore wind development the same as that used for grid-scale wind energy development
- Clarification that BPL, in issuing submerged lands leases, must adopt related state permitting findings regarding project effects to avoid duplication and potential conflict between state approval decisions
- Focus efforts to improve federal-state coordination on siting issues by directing the State to seek an MOU on permitting issues among state and federal permitting and review agencies, modeled after the recently signed MOU between FERC and Maine agencies regarding tidal power permitting

Overall, subcommittee members emphasized the importance of identifying means to further coordinate state and federal approval procedures, standards and related information requirements as an issue of particular importance.

The subcommittee had a brief, initial discussion of the straw proposal's provisions regarding submerged lands lease fees and related issues. Angus King provided a rough estimate of costs and revenues for a hypothetical 100 MW offshore wind energy development. Mr. King's hypothetical financial analysis, which on the revenue side assumed an energy price of \$.08 per kilowatt hour and a \$.03 renewable energy credit, as well as the 30% federal tax credit, indicated a \$5 million deficit for the first 10 years of project operations. In light of this analysis and state policy promoting wind energy development, Mr. King and others urged reduction or elimination of submerged lands rent and royalties in the initial years of project operations.

Subcommittee members noted a number of issues regarding the straw proposal's provisions regarding submerged lands leasing, including but not limited to those regarding lease fees, royalties based on electric production, compensation for project-related effects on other human uses, use of revenues generated through lease fees, and relationship between submerged lands lease fees and potential permitting requirements regarding assurance of public benefits and mitigation.

3. Next steps. The subcommittee directed staff to revise the straw proposal to make changes to address bulleted issues listed above for further review by the subcommittee and subsequent submission as proposed draft recommendations to the full task force for consideration at its September 25, 2009, meeting. The subcommittee decided to continue its discussion of the straw proposal's provisions on submerged lands leasing issues in a follow-up conference call.