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Select Revenue Measures

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Chairman Thompson, Ranking Member Smith, and other distinguished members of the Subcommittee, thank you for the opportunity to share my views on tax legislation in the context of the COVID-19 pandemic. I am writing on behalf of the diverse membership of the American Wind Energy Association, including developers of onshore and offshore wind projects, manufacturers, utilities, construction companies, transportation and logistics businesses, investors, corporate purchasers, and others. As the wind energy industry continues to face uncertainties related to the COVID-19 pandemic, support through the tax code is more important than ever. Specifically, we strongly encourage Congress to create a 100% direct pay option for the production tax credit (PTC)/investment tax credit (ITC) to address liquidity and tax equity availability issues for projects that come online through 2022. We also encourage Congress to adjust existing guidance by extending the PTC/ITC continuity safe harbor for offshore wind facilities that start construction in 2016 or subsequent years, and to allow wind projects to demonstrate continuity using continuous efforts regardless of which method a project used to start construction.

With over 100 gigawatts (GW) of electricity capacity, U.S. wind power has more than tripled over the past decade, offsetting carbon emissions and combatting climate change while supporting 120,000 direct jobs in all 50 states. Beyond supporting a robust workforce, the industry also provides over \$1.6 billion to state and local governments and private landowners every year, invigorating rural communities. The wind industry is expected to deliver over 45 GW of land-based wind in the next five years. These projects represent approximately \$100 billion in capital investment and billions of dollars in tax and lease payments to state and local communities. Importantly, they are also critical to supporting and growing wind jobs across the country, which are expected to total 165,000 direct jobs by 2024.

Like the onshore wind industry, the U.S. offshore wind industry is poised for significant growth. As of August 2020, the US has a total of just 30 MW (five turbines) of offshore wind operating in state waters. Another 12 MW (two turbines) were recently installed in federal waters but are still being tested. The U.S. has 12 projects totaling more than 9,000 MW that have already secured offtake agreements with states or utilities with planned in-service dates by the early-to-mid 2020s and 27,000 MW of projects that are in various stages of permitting with the Bureau of Ocean Energy Management. AWEA economic analysis¹ finds that deploying up to 14,000 MW of offshore wind in the U.S. over the next five years will deliver \$14 billion annually to our economy, growing to \$25 billion annually by 2030, and will create up to 83,000 jobs in the U.S. in that timeframe. The offshore wind industry is at an inflection point during which billions of dollars of capital is standing by for investment and the creation of jobs in supply chain development, manufacturing facilities, port improvements, workforce development, and other areas

¹ *U.S. Offshore Wind Power Economic Impact Assessment*, American Wind Energy Association, March 2020, available at: https://supportoffshorewind.org/wp-content/uploads/sites/6/2020/03/AWEA_Offshore-Wind-Economic-ImpactsV3.pdf

even before projects begin construction in the water in the early-to-mid 2020s. These investments would greatly assist in our nation's economic recovery from the COVID-19 pandemic.

Tax equity challenges and the direct pay solution

While the Department of Treasury's extension of the PTC/ITC safe harbor from four to five years for projects starting construction in 2016 and 2017 addressed the immediate and most acute impacts onshore developers were facing, COVID-19's full economic impacts are reducing the supply of available tax equity and creating challenges securing construction loans. Without this financing stream, otherwise viable projects will potentially be postponed or shut down due to capital constraints and an inability to monetize tax credits. Constricted tax equity markets can be particularly detrimental to project developers with limited tax liability or for smaller, less established developers facing high tax equity financing costs or an inability to access tax equity financing.

Tax equity investments are already being put on hold and project developers are reporting that some tax equity suppliers have exited the market due to the pandemic. As you know, under direct pay PTC/ITC credits would be reflected as an overpayment of taxes due, enabling a refund to the taxpayer in that taxable year. The direct pay structure would eliminate this COVID-caused financing shortfall.

Offshore wind challenges and the continuity safe harbor/continuous efforts solutions

COVID-19-related challenges, in addition to existing longer development timelines and regulatory uncertainty, are exacerbating offshore wind development difficulties. Given limited specialized vessel availability and seasonal limitations on offshore work, offshore survey delays can compound due to competition for re-scheduling a vessel (and crew). Delayed surveys mean delayed data used to inform submission of plans to federal and state regulators. Use of port facilities by states for staging COVID response efforts has also limited access by offshore wind companies to those ports. Stay at home orders and social distancing measures have also contributed to delays in public meetings, state solicitations, and outreach required by state regulators. These COVID-19-related delays have exacerbated the already challenging federal permitting timeline for offshore wind facilities, which from lease award to final approval can take up to eight years (with another one to two years for construction).

Extending the PTC/ITC continuity safe harbor provision in current Internal Revenue Service (IRS) start of construction guidance would significantly ameliorate offshore wind development difficulties due to the COVID-19 pandemic and lengthy federal permitting and construction timelines. Currently, to utilize the PTC or ITC for wind, projects have four years to be completed after they commence construction (five years for projects that commence construction in 2016 or 2017). If a project is not completed within this window there is no guarantee that the project would receive the credit for which they previously qualified. An extension of this continuity safe harbor provision for offshore projects is needed to provide increased certainty projects will be able to maintain eligibility for existing tax credits for which they qualified.

Further, broadening the IRS guidance to allow all projects (offshore and land-based) to demonstrate continuity using continuous efforts, regardless of which method a project used to start construction, is also needed to improve business certainty. For projects that fall outside of the continuity safe harbor and, therefore, have to demonstrate continuity under a facts and circumstance test, this change would provide backstop flexibility by allowing the broader universe of activities that qualify under continuous efforts to be performed rather than the more limited activities that qualify under continuous work. This

is particularly important for offshore wind given final turbine selection and construction in the ocean generally happen late in the permitting process. It would also provide flexibility to projects that, due to COVID-exacerbated limitations (construction delays, supply chain disruptions etc.), cannot continue physical work but can make continuous efforts to advance their project to completion.

A reliable supply of affordable energy is a necessary component of our nation's response to this COVID-19 emergency and continued wind deployment will play a critical role in our nation's economic recovery. The wind energy workforce is working hard to help keep the lights on during this trying time, including operating existing facilities and building new wind farms in order to provide dependable electricity to local communities and ensure our country emerges stronger from this global emergency. Wind energy developers are poised to invest billions more to continue to benefit the U.S. workforce and communities across the country.

But the wind energy industry is not immune to investment uncertainty currently afflicting the country. In order to provide relief for these immediate impacts, it is essential for Congress to create a direct pay program for the PTC/ITC, extend the PTC/ITC continuity safe harbor provision for offshore wind projects, and modify it to allow for an expanded definition of continuity for all wind projects as described above.

Thank you for your consideration of the American Wind Energy Association's views.