

Locke Lord QuickStudy: MA, RI and CT Sign MOU to Support Offshore Wind, but Key Gaps Remain?

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Last week, at the American Clean Power Association's Offshore WINDPOWER Conference, Massachusetts Governor Maura Healey announced that Massachusetts, Rhode Island, and Connecticut have entered into a first-of-its-kind, offshore wind memorandum of understanding (MOU). The MOU creates a pathway for two or all three of those states to jointly select offshore wind projects as part of their upcoming procurements. Although the MOU is non-binding, it enables the states to operate jointly at a scale that encourages developers to submit larger proposals that can satisfy the needs of multiple state procurements at once. This regional focus has the potential to create additional economic benefits for ratepayers and the regional economy, while also creating efficiencies for developers with large lease areas and significant offtake needs.

Collaboration across states is a smart and necessary strategy that has proven successful in the past. Although this marks the first time that these states will work together on the procurement of offshore wind projects, they have previously successfully procured multiple solar projects and an onshore wind project.^[1] Additionally, Massachusetts has worked with Maine on the potential development and procurement of onshore wind. This MOU is particularly important because offshore wind is crucial to each state's emissions-reduction targets. Without a substantial addition of power from offshore wind, the states cannot meet their respective emissions-reduction targets.

Impact of State-Based Procurement

States have been a key driver in the development of the US offshore wind industry, and the MOU builds upon the recent MOU on Offshore Wind Supply Chain Collaboration between the federal government and nine east coast states. Unfortunately, well-intentioned state requirements for the procurement of offshore wind projects, in particular the inclusion of state-centric local content requirements, often prioritize the development of onshore factories and other facilities designed to generate economic benefits in the procuring state. While this can catalyze the industry on the individual state level, it can also lead to the development of redundant infrastructure in multiple states, ultimately increasing costs to developers and, by extension, the states' ratepayers. Individual state requirements can have similar impacts on the original equipment manufacturers that are looking to invest in U.S. manufacturing and supply chain infrastructure. Ultimately, this redundancy leads to economically inefficient investment that represents an added burden on project economics in a macroeconomic environment that is already exceptionally challenging due to inflation and continued supply-chain challenges. These economic

headwinds have recently prompted several developers to cancel coveted state-procurement contracts and have inspired lackluster participation in the most recent auctions for new offshore lease areas such as those in the Gulf of Mexico.

Outlook for the Multi-State MOU

Allowing multiple states to collaborate on their procurements represents a step in the right direction. It could help to establish some consistency and stability in the market, which is essential to paving the way for necessary investments in the U.S. offshore wind supply chain, while also providing a framework for developers to plan and structure their offtake strategy more efficiently. However, the MOU is no cure-all, largely because competing local content requirements remain. Unless there is legislative action across the states, as there was in previous joint efforts to procure renewable energy, the existing procurement requirements in each state will control and potentially limit coordination across states.

A greater understanding of how the states will coordinate and assurances on the durability of the commitments in the MOU would be valuable. This information, along with an explicit acknowledgement that the states will take the economic and environmental benefits of larger projects into account under the existing procurement laws would result in a more effective process and a better opportunity to actually achieve the goals of the MOU. The hope is that the states will provide further clarity on these issues in supplemental guidance. Without such clarity, it remains to be seen how successful the MOU will be in catalyzing further industry growth in the region.

These remaining challenges notwithstanding, the MOU is a welcome development and represents an encouraging step in the right direction. Its coordinated and collaborative approach has the potential to remove some of the economic challenges that offshore wind developers currently face and provide states and the nation with the best opportunity to achieve their emissions-reduction goals while protecting the interests of ratepayers.

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[1] See, e.g., *NSTAR Elec. Co.*, MA Dept. of Pub. Util. Docket No. 17-118, Order Approving Long-Term Contracts (2018).

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