Regulatory Task Force for Coastal Clean Energy

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Regulatory Task Force Overview
DOE Wind Grant

- 2008
- U.S. Department of Energy
- South Carolina Roadmap to Gigawatt-Scale Coastal Clean Energy Generation: Transmission, Regulation & Demonstration
DOE Wind Grant

- Goal: to overcome existing barriers for coastal clean energy development for wind, wave and tidal energy projects in South Carolina.
DOE Wind Grant

- 1: offshore wind transmission study
- 2: wind, wave & current study
- 3: Regulatory Task Force for Coastal Clean Energy
Regulatory Task Force

- Mission: to create a regulatory environment conducive to wind, wave and tidal energy development in state waters
Regulatory Task Force

- Established in April
- Regular meetings since May
- Regulatory Working Group
- Scientific/Technical Advisory Group
Regulatory Task Force

- Federal Aviation Administration
- U.S. Army Corps of Engineers
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- U.S. Fish & Wildlife Service
- Minerals Management Service
- National Marine Fisheries Service, NOAA
- SCANA
- S.C. DHEC, Bureau of Water
- S.C. DHEC, Office of Coastal Resource Management
- S.C. Department of Archives & History
- S.C. Department of Natural Resources
- S.C. Office of Regulatory Staff
Regulatory Task Force

- Clemson University Restoration Institute
- Coastal Carolina University
- EcoEnergy, LLC
- North Carolina State University
- Research Planning, Inc.
- SCANA
- Santee Cooper
- Savannah River Ecology Lab
- Southern Environmental Law Center
- S.C. Coastal Conservation League
- S.C. Sea Grant Consortium
- University of South Carolina, Marine Science Program
- University of South Carolina, School of the Environment
Need for Renewable Energy Policy
Recommendation

- South Carolina needs to establish a policy of support for the renewable energy

- Various approaches
  - Executive
  - Legislative
Renewable Energy Policy

- 8 states have offshore wind initiatives
- 6 of them are in states with renewable portfolio standards
- 24 states have a renewable portfolio standard
- 5 states have nonbinding goals for renewable energy
Regulatory Roadmap for Offshore Wind Projects

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September 21, 2009
Objectives

- Review Regulatory Road map for an Offshore Wind Farm in South Carolina (author Jennifer Banks)
- Identify lead permitting authorities
- Identify timeframes associated with regulatory permitting
- Identify regulatory gaps
Projects in State Waters

Utility Facility
Generation equal to or less than 75 mega watts
Transmission equal to or less than 125 kilovolts
Santee Cooper (Public Service Authority)

Apply for joint permit to the Army Corps of Engineers (ACOE) and South Carolina Department of Health and Environmental Control – Office of Ocean and Coastal Resource Management (SCDHEC-OCRM)

ACOE
1. Section 404
2. Section 10
3. NEPA Process (24 – 36 months)

SCDHEC-OCRM
1. Direct Critical Area Permit (90 Days)
2. CZMA Certification (120 Days)
3. NPDES Permit (Upland based facility; 20 days after CZC cert issued)

SCDHEC – Bureau of Water (BOW)
401 Water Quality (365 days)

Resource Agencies

Major Utility Facility
Generation greater than 75 mega watts
Transmission greater than 125 kilovolts

Apply for Army Corps of Engineers Permit and Public Service Commission Certificate (PSC)

ACOE
1. Section 404
2. Section 10
3. NEPA Process (24 -36 months)

PSC
1. Certificate of Environmental Compatibility and Public Convenience and Necessity (6 months)

SCDHEC
1. OCRM
- CZMA (120 days)
- NPDES (20 days)
2. BOW – (365 days)

SCDHEC-OCRM Review and Recommendation to PSC

Office of Regulatory Staff Review and recommendation to PSC
Resource Agencies

- Federal Aviation
- Environmental Protection Agency
- Advisory Council on Historic Preservation
- U.S. Department of Defense
- U.S. Coast Guard
- U.S. Fish and Wildlife Service
- Department of Energy
- Army Corps of Engineers
- Mineral Management Services
- National Oceanic and Atmospheric Administration
- Federal Energy Regulatory Commission

- South Carolina Department of Health and Environmental Control
  - Environmental Quality Control
  - Office of Ocean and Coastal Resource Management
- South Carolina Department of Natural Resources
- South Carolina Public Service Commission
- Office of Regulatory Staff
- South Carolina Department of Transportation
- State Historic Preservation Office
- South Carolina Institute of Archaeology and Anthropology
Conclusions and Recommendations

- Timeframes have been clarified
- Regulatory Gaps
  - Former Memoranda of Agreement may need to be strengthened and updated (e.g. MOA PSC & SC Coastal Council, 1978).
- Management/Planning Gaps
  - Marine Spatial Planning (MSP)
    - Geospatial information about ocean resources, uses and conditions for comprehensive planning.
    - SC Ocean Planning Work Group – looking at needs for MSP in SC waters (Other states using MSP: NC, MA, RI, CA)
- Leasing program
Need for Leasing Framework
Regulatory Task Force Findings

- No regulatory gaps identified

- However, 2 issues remain:
  - Permitting may not address entirety of issues
  - Permitting process complicated & cumbersome
Regulatory Task Force Findings

Permits

Permit attributes

- permitting structure is in place, however…
- permits are short-term
- permits do not protect user investment
- permits do not provide exclusivity
- permits can be withdrawn
- permits do not allow compensation to the state

Result: uncertainty for both state & investor
Recommendation

- South Carolina should develop a leasing framework to create a more comprehensive process
Leasing Framework

Leases

Lease attributes
  ◦ Eligibility
  ◦ Geographic scope
  ◦ Types of leases
  ◦ Lease duration
  ◦ Exclusivity
  ◦ Performance
  ◦ Compensation

**Result:** certainty for state & investor
SC should establish an offshore leasing program in state waters for wind energy.

It would provide benefits – and certainty – to both the state and the investor.
Need for One-Stop-Shop
Recommendation

- South Carolina should develop a more efficient process by establishing a one-stop shop.
One-Stop Shop

- SC should establish a one-stop shop to coordinate the permitting/leasing process
  - Non-regulatory entity
  - One application
  - Guide investor through process
One-Stop Shop

- Model already exists in SC for aquaculture
- Permit Assistance Office within the SC Department of Agriculture (Section 46–51–10)
Examples from Federal Government and Other States
Federal Waters

- Offshore lease program already in place at federal level
- An offshore wind project in federal waters would require a federal lease
- Administered by the Minerals Management Service
- Royalties to federal government
- Other requirements
State of Texas

- The only state that has established a wind energy leasing program
- Long history – associated with oil and gas
- Flexibility for investor
- Protection for state/compensation
State of Michigan

- Great Lakes Wind Council – report issued September 1, 2009
- Recommendation: enact new statute that specifically regulates leasing and permitting for offshore wind.
- Recommendation: establish a single agency to facilitate the permitting, leasing, construction and monitoring of offshore wind projects
NC General Assembly commissioned UNC study released August 2009
Recommendation: enact a new statute that specifically addresses the multitude of issues associated with leasing State-owned submerged lands for wind projects
Recommendation: Need to provide a clear, consistent legal framework for investors and developers.
Obstacles to offshore alternative energy development in some states from the lack of straightforward path for planning, evaluation and permit coordination.

Recommendation: establish a single administrative process that coordinates the development and review of energy facilities in state and federal coastal waters
Conclusions
Regulatory Task Force Recommendations

SUMMARY

- Need for state policy on renewable energy
- Need for a comprehensive leasing framework
- Need for a one-stop shop for permitting & leasing wind energy projects
Regulatory Task Force

Additional Comments

- Under Sea Warfare Training Range (USWTR)
- Minerals Management Service programs
Questions?

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