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October 1, 2013

Mr. Harry Lanphear
Administrative Director
Maine Public Utilities Commission
State House Station 18
Augusta, ME 04333-0018

Re: Comments of the Conservation Law Foundation and Environment Northeast, Docket No. 2010-00235

Dear Mr. Lanphear:

The Conservation Law Foundation (CLF) and ENE (Environment Northeast) submit these comments in response to the Commission's September 18, 2013 Procedural Order.

In response to our September 16, 2013 letter, Maine Aqua Ventures I GP, LLC (MAV) has opposed making any information available to the public concerning its August 30, 2013 bid proposal submitted to the Commission pursuant to a Supplemental Request for Proposals for Long-term Contracts for Deep-Water Offshore Wind Energy Pilot Projects (Supplemental RFP). In contrast, the Office of the Public Advocate, appropriately citing the need for transparency particularly in a matter of such importance and significant public interest as this one,¹ supports the Commission directing MAV "to provide public versions of their proposal, subject to such redactions as may be required to protect their competitive interests." The Public Advocate agrees that certain information can be made public concurrent with Staff negotiating with MAV over a Term Sheet. We urge the Commission to adopt the course of action supported by the Public Advocate.

MAV acknowledges that the other entity to submit a bid to the Commission, Statoil, NA, submitted both a confidential version and a redacted version of its term sheet, but is dismissive of that document as containing "little factual and technical information." We disagree. In contrast to MAV's decision to provide no information, Statoil's redacted term sheet provided the public with information concerning, but not limited to: 1) a project description; 2) the term of the proposed contract; 3) the quantity and price of the energy to be generated; 4) revenue treatment for capacity payments and grants; and 5) commitments to benefits to the Maine economy, including employment, location of an operations center and development of a Maine-based supply chain.

MAV also notes that the redacted term sheet was filed more than a year after Statoil's bid was submitted to the Commission and it should not be held to a different standard, particularly as the Statoil

¹ Ironically, MAV's current counsel shared this same perspective when, as counsel for the Industrial Energy Consumer Group (IECG), he sought access to confidential documents in this very docket: "Especially in a case of this importance, IECG urges that only information that is genuinely privileged or business confidential be kept from public view." Motion of IECG for Access to Confidential Documents, Sept. 13, 2012.

bid is still confidential. MAV fails to acknowledge the very different circumstances under which its bid was submitted. First, although the Statoil Term Sheet and supporting documents were deemed confidential and protected from review by the public, pursuant to the Commission's Third Amended Protective Order No. 4, the PUC authorized counsel to MAV and the Assistant University Counsel to access and use the documents and comments related to Statoil and Commission staff negotiations on the Term Sheets in this docket. The Order also authorized key members of MAV, including Dr. Dagher, Vice-President Ward and Professor Hunt of the University of Maine, to access and use the documents. In the interest of a fair and transparent process, MAV's proposal, which was crafted after MAV reviewed Statoil's documentation and terms, should also be available for review.

Second, the very premise for the last-minute legislative machinations that lead to the Supplemental RFP was the representation that another bid would provide energy at a lower price and with greater benefit to the Maine economy. Having made the representation in a very public setting, the public is entitled to the opportunity to gauge the reality of that representation.

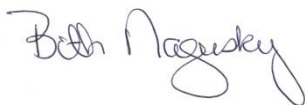
Finally, this is not the typical situation where two bidders are simultaneously competing for a contract. Rather, in this case one bidder submitted a timely proposal in accord with Maine's Ocean Energy Act and after months of scrutiny, revision and negotiating, obtained an approved term sheet and was close to signing a long term contract. The other bidder is just entering the bidding process. The legislation that permitted the late entrant envisions a Commission decision in just three months. The longer deliberative process that was used for the first bidder will not work here, given the timing considerations imposed by the new law. In other words, providing access to the confidential information is even more important, because of the expedited time table and the need to compress thoughtful and meaningful review into such a short window of time.

MAV suggests that our organizations support Statoil and oppose MAV and that is the basis for our request. The suggestion lacks any merit whatsoever. Having both served on the Ocean Energy Task Force and participated in this docket for the past two years, it should be self-evident that our individual and organizational priorities do not lie in advancing one particular offshore wind project over another but rather in advancing offshore wind. When we supported the Statoil project it was the only one before the Commission. Now we would like to be able to compare the two to see which is most consistent with the criteria set forth in the Ocean Energy Act.

The most recent report from the Intergovernmental Panel on Climate Change (www.climatechange2013.org) is unequivocal that our reliance on fossil fuels for energy has had and will continue to have dramatic and negative impacts – the atmosphere and ocean have warmed, the amounts of snow and ice have diminished, sea level has risen, oceans have become more acidic and the concentration of greenhouse gases has increased. The potential to develop off shore wind as a zero carbon, renewable energy source must be capitalized on and any unnecessary delay harms both our environment and our economy.

CLF and ENE urge the Commission to direct MAV to provide a redacted version of their proposal to the public as soon as possible. We both agree to continue to be bound by the terms of the existing confidentiality/protective orders to the extent that we are granted access to further information.

Sincerely,



Beth A. Nagusky
Maine Director, ENE



Sean Mahoney
Vice-President, CLF