August 18, 2022

# Massachusetts Enacts Important Energy Legislation – An Act Driving Clean Energy and Offshore Wind

On August 11, Massachusetts Gov. Charlie Baker signed H. 5060, An Act Driving Clean Energy and Offshore Wind (the Act), published as Chapter 179 of the Acts of 2022. The Act is a significant piece of legislation aimed at moving Massachusetts toward its goal of net-zero greenhouse gas (GHG) emissions by 2050 through the promotion of offshore wind and solar power, battery storage, and the electrification of the transportation and building sectors.

## Offshore Wind

Much of the Act focuses on offshore wind, with several significant provisions aimed at advancing the offshore wind industry and supporting the procurement of offshore wind energy. First, the Act codifies the goal of procuring 5,600 megawatts (MW) of offshore wind generation no later than June 30, 2027. The Act allows for a solicitation of offshore wind generation to be coordinated and issued jointly with other New England states. Individual solicitations under the Act must seek proposals for at least 400 MW. The Act directs the Department of Energy Resources (DOER) to develop a staggered procurement schedule so that procurements occur within at least two years of each other.

Second, the Act makes offshore wind development more attractive by removing the price cap required for project developers submitting bids in response to solicitations for offshore wind generation. The cap would have required that the price under each offshore wind power purchase agreement be less than the price paid in the preceding procurement.

Third, as discussed further below, the Act provides for the potential procurement of transmission infrastructure necessary to support the development of offshore wind generation for Massachusetts and the region. This provision could help overcome some of the transmission obstacles for offshore wind.

Fourth, the Act provides significant tax incentive and funding opportunities for "Certified offshore wind companies"[1] through a newly created Massachusetts offshore wind industry investment program to be administered by the Massachusetts Clean Energy Center (MassCEC). For Certified offshore wind companies, the Act provides access to the program, which consists of offshore wind tax incentives and access to the expenditures in the Massachusetts offshore wind industry investment trust fund.[2] The goal of the program is to "develop and expand offshore wind industry-related employment opportunities in the Commonwealth and to promote renewable energy-related economic development in the Commonwealth by supporting and stimulating manufacturing and related supply chain capacity in the offshore wind industry."

Fifth, the Act gives preference to proposals in response to offshore wind generation solicitations that demonstrate, among other factors, investments in local manufacturing, mitigation and avoidance of detrimental environmental and socioeconomic impacts, support for workforce training and diverse and equitable employment opportunities, and commitments to enter into long-term contracts with businesses, nonprofit organizations or municipalities rather than utilities to purchase offshore wind energy. Finally, the Act continues to require approval from the Department of Public Utilities (DPU) of the proposed long-term contracts that result from the solicitations, and it requires that the DPU promulgate regulations that contain the necessary criteria (outlined in the Act) that each long-term contract is required to contain.

## Transmission Planning for the Future Grid and Regional Coordination

In addition to the planning and procurement for transmission to support Massachusetts offshore wind, the Act also frequently highlights areas for coordination with other New England states on proactive clean energy transmission planning and potential transmission procurement, as noted above. The Act states that the DOER may competitively solicit and procure proposals for offshore wind energy transmission to be made available for use by more than one wind energy generation project. The intent of the transmission procurements is to support Massachusetts procurements of offshore wind generation. The Act directs that the DOER may coordinate with Massachusetts agencies and other New England states to develop a solicitation that would best meet the needs of the growing offshore wind industry while maintaining reliability. The Act requires that the DOER take into consideration the total amount of transmission needed to maintain reliability, avoid unnecessary costs to upgrade the existing transmission grid, achieve the commonwealth's offshore wind and decarbonization goals, and obtain demonstrable benefits for the consumer and the environment. Proposals can include upgrades to the existing grid, extending the grid closer to offshore wind locations, determining or upgrading optimal landfall approaches, or interconnecting offshore substations. The Act permits proposals that include federal funding, including in the form of a match, grant or loan, or through joint ownership with the U.S. government.

The Act also directs electric distribution companies (EDCs) in the commonwealth to develop an electric-sector modernization plan to proactively upgrade the distribution system, improve grid reliability, prepare for climate change and accommodate transportation electrification. The efforts of the EDCs to proactively prepare for the grid of the future are to be reviewed and commented on by the newly created Grid Modernization Advisory Council. In a similar vein, the Act creates a Clean Energy Transmission Working Group "for the purposes of providing a comprehensive cost analysis of major transmission infrastructure upgrades that may be needed to deliver clean energy generation procured pursuant to the laws of the commonwealth for the use of residents of the commonwealth and the region." These efforts in assessing new transmission upgrades (both in-state and regional) that will be required to support clean energy projects and maintain a reliable grid well into the future are consistent with the recent Federal Energy Regulatory Commission Notice of Proposed Rulemaking on transmission planning, which seeks to reform the transmission planning process to better anticipate the change in the nation's resource mix.

Aside from transmission planning, the Act promotes regional coordination by allowing Massachusetts to coordinate with other New England states to undertake competitive solicitations to consider projects for long-term clean energy generation, transmission or capacity for the benefit of New England residents. The Act also requires an investigation of the viability of participating in regional or multistate competitive market-based mechanisms, structures, systems, or competitive solicitations in order to facilitate the development of clean energy generation resources.

## Solar and Battery Power, Electric Vehicles and Building Sector Electrification

The Act provides for further development of the solar and battery storage industries. It allows agricultural land to be used to site solar panels and directs a study into the deployment of "agrisolar" sites for both solar and agricultural uses. The Act directs the EDCs to develop tariffs for the interconnection of storage systems to the distribution system and to file such tariffs at the Federal Energy Regulatory Commission. These tariffs will enable a more streamlined billing process for storage systems using the distribution system to make wholesale sales in ISO New England markets. For storage developers, the Act's requirement that Massachusetts EDCs develop tariffs for interconnection to the distribution system of storage entities that participate in wholesale markets will ease the regulatory burden of determining what tariff to apply for use of the distribution system to access wholesale markets.

The Act contains numerous provisions regarding the electrification of the transportation sector. These include provisions such as the establishment of an electric vehicle (EV) adoption incentive trust fund to provide rebates for the purchase of EVs, requiring the Massachusetts Bay Transportation Authority bus fleet to be entirely electric by 2040, developing a coordinating council to implement a plan for deploying EV charging stations across the state, and requiring the DPU to develop vehicle electrification and GHG emission regulations for ride-sharing companies like Uber and Lyft. The Act demonstrates a significant effort by the legislature to increase access to EVs for people from all socioeconomic backgrounds and to increase the electrification of state-owned vehicle and bus fleets.

Finally, the Act contains several provisions on the electrification of the building sector and green building. Notably, the Act requires that large buildings report their annual energy usage in a public report and requires an assessment of all K-12 schools in the commonwealth, which will be used to improve energy efficiency and air quality.

## Conclusion

The Act is a clear demonstration of Massachusetts' commitment not only generally to its renewable energy and GHG reduction goals but also specifically to the growth of the offshore wind industry in the commonwealth. Entities that may meet the definition of "Certified offshore wind company" should closely examine the potential opportunities for tax incentives and access to the offshore wind industry investment trust fund and monitor opportunities, specifically with the DOER and MassCEC. The commonwealth clearly recognizes the need for regional collaboration and the benefits of possible regional coordination of transmission and/or generation for the region.

The Act allows responses to a transmission solicitation to take many forms, including upgrades to the existing grid, extending the grid closer to offshore wind locations, determining or upgrading optimal landfall approaches, or interconnecting offshore substations. Thus, while there are still open questions and other hurdles with regard to transmission infrastructure to support offshore wind, the Act provides a Massachusetts agency with clear direction to potentially procure transmission to support the increasing capacity of renewable generation. This is a clear step in the direction of creating the grid of the future to reliably bring renewable generation to load centers at a reasonable cost.

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[1] The Act defines "Certified offshore wind company" as "an offshore wind company that has been certified by the center (Massachusetts Clean Energy Technology Center) for participation in the Massachusetts offshore wind industry investment program and the offshore wind tax incentive program established in section 8A" (of Chapter 23J of the General Laws). Section 16 of the Act provides the required criteria for a certification proposal to be submitted to the MassCEC for certification.

[2] The MassCEC is authorized by the Act to make expenditures from the offshore wind industry investment trust fund to promote the offshore wind industry supply chain and clean energy research, stimulate financing for siting and expansion of offshore wind manufacturing facilities, support the revitalization of ports, and prepare individuals for offshore wind careers through workforce training, among others. Expenditures from the trust fund can go to only offshore wind companies or offshore wind organizations, must be approved by a majority of the board, and must be found to have a definite benefit to the commonwealth.

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