

Congress of the United States

Washington, DC 20515

April 20, 2023

The Honorable Janet L. Yellen
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington DC 20220

Dear Secretary Yellen:

We write to ask that the Department provide necessary guidance, as soon as practicable, to clarify that offshore wind developers can treat assets leading up to, and including, the onshore transformer and project substation as qualifying for purposes of claiming the investment tax credit (“ITC”). Guidance on this definition is critically important for clarity as near-term offshore wind projects advance.

Realizing the importance of offshore wind as a domestic energy source, Congress identified offshore wind as separately eligible for the ITC as part of the Consolidated Appropriations Act of 2021 (“Act”). The law enacted a new 30% ITC to incentivize our domestic offshore wind industry but did not define the assets that were eligible for this new credit. Instead, Congress relied on existing regulations and guidance that pre-dated the specific identification of offshore wind in the Act to assist taxpayers in determining qualifying assets.

Since then, there has been a consistent demand for guidance clarifying that the entirety of an offshore project is eligible for the ITC. This definition is consistent with the intent of Congress, and the Bluebook released by the Joint Committee on Taxation, JCS-1-22, contained language identifying that subsea cables and voltage transformers are necessary properties to condition electricity for the grid.¹ On January 24, 2023, a report on offshore wind transmission issued in collaboration with clean energy advocates, academic experts, state regulatory officials, and industry stakeholders recommended that the Internal Revenue Service provide guidance within the next 90 days to confirm the applicability of the ITC to offshore wind-related interconnection facilities.²

If we are to meet the Administration’s goal to have 30 gigawatts of offshore wind projects in operation off the United States’ coasts by 2030, we need to ensure that current offshore wind projects move forward without delay. The ITC for offshore wind is one of the most important tools the Administration has to accomplish this crucial objective. The ITC, coupled with other powerful new incentives in the Inflation Reduction Act of 2022 (“IRA”) such as the domestic content bonus credit and advanced manufacturing tax credit, has the potential to create millions of new jobs in our domestic manufacturing and energy sectors.

¹ The Joint Committee on Taxation, General Explanation Of Tax Legislation Enacted In The 116th Congress (March 8, 2022), <https://www.jct.gov/publications/2022/jcs-1-22/>

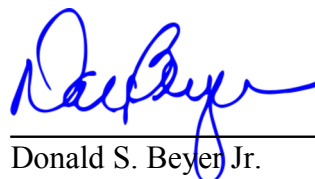
² The Brattle Group, The Benefit and Urgency of Planned Offshore Transmission (January 24, 2023), https://www.brattle.com/wp-content/uploads/2023/01/Brattle-OSW-Transmission-Report_Jan-24-2023.pdf

We appreciate that issuing the extensive guidance necessary to implement the IRA is a priority for the Department. However, there has been a need for ITC guidance since well before its passage. We urge you to prioritize the issuance of ITC guidance expeditiously.

Sincerely,




Bill Pascrell, Jr.
Member of Congress



Donald S. Beyer Jr.
Member of Congress



Troy Carter
Member of Congress



Nanette Diaz Barragan
Member of Congress



André Carson
Member of Congress



Donald M. Payne, Jr.
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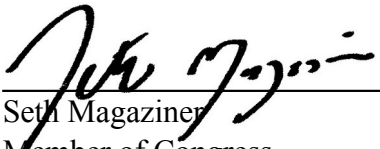
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Seth Magaziner
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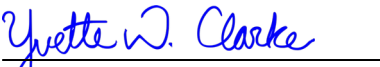
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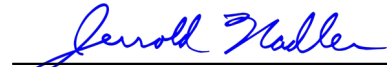
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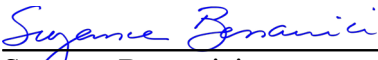
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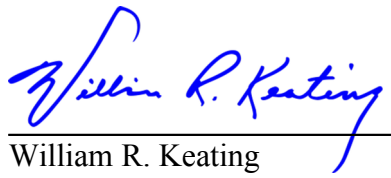
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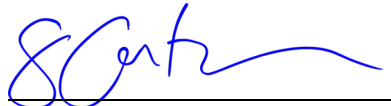
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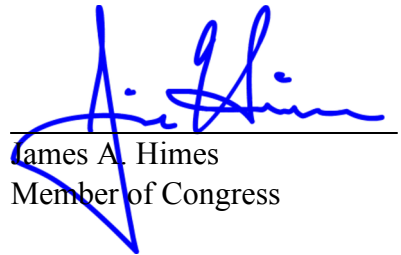
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Cc: Jennifer M. Granholm Secretary, Department of Energy
John Podesta, Senior Advisor to the President for Clean Energy Innovation and Implementation
Ali Zaidi, Assistant to the President and National Climate Advisor
Lily Batchelder, Assistant Secretary for Tax Policy, Department of the Treasury