

COMMONWEALTH OF MASSACHUSETTS  
**THE GENERAL COURT**  
STATE HOUSE, BOSTON 02133-1053

November 1, 2004

Interagency Ocean Policy Group  
White House Council on Environmental Quality  
722 Jackson Place  
Washington, DC 20503

**In Re:** Final Report of the U.S. Commission on Ocean Policy entitled, "An Ocean Blueprint for the 21st Century."

Dear Council Members:

We are writing to comment on the final report of the U.S. Commission on Ocean Policy. In a letter to the Commission last June, we urged the Commission during its deliberations to take no action that would ultimately contravene the gains we have made in the Commonwealth of Massachusetts since 1998 in the development of progressive energy policies. We would be very appreciative if the ultimate recommendations of the Interagency Ocean Policy Group do not conflict with important legislative policies in Massachusetts, including those established by Chapter 164 of the Acts of 1997, *An Act Relative to Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein*, which, amongst other things, reformed the state's energy facility siting process and created a renewable energy program.

By 1997, the Massachusetts energy facility siting process had failed. No new facilities had been sited in years, and the state became heavily reliant on older, less efficient generating units. Consequently, the New England region was facing a reliability crisis because of the inability to site and build new generation. The streamlined siting process in the Act now allows industry participants who are using their own business, engineering, and technical acumen and private capital, to propose new generation projects which are then subjected to a rigorous review by the Energy Facilities Siting Board and environmental permitting agencies – a review process that is based upon a site-specific, evidentiary record assessing the merits of the project and full consideration of alternative technologies and locations.

The Ocean Policy Group should be aware that this current siting process, as memorialized in statute, reflects a conscious and carefully considered legislative policy. The Act purposefully and thoughtfully redirected the generation industry away from centralized government planning in order to foster entrepreneurial thinking and innovation. Experience demonstrates that the Commonwealth will best realize the benefits evolving from new

approaches when entrepreneurial proposals are not precluded by bureaucratic predeterminations or presumptions as to what energy facilities will be most consistent with the public interest.

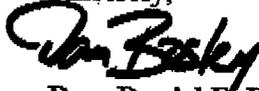
We also note that the Restructuring Act now allows the state Siting Board to make the essential public siting decisions in an open process based upon a factual and site-specific record established under the rules of evidence, with assurances of procedural due process. This approach seems far preferable to a "pro-active" bureaucratic predetermination made in the absence of either concrete proposals or alternatives, or the associated evidentiary record and procedural due process now afforded for each proposal.

We respectfully ask that the Ocean Policy Group remain mindful of another substantive policy provision of the Restructuring Act – the need for new sources of renewable energy. The Legislature in 1997 aggressively committed to the development of renewable energy projects for Massachusetts and continues to do so even in the face of attempts by various parties to diminish that commitment. New England again is facing concerns about adequate generating capacity and fuel diversity. The development of renewable energy projects is critical to ensuring that our future needs in these areas can be met. The Ocean Policy Group must realize that if it were to propose to hinder the development of renewable energy projects in areas where they are economically viable, it would be acting contrary to the existing statutory commitments and requirements of the Commonwealth regarding renewable energy and environmental quality.

These two legislative initiatives have led to the proposed construction of a wind farm in Nantucket Shoals off of Cape Cod. The Cape Wind project is a direct product of the reformed siting law and the state's commitment to renewable energy projects. Cape Wind has submitted to seventeen state and federal regulatory processes. The fate of the project should be decided on the merits.

As you move forward with your deliberations, we would appreciate your consideration of these innovative legislative policies in Massachusetts that are beginning to deliver substantive benefits to our constituents. Thank you for your attention to this matter.

Sincerely,



Rep. Daniel F. Bosley  
House Chairman, Joint Committee on  
Government Regulations



Rep. John J. Binienda  
House Chairman, Joint Committee on  
Energy