



FEEL THE WIND. THINK CLEAN.™

January 7, 2007

Minerals Management Service
Offshore Minerals Management
Alternative Energy and Alternative Use Team
381 Elden Street
Herndon, VA 20170-4817

RE: **SUBMISSION OF COMMENTS**

Request for Information and Nominations of Areas for Leases Authorizing
Alternative Energy Resource Assessments and Technology Testing
Activities Pursuant to Subsection 8(p) of the Outer Continental Shelf
Lands Act, as amended (Request for Information)

Dear Sir or Madam:

UPC Wind Management, LLC (UPC Wind) would like to acknowledge the significant steps taken by the Minerals Management Service (the MMS) in developing its Alternative Energy and Alternate Use Program. The recently finalized Programmatic Environmental Impact Statement will assist developers, regulators, and the public to better understand the potential environmental consequences of proposed projects, and will help to focus project-specific review. Similarly, by taking steps to adopt an interim policy to authorize data collection facilities and testing of alternative energy technology, the MMS recognizes the need to act expeditiously in authorizing assessment and testing activities. UPC Wind appreciates that the MMS has made a concerted effort to involve interested stakeholders in the development of this Program, and we welcome this opportunity to provide comments on the interim policy.

A. Background on UPC Wind

UPC Wind is a leader in wind power production, with more than 40 wind farms in development across the United States. Founded in 1995 by executives who had previously built one of the world's most successful wind companies, UPC Wind has remained focused on wind farm development, ownership and operation. UPC Wind's

unique business model is founded on the “develop-to-own” concept. Because we develop, own and operate our own wind farms, we bring a depth and breadth of experience in all phases of the life of a project.

We build wind projects primarily in the Northeast, West and Hawaii, and are already producing nearly 100 MW of energy through three operational wind farms. UPC Wind is currently developing more than 3,500 MW of wind power projects in several markets through various subsidiary companies.

B. Comments on Request for Information

UPC Wind respectfully submits the following comments in response to the Request for Information. Although UPC appreciates the willingness of the MMS to implement procedures for assessment and testing activities prior to promulgation of the final rule, the proposed interim policy is not, in our view, commercially feasible. Specifically, without provisions for a long-term production lease for the study area, the interim policy provides little incentive to would-be developers to invest the substantial resources necessary to site a meteorological (met) tower and collect data at a particular site. As currently proposed, another company would be able to access the data collected by the initial lessee at no cost and could compete for a production lease for the same site. Commercial developers are unlikely to participate in a program that carries this risk/reward calculus. In contrast, if the resource assessment/technology testing lease included a time-limited option to lease and develop a site around the site of the met tower for energy production after the met tower lease term, developers would be much more likely to participate in the program, and more amenable to paying a higher rental rate.

UPC Wind respectfully suggests an alternative approach, described below. We believe this approach can be implemented consistent with Section 388 of the Energy Policy Act which requires that any lease, easement or right-of-way must be issued on a “competitive basis” unless MMS “determines after public notice of a proposed lease, easement or right-of-way that there is no competitive interest.”

- Proponents would nominate a proposed location for a met tower to the MMS with corresponding designation of the area required for wind farm installation and related facilities, including submarine cable route. The location would be large enough to contemplate data collection and/or testing and build-out of a commercial scale wind project (see further comments below). The proponent would need to satisfy pre-qualification criteria to demonstrate its ability to perform and finance the proposed project.
- The MMS would publish a notice in the Federal Register, notifying the public that it is considering entering into a lease agreement for the proposed location and soliciting competing bids, subject to the above pre-qualification criteria.

- If no qualifying competing bids are received, the MMS would determine that there is no competitive interest and would proceed to negotiate a lease agreement with the original proponent. The lease would provide for resource assessment/technology testing during the lease term and would also protect the confidentiality of all data generated pursuant to the lease. The lease would also provide the lessee (and successors and assigns) with an option for up to five years to enter into an energy production lease upon completion of resource assessment/technology testing. If the lessee exercises its option, the MMS and the lessee would enter into an energy production lease that provides adequate time for due diligence, permitting and construction, long-term operation and repowering, and demobilization. If the lessee fails to exercise its option, the site would become available to other pre-qualified bidders and the data collected by the lessee would no longer be confidential.
- If qualified competing bids are received or if the locations of two nominations are in such close proximity as to be conflicting uses, MMS would enter into discussions with the parties to identify any opportunities for collaboration. If no agreement is reached, the interested parties would need to further compete for the proposed location prior to entering into a lease as described above.

UPC Wind also includes the following comments to several of the questions posed in the Request for Information.

- (1) *Would you be willing to collaborate and enter into joint ventures with other prospective lessees who express interest in acquiring the same location for an alternate energy resource assessment or technology testing lease?*

We believe it is appropriate to provide an opportunity for parties to collaborate and/or enter into joint ventures provided that entry into such agreements is voluntary and subject to the parties' sole discretion.

- (2) *What would be an appropriate lease term (duration) for the authorization you are interested in acquiring?*

We believe a five-year term is appropriate for assessment activities, with the option to extend this period for two-years, if warranted. The lessee should also have an option to stop assessment activities before five years have passed and to proceed to a production lease, as described above.

- (3) *Is the rental rate of \$3.00 per acre appropriate?*

Although the suggested rate of \$3.00 acre recognizes the inherent risks associated with offshore technologies and the nascent stage of this industry in the United States, in our view, as discussed above, the proposed interim policy is not commercially feasible. As a practical matter, siting a met tower would not require more than an acre; thus the payment is effectively nil. But if the resource assessment/technology testing lease

included an option to develop the site for energy production after the lease term, as described above, serious and confident developers would likely be amenable to paying a substantially higher rental rate.

- (4) *How much acreage should be authorized for the types of activities proposed and how should leases for such activities be appropriately spaced (i.e., inclusion of buffers)?*

The property subject to the lease should be expansive enough to provide for both resource assessment/testing and commercial-scale production. Although construction and operation of a met tower would require only a limited area (e.g., one acre), a buffer area of approximately one nautical mile (665 acres) is estimated as necessary to ensure there are no conflicting uses. Actual met data may indicate a larger or smaller area is appropriate depending on the location. Because the size of proposed wind farm projects may vary, we suggest setting a maximum lease area of 1,000 acres, excluding any buffer area. Proponents desiring a larger area would need to submit a separate nomination.

- (5) *How should the MMS define technology testing activities and what specific types of activities should be authorized by technology testing leases? Should technology testing leases accommodate projects that would require a transmission cable to connect to onshore interconnection points?*

Currently employed offshore wind technologies have been tested and constructed in relatively shallow waters, e.g., monopole and tripod foundations. Technology testing activities (and leases) should include testing of new and developing technologies that will allow for siting of offshore wind facilities in deeper waters. The benefits of this approach are twofold. First, use of deep water technologies will potentially reduce environmental impacts associated with offshore wind projects, e.g., concerns with visibility, impacts on shipping lanes and fisheries. Second, as facilities are sited further offshore, the area available for development expands by orders of magnitude, minimizing the potential for competing and conflicting uses. Technology leases should accommodate projects that would require a transmission cable to connect to onshore interconnection points.

Thank you for the opportunity to submit comments on the Request for Information.

Very truly yours,



Paul Gaynor
President & CEO