

The Regulation of Offshore Wind

CHALLENGES OF FEDERAL, STATE AND LOCAL RULES

BY PETER D. MANDELSTAM

NUMEROUS EUROPEAN COUNTRIES are experiencing explosive growth in the number and size of proposed offshore wind parks. Many U.S. federal and state officials are now eager to reap the benefits of offshore wind. Bluewater Wind strongly believes there exists a restrained enthusiasm for offshore wind energy that will be fully unleashed once the first offshore wind park is sited, receives its permits and begins providing fuel-free, stable-priced, renewable and clean energy to the grid. Our business model predicts that the industry will experience an enormous growth surge immediately after the first offshore wind turbines begin spinning in the United States.

The wind industry can turn the permitting challenges that we face into opportunities to provide safe, clean and sustainable power from the ocean to our shores.

The energy act of 2005 established that jurisdiction for permitting offshore wind parks on the outer continental shelf – seabeds that are more than three miles from a state's ocean shoreline – was transferred from the U.S. Army Corps of Engineers to the U.S. Department of the Interior's Minerals Management Service (MMS). MMS is currently drafting rules and regulations that offshore wind park developers must follow.

As chair of the offshore wind group in the United States, I have come to understand that MMS began its regulatory approach by consulting siting standards that are in place for land-based wind parks located on property managed by the Interior Department's Bureau of Land Management.

Although the promulgation of regulations has been delayed past their due date, we are confident that the MMS standards, while comprehensive and designed to protect all government and environmental interests, will



The Nysted offshore wind farm, off of Denmark, is one of the world's largest wind farms to date.

PHOTO COURTESY NYSTED AT RØDSAND.

establish a regulatory regime that supports the development of offshore wind parks.

Permitting an offshore wind park will not be easy, quick, or inexpensive. Siting these large projects is complicated, time-consuming and costly. A minimum of two years will be required to complete local, state, and federal permitting requirements. In addition to MMS, which has major oversight responsibilities, there are other federal agencies, including the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the U.S. Coast Guard, and the Department of Homeland Security that must review an applicant's offshore wind park proposal. Multiple state and local agencies have an important role in the permitting process, too, since interconnection to the power grid requires submarine cables from the wind park to cross onto and preferably under state and local lands to get to the substation where the interconnection will be made.

NewsFlash

URANIUM OPPOSITION

Some Colorado residents are battling a proposed \$20 million uranium mine 70 miles north of Denver.

Powertech Uranium, based in Vancouver, British Columbia, said that the mine could produce 8 million pounds of uranium, according to the *Associated Press*.

The company hopes to open it in 2009.

Some residents fear the mine would degrade ground water.

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To emphasize the important role local and state government officials can play in the siting of offshore wind parks, consider Bluewater Wind's experience in Delaware, where we won a competitive bid for 25-year generation service against bidders proposing coal-fired and gas-fired power plants. Our participation in the process began in August 2006, when we learned that the local utility, Delmarva Power, would issue a request for proposals for generation service. This request was the result of the state legislature's enactment of a law that requires the utility to stabilize prices by contracting for a long-term power supply. The request was issued on November 1, bids were due December 22, and Bluewater Wind was selected on May 22. There were many hearings, public comment sessions, and bidder submissions during the ten-months before we won the bid; Bluewater, the other bidders, and the public filed thousands of pages of documents. The selection process required the unanimous approval of four state agencies – the Public Service Commission, the Department of Natural Resources and Environmental Control, the Office of Management and Budget, and the Controller General's Office. This highly competitive, publicly transparent, and community involving process provided great stakeholder support for the outcome. We are currently negotiating the power purchase agreement with Delmarva Power and will present it for approval by the

Public Service Commission and the other three state agencies.

The concern of the various stakeholders in the environmental reviews is the thoroughness and duration of environmental studies review. For instance, the study of local and migratory birds must be complete but not excessively long. The National Audubon Society recommends a full year of studies. Although some of these ocean studies have never been performed to this degree of detail, peer-reviewed science can determine appropriate environmental review protocols.

Offshore wind energy parks are new to the United States, although their record off the coasts of numerous European countries bodes well for this important technology that can help in the fight against climate change. The MMS and other key federal, state and local agencies are committed to developing and implementing regulations that protect the environment while at the same time providing for the development of clean, renewable wind power. Challenges exist but thorough and comprehensive adherence to the applicable rules and regulations will result in developers building offshore wind parks that help meet our nation's critical need for a diverse, environmentally sound domestic energy portfolio.

Peter D. Mandelstam is president and chief executive officer of Bluewater Wind.

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