To: Massachusetts Energy Facilities Siting Board
From: Orsted
Date: July 28, 2025
Subject: Comments on Massachusetts 2024 Climate Act Draft Regulations (980 CMR 1, 2, 14, 17, and 13)

About Orsted

A global clean energy leader, Orsted develops, constructs, and operates offshore and land-based wind projects, solar projects, energy storage facilities, and bioenergy plants. With approximately 11 gigawatts of projects in development, construction and operation, Orsted's portfolio of American energy projects includes: (i) the first utility-scale offshore wind farm in the U.S., South Fork Wind: (ii) one of the country's largest battery storage facilities (located in Arizona); and (iii) many more electric generation projects that are delivering affordable and reliable energy to millions of homes across the country.

Orsted is proud to call Boston home to our US headquarters, and the hundreds of employees and partners in the region who are working every day to make our shared vision of expanding renewable energy a reality. We look forward to continuing to partner with the Commonwealth in its work to achieve its significant renewable energy goals and appreciate the opportunity to provide comments on the draft regulations and associated guidance relating to the implementation of the Massachusetts 2024 Climate Act.

Comments

980 CMR 1.00 Rules for the Conduct of Adjudicatory Proceedings

1.02(3) Segmentation
Orsted recommends reducing the scope of potential future expansion under this section from 5 years to 2 years. This timeframe provides a more realistic one in which a future project would be a true continuation of an existing project. Given the specific locations of lease areas, multiple projects may be developed in a given lease area as separate, distinct projects due to a variety of factors, including different offtake opportunities, construction timing, and other commercial factors. Separate, distinct projects, even if they are within the same lease area or in close proximity to one another, may be on different development timelines, incorporate different potential technologies, or otherwise be distinct such that separate permits may be warranted.

1.09(10) Site Visit of a Proposed Facility
Orsted recommends Siting Board staff site visits to the location of a proposed project be closed to the public to ensure objectivity. Closed site visits will allow Siting Board staff to make evaluations free of influence from public comment or demonstration.

1.09(13) Project Changes
Orsted continues to recommend that the Siting Board require notification of any material variations to the proposal, rather than notification of "any changes other than minor variations to the

proposal". Orsted appreciates that the Siting Board has established a clear process for project changes in 980 CMR 1.09(13)(b). Orsted further recommends the Siting Board establishes a timeframe following the Applicant's 5-day response period parties' or limited participants' comments on the project change by which the Presiding Officer must either approve the project change or request additional information.

1.10 Decommissioning and Site Restoration Plan

Orsted recommends that, during the permitting process, the Siting Board requires that the Applicant commits to decommissioning the project according to local, state, and federal requirements at the time of decommissioning. The Siting Board can further require a more detailed decommissioning plan be submitted prior to commencement of decommissioning activities. Large energy infrastructure projects have operational timelines of multiple decades, and as such, the specific requirements of decommissioning should be defined closer to when decommissioning activities are realized to ensure they align with federal, state, and local requirements at that time. A phased approach to decommissioning requirements will ensure developers effectively decommission their projects and restore sites according to all requirements and best practices at the time of decommissioning, while allowing for sufficient flexibility closer to the time of decommissioning.

980 CMR 2.00 General Information and Conduct of Board Business

2.10 Permitting Dashboard

Orsted continues to support the development of a single, concise, and well-designed dashboard the public can consult for all projects undergoing review at the Siting Board. This type of dashboard can help foster transparency and public trust during the permitting process.

980 CMR 17.00 Rules for the Conduct of Adjudicatory Proceedings

17.02 Preparations for Possibility of Constructive Approval

Orsted recommends the process for delivering a Constructive Approval Permit be standardized and easy to implement. A standardized Constructive Approval Permit and standardized process would allow the Siting Board to focus during the final 60-90 days prior to a decision deadline on reaching a final decision by minimizing the time and effort needed to prepare and implement a constructive approval permit.

980 CMR 13.00 Regulation

Orsted appreciates the Siting Board Staff is working diligently to produce drafts of new regulation in time to meet the March 1, 2026, deadline and has reviewed the draft of 980 CMR 13.00 Regulation and provided comments on the select portions available below. However, it is difficult to provide clear and comprehensive feedback on drafts containing placeholders and references to regulation and guidance not yet released. Orsted urges the Siting Board to provide adequate time for the public to review and prepare comments on all draft rules comprehensively when complete.

While Orsted understands there are benefits and drawbacks of both the Aggregation Model, (which the Siting Board Staff appears to be recommending in the draft regulations and referring to as the Consolidated Permit) and the Purpose-Built Model described in the Straw Proposals previously released, the Company continues to support the development of a Purpose-Built Model. To truly

facilitate more efficient and streamlined permitting, all application requirements and information needs must be clearly spelled out and standardized across projects at the outset of the process to ensure applicants clearly understand what is required to receive an affirmative completeness determination. Based on Orsted's review of the Consolidated Permit process described in the draft regulations, the Purpose-Built Model described in the Straw Proposals seems best suited to addressing concerns relating to delays in completeness determinations and/or application rejections due to lack of clarity on what is needed at the outset of developing an application. The Purpose-Built Model also appears to be best suited to ensuring the Siting Board coordinates closely with all other Massachusetts permitting agencies to fully understand permitting requirements, outline them clearly, and streamline redundancies in a manner that is standardized across projects through a purpose-built application. Orsted also recommends that, prior to receiving a given application, the Siting Board establishes a clear schedule and timeline with all agencies reviewing materials during the completeness review stage to mitigate the potential for delays due to interagency coordination during the completeness review process.

13.03(6) Consultation and Community Engagement

While Orsted supports meaningful engagement with agencies and stakeholders prior to filing an application with the EFSB, the Company continues to have concerns with the potential lengthy process proposed for pre-filing requirements and does not believe this duration aligns with the spirit of the 2024 MA Climate Act to expedite permitting. Orsted cannot sufficiently comment on draft regulations relating to pre-filing requirements at this time because they do not appear to have been issued for public comment. In reviewing the released material, as well as the previously released Straw Proposals, there are references to pre-filing consultation and engagement requirements within the 13.00 Regulation and Guidance documents that indicate this process may be lengthy, time-consuming, and resource intensive to meet all requirements. Orsted recommends developing a pre-filing engagement timeline for Large Clean Energy Infrastructure Facilities (LCEIF) that can be conducted within 6 months prior to filing a notice of intent to file an application.

Initial project design and siting decisions weigh a great deal of competing constraints. For LCEIFs like offshore wind projects, these must occur very early in the development process to align with federal permitting timelines and requirements. Projects need to retain the flexibility to conduct early design and siting activities based on industry best practices, technical feasibility, and publicly available data sources relating to all applicable constraints. Stakeholder engagement is critical throughout project development, but stakeholders' ability to influence routing, siting, and design decisions in a way that remains technically and economically feasible may be somewhat limited due to significant constraints such as transmission capacity/availability. Engagement should therefore focus on assessing potential impacts to communities, evaluating the viability of any potential alternatives, and identifying mitigation activities to commensurately address any project-related impacts that are identified.

Certain projects may face significant constraints (e.g. interconnection capacity/availability, land availability, etc.) that inherently limit the number of potential alternatives a project can realistically consider. In this case, Applicants should focus on sharing realistic routing, siting, and design options the project is evaluating, providing robust and clear justification for why any other alternatives have been dismissed. They should also work with local officials and stakeholders to identify and assess potential impacts associated with viable options and how to minimize or mitigate those impacts commensurately, where feasible. Furthermore, to mitigate potential delays, Orsted recommends ensuring pre-filing requirements can be deemed complete if the Applicant can provide documentation of good-faith efforts to engage key stakeholder groups; in other words,

stakeholders that choose not to engage during the pre-filing engagement period should not be able to delay the project after the engagement period has passed.

Orsted looks forward to reviewing and providing more detailed comments when the draft regulations and guidance are released in full.

13.09 Completeness Determination
Orsted appreciates the clearly defined 30-day timeline for deeming an application complete; this advances one of the main goals of the 2024 Climate Act to expedite siting and. However, Orsted remains concerned that the completeness determination process outlined in the draft of 90 CMR 13.09 may extend the permitting timelines specified in the 2024 Climate Act in a manner inconsistent with the intent of expediting permitting. Orsted recommends that, through pre-filing engagement with the Siting Board and all other relevant agencies and entities, the Applicant and the Siting Board agree to a list of permits and other information to be included in the application (to align with the completeness checklist). This pre-filing engagement will facilitate an inclusive process by which all entities identify and agree upon the necessary elements of an application, while not penalizing the Applicant for failing to include a permit or other piece of information that was not identified during the pre-application consultation process. Additionally, Orsted suggests including a new provision in 13.09(3) stating that if a deficiency is not identified in the first completeness review, new deficiencies cannot be identified in subsequent completeness reviews when an Applicant submits the cured deficiencies.

Orsted also supports a requirement for the applicant to complete a "completeness checklist" established by the Siting Board prior to submittal. Orsted believes the certification of completeness of this checklist should be encompassed by the 30-day application completeness review process conducted by EFSB.

Additionally, Orsted recommends a 60-day timeframe to resolve any deficiencies identified during the completeness review. A longer timeframe for Applicants to cure deficiencies allows the Applicant to more thoroughly investigate and address the issue in a response.

Finally, Orsted understands that conflicting requirements across local, regional and state agencies require resolution in a consolidated permitting process. Orsted supports the Siting Board's review of existing regulations and requirements to provide clear guidance in resolving any conflicts or contradictions, as well as a resolution path that allows an applicant to propose solutions to resolving conflicts with explanation of the rationale in the event the most restrictive requirement is not utilized.

980 CMR 13.00 Regulation Guidance

1.C Application Filing Process

As commented above under **980 CMR 13.00 Regulation**, Orsted recommends the Siting Board consider developing a purpose-built model format for a consolidated permit application. This model has the benefit of clearly defining and standardizing the expectations of a consolidated permit application across projects and serves to streamline the process of applying.

1.C.2 Electronic and Hard Copy Filing

Orsted recommends removing the requirement in the guidance to submit at least one hard copy of the complete application and instead updating the guidance to require hard copy(ies) only if the Presiding Officer requests it. Hard copy submissions use valuable paper resources, especially for

large applications, and are often underutilized. Rather than requiring a minimum of one hard copy, the guidance can allow a hard copy submission only as needed to save resources.

X. Proposal & Analysis: Site Suitability Criteria (All CEIF)
It is Orsted's understanding from the hearing on July 21, 2025, that not all CEIF are required to use the Site Suitability Criteria. However, this statement is not clearly reflected as the guidance is currently written. Orsted urges this section and the associated 13.00 Regulation sections to be revised for clarity. Additionally, it is the Company's understanding from the hearing that if a project is required to use the Site Suitability Criteria, it will not need to undergo a Cumulative Impact Analysis or vice versa. This distinction is not made clear in the regulation and guidance as it is written currently and should be clarified and specified.

XI.J.2 Plan for Decommissioning and Site Restoration
Orsted reiterates the above comment on **980 CMR 1.00 Rules for the Conduct of Adjudicatory Proceedings, Section 1.10** that the Board removes the requirement for Applicants to submit a decommissioning plan in the consolidated permit application.

XI.J.3 Cost and Financial Surety
Orsted recommends that any costs associated with decommissioning are required to be included in the detailed decommissioning plan, which, as discussed under **980 CMR 1.10 Decommissioning and Site Restoration Plan** above, should be submitted prior to commencement of decommissioning activities to more accurately align with federal, state, and local requirements, best industry practices, and appropriate costs at the time of decommissioning.

XI.K. Electric and Magnetic Fields
Please refer to our comment below under proposed *Level 2 Condition Threshold Specific Condition T4* for a more detailed explanation of Orsted's recommendations regarding electric and magnetic field measurement requirements in both an onshore and offshore environment.

XVI. Attachment 1: Standard Conditions

A. Level 1: Standard Conditions
General: Project Commencement
Orsted continues to recommend either (a) increasing the construction commencement date from within three years of the date of the Decision to within five years, or (b) outlining a clear process for requesting an extension of the required date to commence construction following the issuance of the Decision. Large infrastructure projects have significant federal permitting components and long procurement lead times. Providing some flexibility to accommodate a longer timeframe following the Decision ensures project timelines can adequately and accurately account for these timeframes. The current draft allows for "reasonable extension by the Siting Board at the request of the applicant for good cause." However, it is unclear what a "reasonable extension" would be and what constitutes "good cause." Allowing a five-year construction commencement timeline instead of three years will allow large infrastructure projects adequate time to prepare for and begin construction. This will also reduce the amount of potential extension requests the Board may have to review, and projects can still begin construction earlier than five years of the date of the Decision.

S3 – General: Project changes

Orsted continues to recommend that the Siting Board require notification of any material variations to the proposal, rather than notification of "any variations to the proposal" and that the Siting Board clearly defines the process and timeline for this notification and review of material variations. An amendment process acknowledges the desire for projects to progress from permit issuance to commercial operation as quickly as possible while providing a clear process for managing project changes after the final Decision is issued.

S8 – Construction: Community Outreach Plan
Orsted continues to support the condition to implement a community outreach plan for Project construction. Community outreach plans help projects provide clear communication with key stakeholders. Orsted has engaged in robust stakeholder outreach during the development of other projects, and clear guidelines and expectations from the Commonwealth will ensure common standards for all Projects going forward. Orsted values outreach to local communities, elected officials, abutters, and other key stakeholders throughout project development.

S10 – Construction: Construction Work Hours
Orsted recommends the days of allowable construction be revised to Monday through Saturday, not Monday through Friday, as the following sentence specifies that normal construction work hours shall not include Sundays.

S12 – Construction: Electric Vehicles and Equipment
Orsted recommends reversion to the condition language provided in the Straw Proposal, which read as follows:

The Siting Board directs the Company to consider potential opportunities for use of, or conversion to, electric vehicles and electric equipment for construction activities, and to submit a report to the Siting Board indicating the Company's inclusion of electric vehicles at the following times: 30 days prior to construction, 180 days after construction commencement, and 90 days after construction completion.

This requires companies to consider opportunities for use of electric construction equipment, but provides greater flexibility if it is not technically or economically feasible or practicable to utilize electric vehicles and equipment at the time of construction.

S25 – Project Inspections: Third-Party Operations Inspections
Orsted recommends that, if an approved project has demonstrated that it has not deviated from the Siting Board's decision during the first three inspections during the operational phase of the project, future operational inspections of the project will not be necessary unless specifically directed by the Siting Board.

B. Level 2: Threshold Specific Conditions
Offshore Wind Interconnection Line
T3 – Offshore Wind Energy: Offshore Cables Monitoring
Offshore export cable burial depths are typically derived from the Cable Burial Risk Assessment. The Cable Burial Risk Assessment is a design document that utilizes a risk-based approach to quantify a recommended depth of burial. This assessment (or its inputs) considers natural hazards that may affect the cable, such as seabed sediment mobility. As such, the export cable will inherently be lowered to a depth as to maintain burial in the event of mobile sediments or severe weather events. Accordingly, post-storm event monitoring of export cables is not necessary as the

initial cable burial depth established by the Cable Burial Risk Assessment accounts for seabed mobility associated with weather events.

T4 – Offshore Wind Energy: Magnetic Field Testing
Orsted continues to recommend that, for the onshore environment, any requirements for magnetic field measurements need not be repeated multiple times and should be scheduled to occur within one year of energization. These measurements should consist of a transect across alternating current (AC) and/or direct current (DC) cable routes for each configuration constructed. These measurements can be used to compare to AC and/or DC magnetic fields (as applicable) calculated for the range of current flows during that year and to the magnetic-field values presented in the petition to the EFSB. Baseline (pre-project) measurements are unnecessary because existing AC magnetic-field levels will be determined by the presence or absence of existing infrastructure unrelated to the Project and existing DC magnetic-field levels will be dominated by earth's natural geomagnetic field. Magnetic field measurements beyond the first year of operation following energization are not warranted because monitoring the cable load in combination with as-built drawings are sufficient to accurately determine magnetic-field levels at any time in the future.

Furthermore, Orsted believes that a requirement to measure magnetic fields at or around an offshore wind project's substation or converter station is not necessary, as it is expected that the highest AC and DC magnetic field levels will be associated with the AC and DC cables entering and/or exiting the site (e.g., IEEE Standard 1127), and therefore will have been characterized and addressed in any post-energization cable measurements and calculations, as described above.

In an offshore environment, requirements for in-field measurements of magnetic fields are not warranted if the project operator conducts an as-built survey to determine actual cable burial depths and monitors and records the electric current flows on the cable through the first year of operation. The Project can use these parameters to calculate the magnetic fields associated with the installed submarine cables at any location around the installed cables. The results of these calculations can then be compared to calculated magnetic-field levels presented in the petition to EFSB. In addition, EMF survey results conducted as part of the first wave of offshore wind projects (e.g. early pilot studies) should be considered with respect to any requirement for measurements in an offshore environment; those studies may provide further evidence to support this recommendation that in-field measurements offshore are not warranted.

Transmission and Distribution Line Facilities
T12 – Regulated Utility Facilities: Updated/Certified Cost Estimate:
Orsted believes the provision of project cost estimates should not be required and would not impact the decision to proceed or not proceed with a project in the event the project has been selected pursuant to a Department of Public Utilities (DPU)-mandated competitive solicitation process. If a certified cost estimate for the project is required, it should be confidential and not subject to public disclosure due to the business sensitive nature of this information.

Facility with Coastal Components
T17 – Resilience: Periodic Sea Level Rise Impact Assessment
Orsted continues to recommend including an option to design and present a project in its application that addresses projected potential sea level rise throughout the life of the project. This condition associated with submitting a report after five years of operation to assess potential flood risk should only be applied to a project in the event its design does not clearly or adequately address lifetime flood risk and potential impacts of sea level rise in its application.

Conclusion

Orsted recognizes the monumental task the EFSB is undertaking to create a streamlined, efficient permitting process for new clean energy infrastructure projects in the Commonwealth. The Company also appreciates the Board's commitment to gathering and incorporating feedback during this process from those who will directly interact with the new system. Orsted looks forward to reviewing and commenting on the draft regulations and guidance in their entirety upon release.