

THOMAS P. DiNAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 28, 2021 Received June 1, 2021 @ 8:30 am via
email addressed to Si@Wainscott.Life
(see overleaf).

James Miskiewicz, Esq.
Deputy General Counsel
Long Island Lighting Company d/b/a LIPA
333 Earle Ovington Boulevard
Suite 403
Uniondale, New York 11553

Re: FOIL Request #2020-0628

Dear Attorney Miskiewicz:

In accordance with section 89(5) of the Freedom of Information Law (FOIL; New York Public Officers Law [POL], Article 6), and LIPA's correspondence dated Friday, May 21, 2021, the Office of the State Comptroller ("OSC") has decided, with several minor exceptions, to grant your requests for exemption from disclosure of certain portions of the amendments relating to contract PBC01-C000883-6015200, between the Long Island Power Authority ("LIPA") and South Fork Wind, LLC ("South Wind").

OSC has determined that the information you identified in your May 21, 2021 correspondence contains trade secret material and/or commercial information which, if disclosed, would cause substantial injury to South Wind's competitive position (*see*, POL §87[2][d]). Therefore, OSC will exempt from disclosure this identified information pertaining to scheduling logic, permitting strategy, development plans, projected operation and production, project costs, plans for participation in energy, capacity, and other information that would result in the substantial injury to South Wind's competitive position if disclosed.

However, OSC has determined that parts of the information for which you requested exemption from disclosure are neither trade secret nor information that, if disclosed, would cause injury to South Wind's competitive position. This information includes defined terms, section headings, and appendices titles. Attached to this letter, please find a copy of the responsive records with those portions that OSC is not exempting from disclosure highlighted in yellow.

In the event that you do not agree with our determination, pursuant to FOIL §89(5)(b)(3) to deny exception to disclosure of portions of the records requested, please be advised that you have the right, within seven days of the receipt of this letter, to appeal, in writing, to: Camille Jobin-Davis, Records Appeals Officer, Office of the State Comptroller, 110 State Street, 14th Floor, Albany, New York 12236 or email to FOILAppeal@osc.ny.gov.

As required by Public Officers Law section 89(5), copies of this determination are being sent to the persons identified below who requested access to such records and to the Committee on Open Government.

Very truly yours,

Kathleen Dillman

Kathleen Dillman
FOIL Compliance Officer

cc: Shoshanah Bewlay, Esq.
Executive Director
NYS Committee on Open Government
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, New York 12231

Mr. Simon Kinsella
PO Box 792
Wainscott, NY 11975
(*Letter Only*)

From: FOIL <FOIL@osc.ny.gov>
Sent: Tuesday, June 01, 2021 8:39 AM
Subject: Re: FOIL request 2021-0628
Attachments: 2021-0628 - 89(5) Determination (2021.5.28).pdf.3.pdf

Notice: This communication, including any attachments, is intended solely for the use of the individual or entity to which it is addressed. This communication may contain information that is protected from disclosure under State and/or Federal law. Please notify the sender immediately if you have received this communication in error and delete this email from your system. If you are not the intended recipient, you are requested not to disclose, copy, distribute or take any action in reliance on the contents of this information.

THOMAS P. DiNAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 22, 2021

Simon V. Kinsella
P.O. Box 792
Wainscott, NY 11975
SI@Wainscott.Life

RE: FOIL Appeal No. 2021-02 (FOIL Request 2020-0628)

Dear Mr. Kinsella:

This is in response to your February 5, 2021 appeal (Appeal), regarding your December 26, 2020 request (Request) for records pursuant to the Freedom of Information Law (FOIL) Article 6 of the Public Officers Law (POL). You requested the following:

Any amendment(s) to the Power Purchase Agreement (“PPA”) between then Deepwater Wind South Fork, LLC (now, South Fork Wind, LLC) and Long Island Power Authority (“LIPA”) executed February 2017 (OSC contract number: C000883) together with all appendices and/or attachments referred to in said amendment(s) including but not limited to the contract price(s), any increase or decrease in contract price over the term of the PPA, and information necessary to determine whether or not prices other than those as expressed in the PPA apply to the pricing of energy delivered by South Fork Wind, LLC.

On January 5, 2021, the Office of the State Comptroller (OSC) acknowledged receipt of your Request (received on Monday, December 28) and indicated that you would be contacted within twenty business days “to advise you regarding our determination or, if additional time is needed, to provide a date when you can expect our determination.” On February 4, 2021, OSC wrote to indicate “[d]ue to the type of records involved and the nature of the review process, it may take up to 90 business days before we make a determination and provide those records that may be available. We will write to you no later than 06/14/2021 and inform you of any cost associated with producing or photocopying the records.” You appealed the next day, 27 business days after your Request was received in this office.

Your Appeal is denied on the grounds that OSC has complied with FOIL and corresponding regulations, by keeping you informed of the approximate time necessary to respond to your Request with all due and reasonable haste.

With respect to the statutory deadlines with which an agency must comply, note that POL §89(3), provides as follows:

- (a) Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgment of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied.... if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part.

Corresponding regulations adopted by the Committee on Open Government (21 NYCRR §1401.5) confirm and clarify that:

- (c) An agency shall respond to a request within five business days of the receipt of a request by:

- ... (3) acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing stating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or

- (4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment stating the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

As indicated, this Office provided an acknowledgment five business days from receipt of your Request, informing that you would be contacted within twenty business days. Thereafter, and as required by law and regulation, you were advised of the reason for the inability to respond within the twenty business days, as well as a date certain, within a reasonable period under the circumstances, when the Request will be granted in whole or in part.

Moreover, it is noted that, by regulation, the Committee on Open Government has further confirmed that “[i]n determining a reasonable time for granting or denying a request under the circumstances of a request, agency personnel shall consider the volume of a

request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on an agency's ability to grant access to records promptly and within a reasonable time." Emphasis added, 21 NYCRR §1401.5.

While working remotely during the pandemic does not necessarily impact your Request directly, at times it has affected the workload of the Office in various departments. In addition to reviewing and processing records that are responsive to your request, FOIL staff are currently responding to more than 100 pending requests. They are locating responsive records, determining what portion of those records are required to be released and what must be withheld, and doing so remotely, electronically, and with all due haste. Accordingly, and as informed on February 4, 2021, it may take up to 90 business days to respond in full. In other words, although it is likely that records will be processed beforehand, you will receive a response no later than June 14, 2021.

With all of the above in mind, and based on my review, staff are well within a reasonable time frame for responding to your Request.

As an aside, it is noted that earlier this year, as you have done in the past, you requested records related to the underlying contract in this matter. At that time, despite being notified that it might take up until February 11, 2021 to respond, the Office was able to provide 257 pages of records to you well in advance of that date, on October 1, 2020.

Accordingly, and in light of all of the factors outlined above, your Appeal is denied.

Sincerely,

Camille S. Jobin-Davis

Camille S. Jobin-Davis
Special Counsel for Ethics
FOIL Appeals Officer

cc: Committee on Open Government

E-MAIL: SI@WAINSCOTT.LIFE

SIMON V. KINSELLA
P.O. BOX 792
WAINSCOTT, N. Y. 11975

MOBILE: (631) 903-9154

February 5, 2021

State Comptroller Thomas P. DiNapoli
New York Office of the State Comptroller
110 State Street
Albany, NY 12236

C/o: Privacy Appeals Officer
PrivacyAppealsOfficer@osc.ny.gov

Re: FOIL Request – Appeal
(reference #2020-0628)

Dear Mr. DiNapoli,

Pursuant to New York State’s Freedom of Information Law (“FOIL”), I now appeal the constructive denial by the Office of the State Comptroller (the “OSC”) of access to records sought in FOIL request #2020-0628 filed December 26, 2020.¹

On January 5, 2021, OSC Records Access Officer Jane Hall acknowledged receipt of said FOIL request stating that “I will contact you within twenty business days to advise you regarding our determination or, if additional time is needed [emphasis added].”

On February 4, 2021, I received a follow-up letter from Ms. Hall advising me that OSC is “continuing to gather the records for your request. Due to the type of records involved and the nature of the review process, it may take up to 90 business days before we make a determination and provide those records that may be available ... no later than 06/14/2021 [emphasis added.]” Still, it has been over forty days and FOIL compels the OSC to either advised me of its determination in whole or in part (and request time if needed) or granted me access to the requested records.² The OSC has done neither. Accordingly, the OSC has “denied [me] access to a record ... within thirty days”³ and its failure “to conform to the provisions of subdivision three of this section shall constitute a denial.”⁴

¹ Exhibit 1 – FOIL Request for Information by Simon V. Kinsella of December 26, 2020

² NY Public Officers Law § 89 (3) (a)

³ *Ibid*

⁴ *Id.* § 89 (4) (a)

Even if the OSC had satisfied its obligations pursuant to FOIL (which it has *not*) and had determined to grant my request “in whole or in part ... within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part [emphasis added;]”⁵ but the OSC’s response merely cites the “type” of records and the “nature” of review, but provides neither a reason why an amendment to a contract is of such “type” nor why the “nature” of review is so exceptional that it requires a total of four month to “make a determination and provide those records that may be available.” If this scenario were applicable (it is *not*), a “reasonable time [would depend] ... on attendant circumstances such as volume of request, possibility that other requests have been made, necessity to conduct legal research, search and retrieval techniques used to locate records[,]”⁶ but the OSC has failed to cited any such reasons or any reason.

Furthermore, it is difficult to imagine why it would conceivably take the OSC four months to provide a copy of an amendment to a contract where the contract (of one hundred and thirty-eight pages and explanatory memorandum of thirty-four pages, twenty-six attachments) was approved within only two months. The underlying contract had been fully executed by February 6, 2017, and approved by the OSC on March 29, 2017.⁷ The OSC would have received the amendment (executed in September 2020⁸) in October 2020 (if not sooner). Allowing for the same length of time it took the OSC to approve the power purchase agreement (i.e., two months), it would reasonably follow that the amendment would have been approved by December 2020. Therefore, there is no plausible reason why the OSC requires six months (until June 14, 2021) to provide a copy of what it received in October 2020 and should have approved by December 2020.

⁵ NY Public Officers Law § 89 (3) (a)

⁶ New York State Department of State, Committee on Open Government, Advisory Opinion 12219

⁷ Exhibit 2 – South Fork Power Purchase Agreement (“PPA”) between then Deepwater Wind South Fork LLC and LIPA executed February 6, 2020 (signatory & cover pages only)

⁸ Exhibit 3 – South Fork RFP “Last Updated: September 30th, 2020” that reads (footnote): “An amendment to the existing power purchase agreement between LIPA and Deepwater Wind was executed by LIPA and is being reviewed by the NYS Comptroller’s Office [emphasis added].”

February 5, 2021

According to Freedom of Information Law, I look forward to hearing from you (or whoever you designated to determine appeals) within ten business days after receiving this appeal. Should the requested records be denied on appeal, please explain the reasons for the denial fully in writing as required by law.

I expressly reserve my right to keep this FOIL request open through to the date of the OSC's substantive response as expressed in my FOIL request of December 26, 2020.

Freedom of Information Law directs that all appeals and the determinations that follow be sent to the Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, New York 12231.

This matter is currently before the New York State Public Service Commission under Article VII (case 18-T-0604). Therefore, I request that the OSC provide the requested records on an expedited basis please.

Should the OSC fail to meet its statutory obligations under FOIL, I will not delay seeking judgment pursuant to Article 78 of the Civil Practice Law and Rules and enjoin New York State Department of Public Service.

Sincerely yours,



Si Kinsella

C/c: Privacy Appeals Officer
Office of the State Comptroller
110 State Street
Albany, New York 12236-0001
Email: PrivacyAppealsOfficer@osc.ny.gov

Cameron Macdonald, Esq.
Government Justice Center, Inc.
30 South Pearl Street, Suite 1210
Albany, New York 12207
Email: Cam@GovJustice.org

Records Access Officer
Office of the NYS Comptroller
110 State Street
Albany, NY 12236-0001
Fax: +1-518-473-8940
Email: FOIL@OSC.State.NY.US

E-MAIL: [SI@WAINSCOTT.LIFE](mailto:Si@WAINSCOTT.LIFE)

SIMON V. KINSELLA
P.O. BOX 792
WAINSCOTT, N. Y. 11975

MOBILE: (631) 903-9154

December 26, 2020

Records Access Officer
Office of the NYS Comptroller
110 State Street
Albany, NY 12236-0001

Sent via Fax and Email
Fax: +1-518-473-8940
Email: FOIL@OSC.State.NY.US

Re: FOIL Request - South Fork Wind, LLC

Dear Sir or Madam:

Pursuant to New York State Freedom of Information Law (FOIL), I hereby request a copy of each “record” of the Office of the NYS Comptroller (“OSC”) and each “agency” of the OSC (as the terms “record” and “agency” are defined in Public Officers Law §86), specifically:

1. Any amendment(s) to the Power Purchase Agreement (“PPA”) between then Deepwater Wind South Fork, LLC (now, South Fork Wind, LLC) and Long Island Power Authority (“LIPA”) executed February 2017 (OSC contract number: C000883) together with all appendices and/or attachments referred to in said amendment(s) including but not limited to the contract price(s), any increase or decrease in contract price over the term of the PPA, and information necessary to determine whether or not prices other than those as expressed in the PPA apply to the pricing of energy delivered by South Fork Wind, LLC.

Please note the recent ruling by Hon. Richard Rivera in Article 78 matter of *Simon V. Kinsella vs. Office of the New York State Comptroller* (index 904100-19, attached) pertaining to the subject PPA whereby the Court found that “the record requested was of significant interest to the general public as the records sought consisted of the contract prices which would affect the pricing of utilities supplied to the general public” and that Public Officers Law §87(2)(d) does *not* apply.

For the avoidance of doubt, I am not requesting records pertaining to how the contract price is derived, records of formulae or costing information which may be considered to be legitimate “trade secrets”.

The time period covered by this FOIL request is from August 1, 2020 through the date of your response to this request. I am willing to pay the applicable fee for delivery of copies of the requested records. The requested records may be delivered via email (Si@Wainscott.Life) or via United States Postal Service (addressed to: PO Box 792, Waincott, NY 11975).

Thank you very much for your cooperation.

Sincerely yours,



Si Kinsella

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

In the Matter of the Application of

SIMON V. KINSELLA,

Petitioner,

DECISION

Index No.: 904100-19

-against-

OFFICE OF THE NEW YORK STATE COMPTROLLER,

Respondent.

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules

RIVERA, RICHARD J.

Petitioner filed a petition on July 9, 2019 seeking an order of this Court finding that the respondent acted unlawfully in failing to produce records in response to petitioner's FOIL request, directing the respondent to release the requested records, and awarding attorneys' fees and cost to the petitioner. The respondent filed an Answer to the petition on August 26, 2019.

The respondent submitted correspondence to the Court on November 12, 2019 indicating that the materials requested by the petitioner had been supplied to the petitioner in full. The respondent stated that they requested that petitioner's counsel discontinue the proceedings based on the release of the records sought herein. Counsel for petitioner submitted correspondence to the Court dated November 13, 2019 stating that the petitioner would not discontinue the proceeding and that the petitioner sought an award of attorneys fees.

The issues raised in the petition regarding disclosure of the requested records are now

moot based on the respondent's voluntary release of the records. *See Matter of Whitehead v. Warren County Bd. of Supervisors*, 165 AD3d 1452 (3rd Dept. 2018). Notwithstanding, the Court will address the request for attorneys fees. *Id.*

Attorneys fees may be awarded in a FOIL proceeding when 1) the petitioner substantially prevails; 2) the record requested was of clearly significant interest to the general public; and 3) the agency lacked a reasonable basis in law for withholding the record. *See Legal Aid Soc'y v. New York State Dep't. of Social Servs.*, 195 Ad2d 150, 153-154 (3rd Dept. 1993). However, even where the three prongs are established an award of counsel fees lies within the discretion of the trial court. *Id.*; *see also URAC Corp. v. PSC*, 223 AD2d 906, 907 (3rd Dept. 1996).

In the instant matter the petitioner received the requested records subsequent to the filing of the Article 78 petition and has therefore substantially prevailed. *See Whitehead* at 1453-1454 (holding that the receipt of items requested establishes that the petitioner substantially prevailed). The Court finds that the record requested was of significant interest to the general public as the records sought consisted of the contract prices which would affect the pricing of utilities supplied to the general public. However, the Court does not find that the respondent lacked a reasonable basis in law for withholding the requested records. Freedom of Information Law provides an exemption for disclosure of records which constitute trade secrets or "are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise". Pub. Officers Law §87(2)(d).

The respondent supplied the full contract to the petitioner with the pricing figures redacted. In correspondence included in the record the respondent set forth the reasons for redacting the pricing figures and set forth a reasonable argument as to why disclosure of the costs and opportunities could have a detrimental impact to the respondent and the contract provider. The respondent further expanded upon these reasons in the Memorandum of Law and Affirmations submitted in opposition. Accordingly, the Court finds that there was a reasonable

basis in law for withholding the requested records.

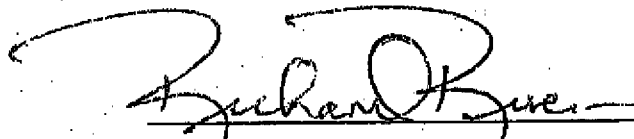
Based on the foregoing the request for counsel fees is denied. Even if there was not a reasonable basis for withholding the requested information the award of counsel fees is not required and falls within the discretion of the Court. *See URAC at 907.*

Accordingly the petition Index No. 904100-19 is dismissed.

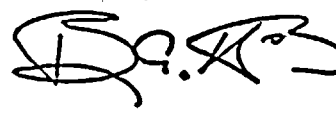
This constitutes the decision and order of the Court.

Dated:

1/14/20



HON. RICHARD RIVERA, A.S.C.J.



07/24/2020

Last Transaction


Date	Time	Type	Station ID	Duration	Pages	Result
				Digital Fax		
Dec 26	3:28PM	Fax Sent	15184738940	1:58 N/A	4	OK

AC 1552-S (Effective 4/12)

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
Bureau of Contracts, Floor 11-1
110 State Street
Albany, New York 12236

APPROVED DOCUMENT TRANSMITTAL

Date 3/29/17

Dept ID 

Contract No. 

Purchase Order No. _____

TO: *LIPA*

- Enclosed is an approved contract. Refer to this contract number and Department ID in all correspondence.
- Enclosed is an approved Amendment No./Change Order No. _____ in the amount of \$_____.
- Extension is approved to _____ Amount if applicable \$_____.
- Enclosed is an approved purchase order. Refer to this purchase order number and Department ID in all correspondence.
- Enclosed is an approved purchase order change notice in the amount of \$_____.

GR



IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

DEEPWATER WIND SOUTH FORK, LLC

LONG ISLAND POWER AUTHORITY

By:

Name: Jeffrey Grybowski

Title: Chief Executive Officer

Date: 2/2/17

Approved as to Form:
Office of the Attorney General

By: _____

Name: APPROVED AS TO FORM
NYS ATTORNEY GENERAL

Title: MAR 09 2017
Lorraine I Remo
LORRAINE I. REMO
SECTION CHIEF

Date: _____

By:

Name: ~~Thomas Falcone~~ RICK SHANSKY

Title: ~~Chief Executive Officer~~ Vice President of Operations Oversight

Date: 2/6/17

Approved:
Office of the State Comptroller

By:

Name: _____

Title: _____

Date: 3/29/17



Thomas Falcone
Chief Executive Officer
tfalcone@lipower.org
516.719.9821

March 2, 2017

VIA EMAIL AND U.S. MAIL

Mr. Jeffrey Grybowski
Chief Executive Officer
Deepwater Wind South Fork, LLC
56 Exchange Terrace, Suite 300
Providence, RI 02903-1772

Re: Amendment to Pending LIPA and Deepwater Wind PPA

Dear Mr. Grybowski:

Reference is made to the Power Purchase Agreement ("PPA") dated January 25, 2017 between Long Island Power Authority ("LIPA") and Deepwater Wind South Fork, LLC ("Deepwater"). Capitalized terms used in this letter, but not defined, will have the meaning ascribed thereto in the PPA.

The Parties hereby agree to amend the PPA as follows:

- i. Section 15.3 is deleted in its entirety and replaced with the following:

"15.3 Lender(s)

Seller may, subject to Parties' compliance with requirements of this Section 15.3 which compliance shall constitute Buyer's written consent, assign, or grant as security, beneficially or otherwise, its rights under this Agreement to Lenders in connection with any financing of the Project, re-financing or other financing arrangement (through either a collateral or direct assignment and, in the case of a direct assignment, including a sub-assignment back to Seller for the term of the financing); provided, however, that Seller's obligations under this Agreement shall continue in their entirety in full force and effect as the obligations of a principal and not as a surety, and Seller shall remain fully liable for all of its obligations under or relating to this Agreement. Each such assignment and any assignee, purchaser or transferee shall be subject to Buyer's rights and defenses hereunder and under Legal Requirements. Seller shall provide prior notice to Buyer of any such assignment. Buyer shall execute such consents, agreements or similar documents with respect to an assignment hereof to Lender(s) as Lender(s) may reasonably request in connection with the documentation of the financing of the Project(s), including a consent to collateral assignment ("Consent Agreement") in a form reasonably acceptable to Buyer, which shall be in the form of Appendix II. Seller agrees to pay for Buyer's reasonable costs and expenses incurred in response to Seller's and Lender's requests, including attorney and consultant fees. Promptly after granting any such interest, Seller shall notify Buyer in writing of the name, address, and telephone and facsimile numbers of any Lender to which

Deepwater PPA Amendment
March 2, 2017
Page 2

Seller's interest under this Agreement has been assigned. Such notice shall include the names of the Lenders to whom all written and telephonic communications may be addressed. After giving Buyer such initial notice, Seller shall promptly give Buyer notice of any change in the information provided in the initial notice or any revised notice."

ii. Section 15.9 (New York State Finance Law Section 138) is incorporated in Article 15 following Section 15.8 as follows:

"15.9 New York State Finance Law Section 138

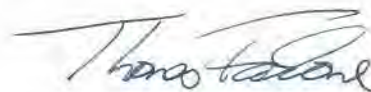
Notwithstanding any other provision of this Article 15, the provisions set forth in New York State Finance Law Section 138 shall apply."

All other terms and conditions of the PPA remain unchanged.

The above amendments to the PPA shall be effective as of January 25, 2017.

Please confirm your acceptance of the foregoing by signing and notarizing below, emailing a scan of your signature to Bobbi O'Conner (boconner@lipower.org), LIPA Deputy General Counsel, and sending three originals to Bobbi's attention.

Best regards,



Thomas Falcone
Chief Executive Officer

Deepwater PPA Amendment
March 2, 2017
Page 3

ACCEPTED BY:
Deepwater Wind South Fork, LLC


[Name and Title] *Chief Executive Officer*

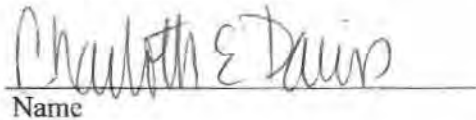
STATE OF *RI*)
COUNTY OF *Providence*) ss.:

On the 6 day of March, 2017, before me personally came *Jeffrey Grayson* me known to be the individual described in the foregoing PPA as *Chief Executive Officer* of *Deepwater Wind South Fork, LLC*, who being sworn did acknowledge that he/she executed same on behalf of Deepwater Wind South Fork, LLC and that he/she was authorized to execute same on behalf of Deepwater Wind South Fork, LLC.



 #755696
Notary Public My Commission Expires August 26, 2017

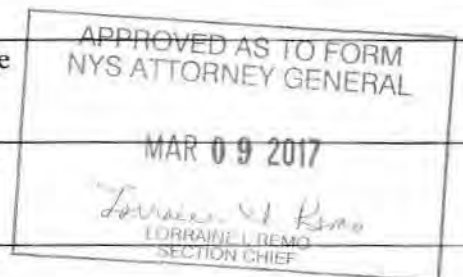
APPROVED BY:
Office of the State Comptroller


Name

Title
Date *3/29/17*

9R \$1,624,738,893.00
102

APPROVED AS TO FORM:
Office of the NY State Attorney General

Name
Title
Date


EXECUTION VERSION

**POWER PURCHASE AGREEMENT
BETWEEN
LONG ISLAND POWER AUTHORITY
AND
DEEPWATER WIND SOUTH FORK, LLC**

February 6, 2017

South Fork RFP

Last Updated: September 30th, 2020

LIPA has PPAs with three projects totaling 140 MW from this procurement. In addition, PSEG Long Island has an Energy Service Agreement with AEG totaling 8.2 MW.

1. Deepwater Wind South Fork Wind Farm¹: 130 MW (Offshore Wind), Not In Operation

Applicant: Deepwater Wind South Fork, LLC

Developers: Consortium of Ørsted² and EverSource

Location: Approximately 30 miles east of Montauk Point (Delivery Point is in East Hampton)

Website: www.southforkwindfarm.com

2. East Hampton Energy Storage Center: 5 MW, 8 Hour (Lithium Ion Battery), In Operation

Applicant: East Hampton Energy Storage Center, LLC

Developer: NextEra/National Grid

Location: East Hampton, NY

Website: www.nexteraenergy.com

3. Montauk Energy Storage Center: 5 MW, 8 Hour (Lithium Ion Battery), In Operation

Applicant: Montauk Energy Storage Center, LLC

Developer: NextEra/National Grid

Location: Montauk, NY

Website: www.nexteraenergy.com

4. AEG Load Reduction Resources: Initial target of 8.2 MW (Various resources), 9.9 MW In Operation

Developer: AEG

Location: Various

Website: www.appliedenergygroup.com

¹ LIPA and Deepwater Wind initially entered into a PPA for 90 MW of capacity. At its November 15th, 2018 meeting, the LIPA Board of Trustees approved the term sheet for the incremental capacity of up to 40 MWs of capacity to the existing Deepwater Wind South Fork contract. An amendment to the existing power purchase agreement between LIPA and Deepwater Wind was executed by LIPA and is being reviewed by the NYS Comptroller's Office.

² Deepwater Wind was acquired by Ørsted in 2018. EverSource subsequently purchased a half interest in the project.