



To: Massachusetts Energy Facilities Siting Board
From: Orsted
Date: May 16, 2025
Subject: Comments on Massachusetts 2024 Climate Act Staff Straw Proposals 1 through 3

1. About Orsted

A global clean energy leader, Orsted develops, constructs, and operates offshore and land-based wind projects, solar, 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 Straw Proposals one through three relating to the implementation of the Massachusetts 2024 Climate Act.

2. Comments

2.1 Standard Conditions Staff Straw Proposal

2.1.1 Level 1 Universal Standard Conditions

Project Commencement and Project Change: Orsted recommends 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. Additionally, Orsted recommends 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" and that the Siting Board clearly defines the process and timeline for this notification and review of material variations. A clear amendment process coupled with a five-year construction commencement timeline will allow large infrastructure projects adequate time to prepare for and begin construction. 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.



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.

Community Outreach Plan: Orsted supports 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.

2.1.2 Level 2 Constructive Approval Conditions

Orsted recommends the removal of this level and, instead, suggests incorporating the conditions proposed under Level 2 into the Level 1 Universal Siting Conditions. Two levels of conditions, one universal and one project-specific, provide a degree of clarity to projects while allowing for flexible project siting conditions without triggering additional conditions if a statutory deadline is not met.

Mitigation: Wetland Replacement: Orsted recommends alignment of this requirement with the existing Massachusetts Department of Environmental Protection (MassDEP) regulation, which requires compensatory mitigation only for “loss” of a wetland.

Flood Mitigation and Sea Level Rise: Orsted recommends 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 reviewing and reporting every five years 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.

2.1.3 Level 3 Specialized Conditions

Magnetic Field Testing: Orsted recommends 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.

2.1.4 Questions for Comment

Should the standard permit conditions be fixed or should they provide a reasonable range of options, where applicable?

Clear standard conditions are helpful in supporting project planning. However, given the significant range of technologies and project sizes to which these conditions may apply, as well as the unique constraints different projects may face, it is important these conditions provide flexibility and/or a range of options allowing them to be adapted as needed to each specific project. Orsted recommends including a clear process and timeline to request a waiver or variation from standard conditions on a case-by-case basis if a project cannot comply with a universal standard condition.

2.2 Procedural Regulations Staff Straw Proposal

2.2.1 New Regulations

980 CMR 13.00: Consolidated Permits for Clean Energy Infrastructure Facilities: Providing a clear timeline for achieving a completeness determination supports appropriate project scheduling. Orsted recommends specifying what is required for a complete application, as well as refile procedures if an application is deemed incomplete. Furthermore, Orsted recommends including specifications relating to the process for submitting missing information during the completeness review period. Additionally, Orsted recommends including procedures for projects filed under the previous permitting regulations and if they can request to switch to the new permitting system or remain under the previous one.

2.2.2 Repeal of Unused Regulations

Orsted recommends retaining the existing regulation, 980 CMR 4.00 *Freedom of Information; Protection of Trade Secrets*, to ensure the protection of the Company's trade secrets. Orsted further suggests the Siting Board confirms that the Massachusetts Public Records Act and its applicable exemptions will continue to apply to all EFSB proceedings.

2.2.3 Questions for Comment

Existing Siting Board regulations require newspaper notice of public comment hearings. Should the Siting Board eliminate the requirement for newspaper notice of public comment hearings? What type of notice would be more effective for these hearings?

Orsted recommends requiring newspaper notice of public comment hearings, unless no local newspaper for the area exists. Removal of this requirement may exclude stakeholders that rely on newspapers for notice of public comment hearings. Any exclusion of stakeholders could erode public trust in the permitting process. Orsted recommends other methods for notice of public comment hearings to be considered in addition to newspapers, but not in replacement of them.

Should Siting Board staff site visits to the location of a proposed project be open to the public? How would the Siting Board manage such a process?

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.

How should the Siting Board reflect decommissioning activities and expectations?

Orsted recommends that, during the permitting process, a developer is required to commit to decommissioning the project according to local, state, and federal requirements at the time of decommissioning. 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.

2.3 New Applications Staff Straw Proposal

2.3.1 Other Key Characteristics of an Application

Orsted supports a clearly defined 30-day timeline for deeming an application complete, as it advances one of the main goals of the 2024 Climate Act to expedite siting and permitting and provides certainty and clarity in the permitting timeline. To ensure adequate time to cure any deficiencies, Orsted recommends a 60-day timeframe to resolve any deficiencies identified during the completeness review. Furthermore, Orsted notes that information requirements for the application should be clear, necessary, and streamlined to minimize the likelihood of rejection and



that a rejection of an application due to incompleteness should be clearly justified. Additionally, Orsted recommends the Siting Board identifies the types of extenuating circumstances that support an additional extension of the cure period, as well as the process for receiving such an extension.

2.3.2 Considerations in Choice of Application Model

While Orsted understands there are benefits and drawbacks of both the Aggregation Model and the Purpose-Built Model, the Company supports the development of the 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 this straw proposal, the Purpose-Built Model 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.

Orsted further recommends picking a single model from the beginning (i.e. starting March 1, 2026, the date at which the MA 2024 Climate Act is to be implemented) and proceeding with that model. Starting with one model and then introducing a different model several months or years into the implementation of the MA 2024 Climate Act has the potential to introduce confusion and uncertainty for potential applicants.

2.3.3 Standards Used in EFSB Applications

To ensure alignment with other permitting processes, Orsted recommends continued reliance upon established federal, state, and local standards, as well as those developed by recognized standard-setting bodies, rather than the development of new standards, which risk conflict with or contradiction to existing standards.

2.3.4 Improvements to "Broad Scope" Section of EFSB Applications

Video overview submittal requirements have the potential to impose significant resource costs on applicants. If video overviews were required, Orsted recommends the Siting Board provides clear guidance on what exactly the video needs to portray to ensure alignment on content expectations and streamline the video development process.

2.3.5 Information Technology Needs

Orsted supports the electronic submission of application materials.



2.3.6 Application Completeness Determination

Orsted recommends the Siting Board clearly describes the completeness determination process. The definition of a “complete” application and considerations listed recognize the need for applications to be adequate, but not perfect. Orsted recommends the Siting Board clearly articulates the process if an applicant fails to identify a permit or other piece of information needed and suggests utilizing a pre-application meeting for the Project and the Siting Board to identify and agree upon any required information necessary in the application to avoid schedule delays or other implications.

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.

Finally, Orsted supports a condition for the applicant to complete a “completeness checklist” established by the Siting Board prior to submittal but recommends the removal of a requirement that the applicant certifies this checklist. Orsted believes the certification of completeness of this checklist should be encompassed by the 30-day application completeness review process conducted by EFSB.

2.3.7 Questions for Comment

Staff proposes to use the Aggregation Model for applications filed beginning in 2026 and consider whether to move to the Purpose-Built Model. Should the EFSB plan to use the Aggregation Model in the long-term or move to developing the Purpose-Built Model? Why?

As stated above in Section 2.3.2 of this document, Orsted supports the development of a Purpose-Built Model. To avoid confusion as the MA 2024 Climate Act is implemented, Orsted suggests implementing the Purpose-Built Model from the beginning. However, should this be infeasible, Orsted recommends implementing the Purpose-Built Model as soon as reasonably practicable to provide heightened clarity and certainty in the application process, while also establishing a clear process and timeline for how the transition between application models will take place.

If the Siting Board were to develop a common application after 2026 by a Purpose-Built Model for various types of facilities, please comment on the usefulness of the Major Transmission Facilities and Renewable Energy Generation Facilities application requirements recently issued in draft regulations by the New York Office of Renewable Energy Siting and Electric Transmission.

Orsted supports the development of a Purpose-Built Model that is coordinated across all Massachusetts permitting agencies to identify and reduce redundancy while streamlining and standardizing requirements.



If the EFSB were to develop a new or substantially modified electronic filing system for EFSB 2.0, please describe the features and functionality that are most important.

Orsted recommends that any new or substantially modified electronic filing system is easy to follow, has clear and simple rules and instructions, and has the capability to protect confidential information.

3. Conclusion

Thank you for conducting this stakeholder process and considering Orsted's comments. We look forward to continuing this important dialogue as a partner to Massachusetts in ensuring the state fully uses offshore wind to meet its ambitious clean energy targets.