

## COMPETITIVE IMPLICATIONS OF ØRSTED'S ACQUISITION OF DEEPWATER WIND

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To: Clients and Colleagues

From: John Dalton, President, Power Advisory LLC

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Yesterday, Ørsted A/S (Ørsted) announced that it agreed to acquire Deepwater Wind (Deepwater) from D.E. Shaw & Co. LP for \$510 million. With this acquisition Ørsted, who was unsuccessful in the various New England competitive procurement processes, will get access to Deepwater's 5 PPAs and 810 MW contracted project development portfolio. The transaction is subject to review by US competition authorities, the US Department of Justice (DOJ) and the Federal Trade Commission (FTC). Given the nascent state of the US OSW industry the acquisition of one of the US industry leaders by the world's largest OSW project developer may raise some competitive concerns, particularly when the lease holdings of the combined company are considered in several relevant geographic markets.

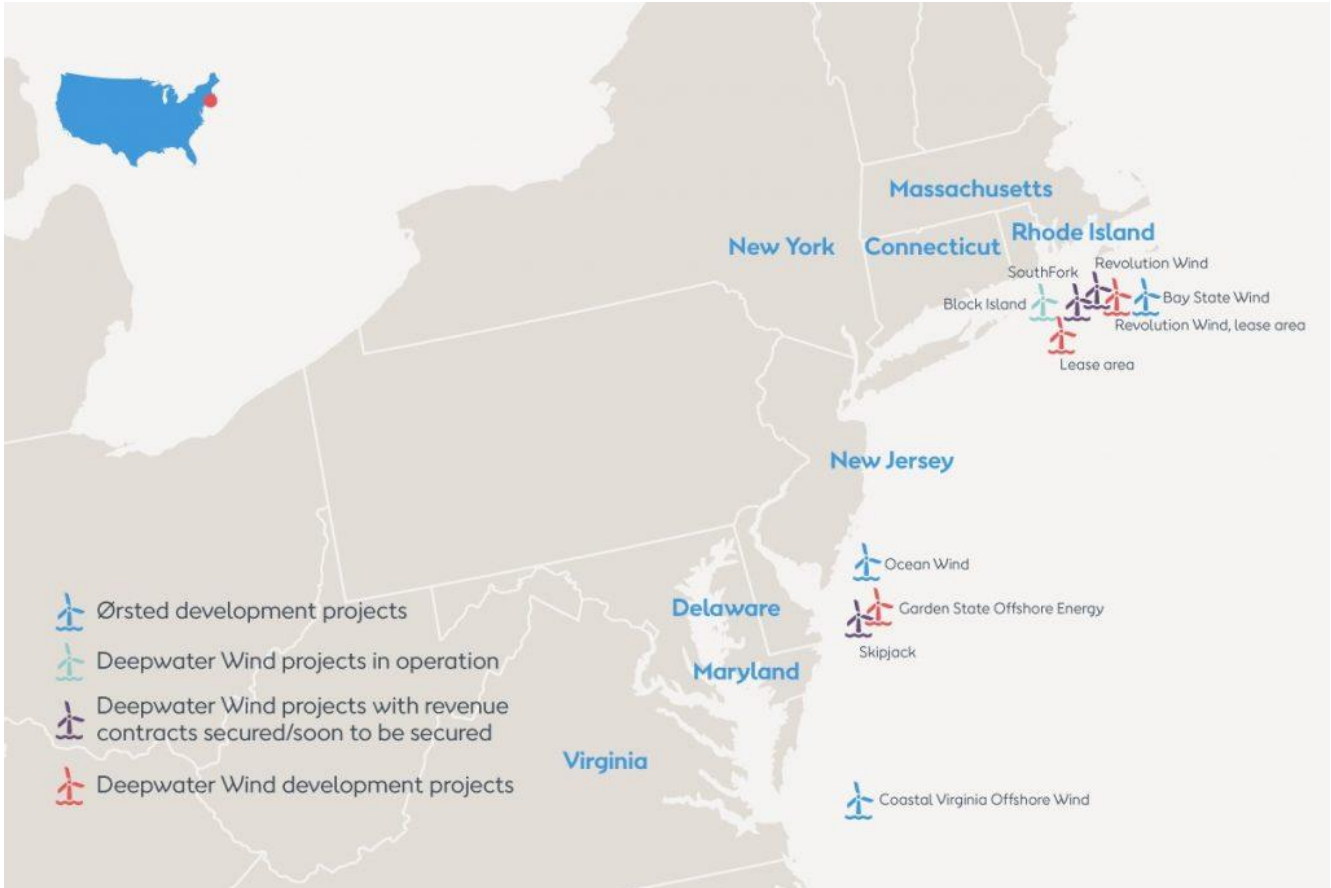
Specifically, Ørsted will have ownership interests in two of the three existing BOEM leases in the Rhode Island/Massachusetts Wind Energy Areas (WEAs) through its Bay State Wind partnership with Eversource Energy and its acquisition of Deepwater. In addition, Ørsted will have development rights to two of the three existing leases off the coast of New Jersey as result of its Ocean Wind project and with the acquisition of Deepwater's 50% interest in the Garden State Offshore Energy project, a joint venture with Public Service Electric & Gas that holds the rights to a BOEM lease off the coast of Delaware and New Jersey. (See Figure 1 below.)

A critical issue with respect to the assessment of the competitive implications of mergers is defining the market, which considers the relevant products and geographic definition of the market. The geographic definition of the market considers the ability of competitors to compete effectively with the merged entity recognizing that there is a cost to accessing a more distant market (e.g., for OSW the cost of undersea transmission cables or transmission service).

The Rhode Island/Massachusetts WEAs offer more attractive wind regimes than the New York (NY) or New Jersey (NJ) WEAs, suggesting that it may be difficult for leaseholders in NY or NJ WEAs (e.g., Equinor) to compete effectively with the RI/MA leaseholders. The competitiveness of the New England OSW market will be enhanced when BOEM issues the two additional MA leases that are scheduled for auction in early 2019. However, the ability of these new leaseholders to compete in the forthcoming Massachusetts 83C OSW RFP may be constrained by the relative immaturity of the corresponding

projects and the fact that Massachusetts OSW RFPs typically considered the development status of projects in the evaluation and project scoring.

**Figure 1: Ørsted US Offshore Wind Portfolio**



Source: Ørsted