

Issue Paper 2: Public Engagement

INTRODUCTION

The Great Lakes Wind Council’s report to the governor must include a “recommended process for engaging the people of Michigan in a public dialogue about offshore wind to ensure that statewide interests are considered whenever significant permitting decisions are made.”¹

This document examines potential public acceptance issues related to offshore wind proposals and opportunities for public engagement under Michigan’s existing regulatory framework for permitting offshore wind turbines in the Great Lakes. This document also identifies for the council’s consideration potential elements of a public engagement process in response to Executive Order No. 2009-1.

The council is **not** currently charged with *implementing* a public engagement strategy or conducting specific outreach activities to solicit input from different communities or regions of the state. Nonetheless, council members—as representatives of different stakeholders and state agencies—may work with their constituencies and staff to solicit feedback on issues and recommendations related to the Executive Order. In addition, there will be opportunities for the public and other stakeholders to observe and comment on the council’s process through its website and at council meetings.

POTENTIAL PUBLIC ACCEPTANCE ISSUES

Public opposition to energy facility siting is very common and can often delay major projects. Offshore wind facilities are no exception, as evidenced by the Cape Wind proposal off the coast of Massachusetts and even the proposed wind monitoring facility in Lake Ontario near Toronto. Unfortunately, little is known about how stakeholders will react to offshore wind proposals in Michigan. The State of the State surveys conducted by Michigan State University offer limited data on public opinion related to renewable energy but not wind power specifically. The data indicate strong support for renewable energy even if the “community look changes” (over 90 percent agree or strongly agree) and also for the state to “encourage renewable energy” (more than 80 percent agree or strongly agree).²

Although they may not be indicative of what to expect in Michigan, observations from literature on public opinion related to offshore wind proposals on the East Coast and elsewhere can be instructive:

¹ See EO 2009-1 (Feb. 6, 2009).

² Michigan State University, Institute of Public Policy and Social Research, “State of the State Survey” (Fall 2007); cited in “Wind Energy Siting and Policy Issues” (Presentation by Michigan Citizen Planner and MSU Extension [2008]).

- There is often a gap between public opinion related to wind power generally and a specific project.
- Public acceptance and opposition can vary significantly by area and are often site specific; for example, surveys reveal that Delaware residents, even those living near the ocean or with an ocean view, are considerably more supportive of offshore wind farm development than are Cape Cod residents;³ there was also a contrast in the level of public acceptance between two projects in Denmark.⁴
- Public opinion can change based on new information, social climate, and time.⁵ Some studies have suggested increased support after projects are constructed, or a “U”- or “V”-shaped pattern, when public acceptance is initially high, drops during planning and construction, and then rebounds after operation begins.⁶
- Reasons cited for opposition are not uniform across areas, but aesthetic impacts and perceived negative alterations to the existing landscape tend to be dominant factors. Other reasons include, but are not limited to, negative effects on property values, tourism, or fishing and wildlife/environmental impacts. Some researchers have argued that there is limited empirical support for the so-called “not in my backyard,” or NIMBY hypothesis (i.e., people may approve of something in theory but don’t want it located near them);⁷ others have suggested the term simply labels the opposition without identifying an explanation.⁸
- Factors influencing support differ by area and include, but are not limited to, environmental benefits (such as air quality, climate change); desire to promote renewable energy; reduction in foreign oil imports; supply reliability and electricity rates; and employment or job benefits.⁹
- Financial incentives and benefits, as well as the type of applicant (i.e., public vs. private) may influence public opinion; moreover, in the surveys of Cape Cod and Delaware residents, public support increased substantially when the offshore wind project was described as the “first among many” (i.e., local project leading to large-scale deployment). The researchers concluded that better communication about the value of offshore wind projects and a better public understanding of the magnitude

³ Firestone, Kempton and Krueger (in press), “Public Acceptance of Offshore Wind Power Projects in the United States” (manuscript; accepted November 28, 2008), *Wind Energy*, pp. 8, 10. [Online, accessed 44/16/09.] Available: <http://www.ocean.udel.edu/Windpower/docs/PublicAccept-OffshoreWind-FirestoneEtAl-Proof-2008.pdf>.

⁴ See Danish Offshore Wind: Key Environmental Issues. DONG Energy, Vattenfall, The Danish Energy Authority and the Danish Forest and Nature Conservancy, November 2006, 113–123. [Online, accessed 44/16/09.] Available: http://www.ens.dk/graphics/Publikationer/Havvindmoeller/havvindmoellebog_nov_2006_skrm.pdf.

⁵ Firestone et al., 9–10.

⁶ See *Id.* at 5.

⁷ Devine-Wright, P. (2005), “Beyond NIMBYism: Towards an Integrated Framework for Understanding Public Perceptions of Wind Energy,” *Wind Energy* 8(2): 125–139.

⁸ Firestone et al. at 4, citing Kempton, W., Firestone, J., Lilley, J., Rouleau, T., and Whitaker, P., “The Offshore Wind Power Debate: Views from Cape Cod.” *Coastal Management* 2005; 33(2): 121–151 (2005), doi:10.1080/08920750590917530, also available at <http://www.ocean.udel.edu/windpower>.

⁹ *Harnessing Wisconsin’s Energy Resources: An Initial Investigation Into Great Lakes Wind Development, A Report to the Public Service Commission of Wisconsin*, Docket 5-EI-144, at 146 (January 15, 2009), citing Danish Offshore Wind: Key Environmental Issues.

and economic competitiveness of offshore wind might be more important to public support than resolving aesthetic concerns.

- Public opinion can also be influenced by the perceived lack of opportunities for local input during the planning and development phase;¹⁰ this suggests that a well-designed process for stakeholder participation, including local input, can improve the level of support and/or reduce opposition.

These findings suggest that public acceptance in Michigan—and even in different parts of the state—may differ substantially from that in other areas. Without additional research, it is difficult to know how specific communities and the general public in Michigan will respond to offshore wind proposals and what factors will influence public opinion, including the types and sources of information. Michigan should expect a range of positions in response to proposed developments and will benefit from a proactive and transparent process that considers all interests from the planning stages to implementation.

PUBLIC INPUT UNDER EXISTING REGULATORY FRAMEWORK

Michigan does not have specific state-level guidelines or approval authority for siting terrestrial or offshore wind energy facilities or other electric generating facilities. Currently, the bottomland conveyance and permitting provisions under Part 325 of the Natural Resources and Environmental Protection Act¹¹ would serve as the primary regulatory mechanism to authorize the placement of wind turbines in Michigan’s Great Lakes waters.¹² (See Issue Paper 3 for additional background.) Briefly stated, the provisions for public input under the Part 325 permitting and conveyance processes are as follows:

- The Michigan Department of Environmental Quality (MDEQ) is required to provide to certain local agencies and officials and adjacent riparian owners a copy of an application for a permit or conveyance under Part 325.¹³
- The application for the conveyance of bottomlands must also include written consent from “all persons having an interest in the lands or water areas applied for in the application,”¹⁴ as well as written approval or permission from federal, state, and local government units as required by those various governments.¹⁵ A person having an “interest” refers to any person or legal entity having riparian or littoral rights or interests in the lands or water areas applied for; for example, if there are two owners of the upland property and these co-owners have a mortgage, the co-owner and the

¹⁰ Danish Offshore Wind: Key Environmental Issues at 119. Interviews revealed that one of the two major concerns that caused initial opposition in Denmark was the perception that the decision-making process was highly centralized with no local “co-decision.”

¹¹ 1994 PA 451 as amended, MCL 324.32501 et seq.

¹² For additional discussion, see Klepinger, *Michigan Great Lakes Offshore Wind Permitting Dry Run, Final Report* (May 2008).

¹³ See MCL 324.32514 and R 322.1010.

¹⁴ See MCL 324.32504(1).

¹⁵ See MCL 324.32504(2).

bank would have to provide written consent of the other co-owner's application for a conveyance.

- To be considered in the MDEQ's review of an application for conveyance or permit, a response or request for public hearing or meeting must be received by the MDEQ within 20 days of the mailing of the notice.¹⁶ The MDEQ has the option of holding a public hearing, but none is required; if a hearing is held, at least ten days' notice must be provided.¹⁷

Although the MDEQ examines broader statewide interests related to the public trust¹⁸ and compensation issues as part of the Part 325 process, the notice and opportunities for comment under the existing statute and rules clearly focus on the immediate area of the development (that is, neighbors and local government). This may be explained, in part, by the localized nature of projects that are typically reviewed under Part 325 and the requirement that the applicant be a riparian owner, which may limit the type and number of applications. The current Part 325 provisions would likely be problematic for engaging affected interests in offshore wind siting decisions for several reasons, including these:

- The timeline may be too short given the issues that will need to be examined and the number and scope of expected public comments; this timeline may not only be unreasonable for the public and other stakeholders to respond to a proposal but it may also set up an unrealistic expectation for the MDEQ review.
- There is no requirement for a public or evidentiary hearing.
- The notice and comment provisions focus almost exclusively on local interests.
- The requirement for the applicant to obtain written consent from a local government is required for installations and bottomland occupations at the shoreline; it is not clear how this provision would apply to offshore wind development.
- There are no explicit decision-making criteria under Part 325 or the rules to permit an offshore development and determine appropriate compensation for this new use of the bottomlands; therefore, MDEQ review of any application would likely lead to significant controversy and challenges over the appropriate standards and their application.

Because the MDEQ operates under a joint permitting process with the U.S. Army Corps of Engineers, which has responsibilities under the Rivers and Harbors Act, the Clean Water Act, and the National Historic Preservation Act, the permit for an offshore wind project would likely be considered a significant federal action and require a review under the National Environmental Policy Act (NEPA). NEPA has well-established processes for public participation and comment.¹⁹

¹⁶ R 322.1010(2).

¹⁷ See MCL 324.32514, which applies to hearings on permits. Notice of hearing must be given in the local newspaper and by mailing copies to the local government agencies and officials (i.e., health department, clerks of the county, city, village, and township; drain commissioner or, if none, road commissioner) and adjacent riparian owners.

¹⁸ For example, impacts on boating, navigation, fisheries, and wildlife habitat.

¹⁹ See, for example, <http://www.nae.usace.army.mil/projects/ma/ccwf/windfarm.htm>.

POTENTIAL ELEMENTS OF A PUBLIC ENGAGEMENT PROCESS

The council must recommend a process to engage the public in a dialogue about offshore wind energy. The purpose of this charge, as stated in the Executive Order, is to ensure that statewide interests are considered whenever significant permitting decisions are made.

Sample Guiding Principles for Council Consideration

Before discussing specific elements of a process, it may be useful for the council to articulate guiding principles for the public engagement process. Following are several principles for the council's consideration. These principles are intended only as a starting point for council discussion. Staff expects the council to suggest additional principles and develop the final recommendations for inclusion in the report.

- The public engagement process should not be designed to persuade the public for or against offshore wind project proposals; the goal is to provide a legitimate, fair, and transparent process that engages the public in decision making and facilitates information exchange.
- There should be clear and reasonable requirements for public participation under any wind development siting process.
- Involvement from communities near a proposed project will be essential and should be solicited early and often.
- Effective communications among developers, agencies, and the public should take place as early as possible.
- The public engagement process should be monitored and updated as needed based on experience and new information.

The recommended public engagement process would likely include regulatory and non-regulatory elements. Following are several preliminary issues that may shape the development of a recommended public engagement process.

Possible Regulatory Issues for Council Consideration

Should the public input process under Part 325 and the MDEQ rules be modified to specifically address offshore wind projects? If so, how? For example:

- Should the applicant be required to hold pre-filing meetings with local and state officials?
- Should the applicant be required to host open houses with the public prior to filing to solicit input and provide an opportunity for experts to interact with the public? Should the open houses (or other forums) use visual simulations of the proposed wind farm development to illustrate the potential impact on the landscape?
- Should notice requirements be modified to reflect a broader set of affected interests (that is, not limited to neighboring riparians and local government officials)? For example, should notice be provided through statewide newspapers, the MDEQ's

publications and website, as well as direct notice to shoreline communities and landowners within a certain distance from the proposed development?

- Should public hearings in Lansing and near the proposed development be mandatory (if requested by an interested person)?
- Is the current 20-day comment period adequate? If not, what is a reasonable time period for public comment?
- What should be the role of local units of governments in the state's review of offshore wind applications?
- Should the public engagement provisions and criteria for permit application review be clearly specified in the statute or rules to help avoid potential confusion and controversy?

Possible Nonregulatory Issues for Council Consideration

Survey research—Should Michigan develop and implement a plan, in coordination with universities and other experts, to better understand public opinion related to offshore wind development and factors that influence it over time? The plan could identify research needs and address timing, funding, roles and responsibilities, and coordination issues.

Education and outreach—Prior to the filing of any offshore wind applications, should Michigan develop and implement an education and outreach plan that involves by a range of entities, including developers, state agencies, local governments, nonprofit organizations, and educational institutions?

Information exchange and sharing—Should existing methods for information exchange and sharing be improved to ensure the public, local government, and other stakeholders will have easy access to information on offshore wind and specific proposals, including technical information?