

Minerals Management Service, Environmental Assessment Branch (MS 4042), 381 Elden Street, Herndon, Virginia 20170. An electronic copy of the final programmatic EIS is available at the MMS's EIS Web site at: [ocsenergy.anl.gov](http://ocsenergy.anl.gov).

**FOR FURTHER INFORMATION CONTACT:**

Minerals Management Service, Mr. James F. Bennett, Environmental Division, 381 Elden Street, Herndon, Virginia 20170, (703) 787-1660.

Dated: October 25, 2007.

**Robert P. LaBelle,**

*Acting Associate Director for Offshore Minerals Management.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### **Request for Information and Nominations of Areas for Leases Authorizing Alternative Energy Resource Assessment and Technology Testing Activities Pursuant to Subsection 8(p) of the Outer Continental Shelf Lands Act, as Amended**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Request for information and nominations.

**SUMMARY:** The Minerals Management Service (MMS) invites comments concerning the authorization of activities on the Outer Continental Shelf (OCS) involving the installation of meteorological or marine data collection facilities to assess alternative energy resources (e.g., wind, wave, and ocean current) or to test alternative energy technology to produce or support production of alternative energy. The MMS intends to adopt an interim policy to authorize such facilities (e.g., meteorological towers or wave and current data collection instruments and wave or current generators or other developing technology) under subsection 8(p) of the OCS Lands Act, as amended by section 388 of the Energy Policy Act of 2005. Parties wishing to obtain such authorizations should submit detailed and specific nomination and application information as described below.

**DATES:** The MMS requests comments by January 7, 2008. We will begin review on that date and consider all comments received by that time.

**ADDRESSES:** You may submit your comments by one of two methods:

(1) Commenting electronically using the MMS Public Connect online commenting system (<https://occonnect.mms.gov>).

(2) Mailing your comments to the following address: Minerals Management Service, Offshore Minerals Management, Alternative Energy and Alternate Use Team, 381 Elden Street, Herndon, Virginia 20170-4817.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Maureen Bornholdt, Minerals Management Service, Offshore Minerals Management, 381 Elden Street, Herndon, Virginia 20170-4817, (703) 787-1300, Mail Stop 4080.

**SUPPLEMENTARY INFORMATION:** *Public Comment Policy.* Before including your address, phone number, e-mail address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The MMS will protect privileged or confidential information that you submit as allowed by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that is privileged or confidential. If you wish to protect the confidentiality of such information that you submit, clearly mark it and request that the MMS treat it as confidential. The MMS will not disclose such information, subject to the standards of FOIA. However, the MMS will not treat as confidential any aggregate summaries of such information or comments not containing such information. Please label privileged or confidential information "Contains Confidential Information" and consider submitting such information as a separate attachment to your comments.

*Background.* The Energy Policy Act of 2005 amended the OCS Lands Act by adding subsection 8(p), which authorizes the Secretary of the Interior to grant a lease, easement or right-of-way on the OCS for activities that are not otherwise authorized by the OCS Lands Act or other existing law and that (1) produce or support production, transportation, or transmission of energy from sources other than oil or gas; or (2) use for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under the OCS Lands Act. This

authority was delegated from the Secretary to the MMS Director on March 20, 2006. This Notice pertains only to the activities covered in (1) above.

The MMS is developing an Alternative Energy and Alternate Use (AEAU) program and associated regulations. We also are analyzing the environmental consequences of establishing an AEAU program in a Programmatic Environmental Impact Statement (PEIS) being prepared pursuant to the National Environmental Policy Act (NEPA). The MMS began the rulemaking process by issuing an Advance Notice of Proposed Rulemaking on December 30, 2005. The MMS started the preparation of the PEIS with a Notice of Intent issued on May 5, 2006. Subsequently, we held scoping meetings around the country in Spring 2006, issued a draft PEIS for comment on March 21, 2007, and held hearings on the draft PEIS in Spring 2007. The MMS issued its final PEIS on November 6, 2007. Later this year, the MMS will issue its Record of Decision on the PEIS and plans to publish a Notice of Proposed Rulemaking. This Notice is not part of the rulemaking process.

While the MMS is developing the AEAU program, we have adhered to a policy of not considering proposals for new alternative energy projects until after completion of the PEIS and issuance of a final rulemaking. During this time, we have proceeded with environmental analyses under NEPA on only two projects identified in the "savings provision" included as section 388(d) of the Energy Policy Act of 2005.

*Interim Policy for Authorization of Resource Data Collection and Technology Testing Facilities.* Among the first steps of alternative energy project development is the collection of resource data. Such data are often required by component manufacturers, such as wind turbine suppliers, and by financial backers. Thus, initial site assessment activities, such as meteorological tower installation and operation, are properly considered a first phase of commercial alternative energy production on the OCS. Similarly, activities involving the installation and operation of facilities to test alternative energy generating technologies advance the development of an alternative industry offshore and support the ultimate deployment of commercial-scale alternative energy production on the OCS. For these reasons, installation and operation of resource data collection and technology testing facilities on the OCS are deemed by the MMS to support production of alternative energy and therefore leases

for this activity are authorized under subsection 8(p) of the OCS Lands Act.

The MMS is initiating this interim policy under which resource data collection facilities, such as meteorological towers and wave and current data collection instruments, and technology testing facilities, such as wave and current turbines, could be considered and authorized for installation and operation on the OCS before promulgation of final rules. Many stakeholders—including coastal states, alternative energy project proponents, nongovernmental organizations, and the general public—have commented to the MMS, recommending that OCS alternative energy resource assessment activities be authorized expeditiously. The MMS wishes to be responsive and believes that significant benefits would accrue to both the stakeholders and the Federal Government if we expedite the ability to acquire resource data and technology testing results to inform future decision-making with respect to the AEAU program.

This interim policy would not apply to project proposals for the installation of turbines or other energy generating devices associated with the commercial development of alternative energy resources on the OCS (i.e., sale or distribution for compensation). Projects that MMS is currently evaluating pursuant to the “savings provision” of Section 388 of the Energy Policy Act of 2005 would not be affected or limited by this interim policy. Thus, any authorization issued under the interim policy would be limited in scope to the installation of meteorological, marine, or other resource data collection facilities and associated data collection activities and the installation and operation of technology testing facilities. Offshore wind turbine technologies will not be authorized for technology testing through this interim policy.

The interim policy would be in effect until the MMS promulgates final rules for the AEAU program, at which time all AEAU program activities will be regulated under those rules. However, the MMS may limit the number of authorizations under this interim policy. Parties wishing to receive authorizations for data collection activities and technology testing may continue to submit requests under the interim policy until the final rules are in place.

*Leases.* Under this interim policy the MMS would issue limited-term leases authorizing data collection activities and technology testing in support of alternative energy production subject to obtaining necessary approvals for

construction and placement of associated structures on the OCS lease area. Such leases would have a limited term and would confer no priority rights to subsequently develop an alternative energy facility on the OCS for generating electricity or other produced energy for commercial sale or distribution. The MMS proposes a lease term of 5 years. Any subsequent MMS authorizations for commercial alternative energy facilities would be processed independently in accordance with subsection 8(p) of the OCS Lands Act and the associated implementing regulations currently in development by the MMS. However, the initial lease term may be extended at the discretion of the MMS if the lessee demonstrates that more time is needed to conduct data collection or technology testing activities. The size of each lease issued would be designed to accommodate the activities proposed, but multiple facilities in noncontiguous areas would require separate leases.

As required by subsection 8(p)(3) of the OCS Lands Act, leases for alternative energy resource assessment and technology testing must be issued on a competitive basis unless the MMS determines, after public notice, that there is no competitive interest. The MMS will consider nominations and other information received in response to this notice to evaluate competitive interest in leases for alternative energy resource assessment and technology testing. In cases where we determine that there is competitive interest in the same geographic area, we may conduct a competitive auction (lease sale). Otherwise, we may proceed to issue leases noncompetitively on a case-by-case basis. The MMS will use criteria, such as complexity of facilities, proposed installation dates, and available MMS resources to oversee such projects, in setting priorities and determining the number of applications we will consider. As required by subsection 8(p)(7) of the OCS Lands Act, the MMS will coordinate and consult with the Governor of any State or the executive of any local government that may be affected by a lease issued under the interim policy.

The installation of resource data collection and technology testing facilities will require the submission of a plan describing the proposed construction, operation, and removal of the facility, which will be subject to MMS review before authorization of the proposed activities. Each lease and associated activities must comply fully with all applicable laws and regulations (e.g., NEPA, the Coastal Zone Management Act, the Endangered Species Act, the Marine Mammal

Protection Act, the Rivers and Harbors Act, the Clean Air and Water Acts, and U.S. Coast Guard and Federal Aviation Administration requirements). A NEPA review of potential environmental impacts will be conducted for each lease, and appropriate restrictions and mitigation measures may be applied. Unless otherwise authorized by the Director, any facilities constructed on the lease must be removed when the lease expires, and removal of facilities must be accomplished in a manner approved by the MMS. The MMS will require an annual rental payment for each lease and proposes that the rental amount be \$3.00 per acre. Also, the MMS will require lessees to meet appropriate financial assurance requirements to guarantee compliance with all terms and conditions of the lease. The specific terms and conditions of this authorization, including plan information, rental payments and financial assurance requirements, will be set forth in the lease instrument, a draft of which will be published for public review and comment. The draft lease instrument may include the clauses listed below.

1. Rights of Lessee.
2. Reservations to Lessor.
3. Effective Date and Lease Term (5 years proposed).
4. Designation of Operator.
5. Applicable Statutes and Regulations.
6. Rentals (\$3.00 per acre proposed).
7. Notice of Commencement and Termination of Activities.
8. Project Plan.
9. Compliance.
10. Progress Reports.
11. Confidentiality of Information.
12. Inspections.
13. Violations, Suspensions and Cancellations.
14. Liability of Lessee.
15. Security.
16. Assignment or Transfer of Lease.
17. Surrender of Lease.
18. Removal of Property and Restoration of the Leased Area on Termination.
19. Debarment Compliance.
20. Notices.

Leases issued under this interim policy will grant the lessee exclusive rights to conduct the activities identified in the lease on the designated OCS lease area. However, the MMS is not restricted from, and may consider, authorizing other activities on the same area of the OCS that do not impede on or interfere with the original lessee's exclusive rights under its lease.

*Applicability.* In accordance with subsection 8(p)(10) of the OCS Lands Act, data collection and technology testing activities may not be authorized

within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument. Also, any request for authorization of data collection or technology testing activities in the areas of Nantucket Sound off Massachusetts and off Jones Beach, Long Island, New York, would be considered by the MMS to determine what impact any such authorizations would have on projects that are currently being evaluated by MMS pursuant to the "savings provision" included as section 388(d) of the Energy Policy Act of 2005.

#### Information Requested From Commenters

As the MMS proposes to authorize on a limited basis the installation of data collection and technology testing facilities to produce or support production of alternative energy on the OCS, we invite all interested and affected parties to provide comments on any aspect of the interim policy. We also would appreciate responses to the questions posed below.

(1) Would you be interested in acquiring an alternative energy resource assessment lease or technology testing lease as proposed under the interim policy? If so, please identify the resource(s) you would want to assess (e.g., wind, wave, current) and the technology you would want to test and provide a general description of the type and number of installations or technologies you would use, prospective locations, and a project schedule for the activities you would propose to pursue. The MMS requests respondents to identify prospective locations by depicting them on Official Protraction Diagrams (Leasing Maps for areas off Texas and Louisiana) available from each MMS regional office and online at <http://www.mms.gov/ld/Maps.htm>. For areas such as those off Hawaii and Alaska that have nonexistent or incomplete Official Protraction Diagrams, please identify prospective locations by latitude and longitude (NAD 83). If you submit such nomination and application information, please provide the name, telephone number, and e-mail address of an individual for the MMS to contact.

(2) Would you be willing to collaborate and enter into joint ventures with other prospective lessees who express interest in acquiring the same location for an alternative energy resource assessment or technology testing lease?

(3) What would be an appropriate lease term (duration) for the

authorization you are interested in acquiring?

(4) Is the rental rate of \$3.00 per acre appropriate?

(5) How much acreage should be authorized for the types of activities proposed and how should leases for such activities be appropriately spaced (i.e., inclusion of buffers)?

(6) How should the MMS define technology testing activities and what specific types of activities should be authorized by technology testing leases? Should technology testing leases accommodate projects that would require a transmission cable to connect to onshore interconnection points?

Dated: October 25, 2007.

**Randall B. Luthi,**

*Director, Minerals Management Service.*

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#### INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-598]

#### In the Matter of Certain Unified Communications Systems, Products Used With Such Systems, and Components Thereof; Notice of Commission Decision Not to Review an Initial Determination Granting Complainant's Motion To Amend the Complaint

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 19) of the presiding administrative law judge ("ALJ") granting complainant's motion to amend the complaint in the above-captioned investigation.

#### FOR FURTHER INFORMATION CONTACT:

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>.

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 26, 2007, based on a complaint filed by Microsoft Corporation ("Microsoft") of Redmond, Washington, 72 FR 14138-9. The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. \*\*1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain unified communications systems, products used with such systems, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,421,439 ("the '439 patent"); 6,430,289 ("the '289 patent"); 6,263,064 ("the '064 patent"); and 6,728,357 ("the '357 patent"). The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named Alcatel-Lucent of Paris, France as the only respondent.

On April 20, 2007, Microsoft initially moved to amend the complaint to: (1) Substitute Alcatel Business Systems for Alcatel-Lucent as respondent in this investigation, and (2) add allegations of infringement of claims 8, 28, 38, and 48 of the '439 patent, and claim 20 of the '064 patent. Alcatel-Lucent, proposed respondent Alcatel Business Systems, and the Commission investigative attorney did not oppose the motion.

On May 17 and September 20, 2007, respectively, the Commission determined not to review IDs, issued by the presiding ALJ, granting Microsoft's motions to amend the complaint and to terminate the investigation in part based on Microsoft's withdrawal of certain claims. On October 23, 2007, the Commission determined not to review an ID granting Microsoft's withdrawal of additional claims.

On October 12, 2007, respondent filed an unopposed motion to further amend the complaint to reflect a corporate name change from Alcatel Business Systems to Alcatel-Lucent Enterprise.

On October 15, 2007, the ALJ issued the subject ID granting respondent's motion to amend the complaint. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a). The Commission has determined not to review this ID.