

**BEFORE THE
STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE BOARD OF :
PUBLIC UTILITIES OFFSHORE WIND :
SOLICITATION FOR 1,100 MW – :
EVALUATION OF THE OFFSHORE : BPU DOCKET NO.: QO18121289
WIND APPLICATIONS :
:**

**PETITION FOR APPROVAL OF A PERMISSIBLE DELAY IN THE COMMERCIAL
OPERATION DATES OF THE OCEAN WIND LLC QUALIFIED OFFSHORE WIND
PROJECT AND FOR CLARIFICATION/UPDATE OF THE OREC PRICING
SCHEDULE AS A RESULT OF THE PERMISSIBLE DELAY**

REDACTED (PUBLIC) VERSION

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I. NATURE OF THIS PETITION

Ocean Wind LLC (“Ocean Wind” or “Petitioner”) is the owner of a Qualified Offshore Wind Project (the “QOWP” or the “Project”) pursuant to N.J.S.A. 48:3-87.1 et seq. Ocean Wind is a Delaware limited liability company, with its principal office at 520 Pacific Avenue, Atlantic City, N.J. 08401.

By this filing, Ocean Wind seeks the New Jersey Board of Public Utilities’ (“Board” or “BPU”) approval of a [REDACTED], as well as a clarification/update of the Offshore Wind Renewable Energy Certificate (“OREC”) pricing schedule as a result of the [REDACTED], as more fully described hereinafter. In support of this Petition, Ocean Wind states as follows:

II. PROCEDURAL BACKGROUND

1. Governor Murphy’s Executive Order No. 8 called upon the Board to fully implement the Offshore Wind Economic Development Act of 2010 (“OWEDA”) and to proceed

with an initial Solicitation (the “Solicitation”) of offshore wind (“OSW”) capacity as a first step in meeting the State’s goal of 3,500 MW of OSW capacity by 2030 (now 7,500 MW by 2035).

2. Ocean Wind submitted an application on December 28, 2018 (the “Application”) in response to the Solicitation.

3. In its June 21, 2019 Order (the “June 21 Order”), the Board considered the applications received in the Solicitation and approved the Project, granting Ocean Wind QOWP status, and establishing Ocean Wind’s Annual OREC Allowance of 4,851,489 MWh. The June 21 Order also established an OREC pricing schedule (“OREC Pricing Schedule”) for each energy year the Project was in operation over a 20-year OREC term.¹

III. COMMERCIAL OPERATION DATE SCHEDULE

4. Attachment B to the June 21 Order identifies the Project’s three phases of achieved commercial operation, with staged CODs:

- 2) The Ocean Wind project shall have a Commercial Operation Date (“COD”) of May 1, 2024 /September 1, 2024 / December 1, 2024, reflecting three phases of project development and completion, after which ORECs for each phase of the project may be generated, priced, sold, or otherwise attributed to the project.²

5. The June 21 Order also noted that “[t]he phased approach allows the project to bring clean energy to New Jersey in the most efficient way possible” and acknowledged that, while Ocean Wind had committed to these CODs, “given uncertainties to various aspects of the project and the changing conditions in the marine environment,” a delay in the CODs was possible. *Id.*

¹ June 21 Order, Attachment A, p. 26.

² June 21 Order, Attachment B, p. 27.

IV. FEDERAL PAUSE ON OFFSHORE WIND PERMITTING

6. The United States Department of the Interior, Bureau of Ocean Energy Management (“BOEM”) is the agency charged with, *inter alia*, overseeing the development of offshore wind projects in leased areas of the outer continental shelf waters of the United States. Among other things, BOEM must complete an environmental impact statement (“EIS”) for the Construction and Operations Plan (“COP”) of the Project pursuant to the National Environmental Policy Act (“NEPA”). The formal first step in the EIS process is for BOEM to issue a Notice of Intent (“NOI”) to prepare an EIS. The Project cannot commence construction until a Final EIS is issued, a Record of Decision is issued, and the COP is approved by BOEM.

7. The project schedule included in Ocean Wind’s application submitted in December 2018 anticipated that BOEM would issue its NOI for the Project in [REDACTED], based on a COP submission also in [REDACTED]. Following the Board’s issuance of the June 21 Order, Ocean Wind prepared and communicated an updated schedule in July 2019, based on updated assumptions following the planned COP submission to BOEM in [REDACTED], that anticipated that BOEM would issue its NOI for the Project by [REDACTED].³ Ocean Wind’s COP was submitted to BOEM, as planned, on August 15, 2019. However, under the previous federal administration, the permitting of all new offshore wind projects was paused, allegedly so that the NEPA cumulative impacts analyses could be expanded. After Ocean Wind submitted its COP to BOEM, no NOIs for offshore wind projects were issued for the duration of the administration’s tenure. BOEM did not issue the NOI for Ocean Wind until March 30, 2021, [REDACTED]

[REDACTED]

[REDACTED]

³ The July 2019 Project schedule is used as the baseline reference schedule throughout this Petition.

[REDACTED] The issuance of all federal approvals is anticipated to be no later than 90 days after the Record of Decision. While Ocean Wind will continue to strive to bring the Project to commercial operation as soon as possible, it is highly likely that the [REDACTED]

8. The June 21 Order specifically acknowledged the possibility that there could be delays in the CODs of the Project. Attachment B to the June 21 Order states:

However, given uncertainties to various aspects of the project and the changing conditions in the marine environment, Ocean Wind may reserve the right for the COD to be delayed for up to, but no longer than, 6 months from each respective COD without any effect on the overall OREC period. In the event of a delay of not more than 6 months from each respective COD, the start of the OREC period will be delayed an equal amount of time. Any delay(s), for any reason, beyond the 6 months from each respective COD, would qualify as a material change to the binding Pricing Schedule listed in Attachment A, and therefore be subject to Board approval. The Board retains the right to deny requests for changes to the OREC Pricing Schedule beyond 6 months from each respective COD and hold Ocean Wind to the OREC Pricing Schedule provided in Attachment A.⁴

Therefore, each of the three CODs are subject to a reservation of rights period of up to six months (“Reservation of Rights Period”) without further Order of the Board. Thus, the May 1, 2024 /September 1, 2024 / December 1, 2024 CODs may each be delayed for a period not exceeding six months, with the explicit objective of providing consideration towards the Project for “uncertainties to various aspects of the project and the changing conditions in the marine environment.” *Id.* Ocean Wind continues to develop the Project in the context of significant uncertainties with regards to both its development and construction activities. [REDACTED]

⁴ June 21 Order, Attachment B, pp. 28-29.

[REDACTED] while retaining the Reservation of Rights Period as discussed in the June 21 Order, [REDACTED]

In a letter dated September 21, 2020, Board Staff provided its interpretation of the six-month delay periods and stated that:

Third, in the event of a delay of more than six months, the Order specifies that Board approval is necessary. Staff reads the Order as requiring Ocean Wind to request Board approval prior to any delay that it is anticipated will exceed the six-month delay period, including in such request sufficient detail to explain the reasons for the delay, and Ocean Wind's actions to minimize the delay. The request may be made for a specific Phase (e.g., if applicable only to Phase III) or for the Project cumulatively.⁵

9. Pursuant to the terms of the June 21 Order, Ocean Wind seeks Board approval of [REDACTED]. In addition, Ocean Wind requests that the Board approve the retention of the six-month Reservation of Rights Period at the end of each of the [REDACTED] CODs. After Ocean Wind received a federal permitting schedule in March 2021, which it has confidence the agencies are committed to meet, Ocean Wind updated its construction schedule to take this new information into account. The [REDACTED] positions the Project to [REDACTED], which includes mitigating actions to reduce the impact of the pause in federal permitting and represents [REDACTED]

[REDACTED]

[REDACTED]

Thus, if the Board approves this request, [REDACTED], plus the six-month Reservation of Rights Period as originally deemed appropriate by the BPU. The Reservations of Rights Period would be treated as set forth

⁵ Board Staff letter dated September 21, 2020, at pp. 3-4 (the "September 21 Letter").

in the September 21 Letter. Attachment A contains additional details on Ocean Wind's [REDACTED]
[REDACTED]

[REDACTED] The Project's request for an [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11. While Ocean Wind has already made significant investments in the State of New Jersey as part of its early development, [REDACTED]
[REDACTED]

[REDACTED] Accordingly, Ocean Wind is seeking approval of the [REDACTED]

[REDACTED] Ocean Wind remains fully committed to achieving commercial operation at the soonest date possible. In fact, it is in Ocean Wind's financial interest to do so. [REDACTED]
[REDACTED]

VI. OREC PRICING SCHEDULE

12. As discussed above, the June 21 Order contains a 20-year OREC Pricing Schedule in Attachment A. The OREC Pricing Schedule lists the Energy Year⁶ in the left-hand

⁶ "Energy Year" is a PJM convention for an annual period that runs from June 1 through May 31. Thus, Energy Year 2024 ends on May 31, 2024 and Energy Year 2025 begins on June 1, 2024.

column, followed by the OREC price (in \$/MWh) for each corresponding Energy Year. The OREC Pricing Schedule is based on a 2% annual escalation. While the Schedule is nominally for 20 years, it actually covers a 22-year period (from Energy Year 2024 through Energy Year 2045) to account for the three-phases of commercial operation.

13. In addition, the June 21 Order contains a levelized OREC price of \$116.82/MWh. *June 21 Order*, at pp. 18-19. This calculation, made pursuant to the Board's prescribed methodology, calculates a levelized OREC price over the 20-year period of OREC eligibility (which, for the Project, also accounts for the phased CODs).

14. In this Petition, Ocean Wind is seeking clarification (or, should the Board deem it necessary, update) of the OREC Pricing Schedule to align with the [REDACTED] of the CODs for the Project. Specifically, it is Ocean Wind's position that the intent of the June 21 Order, which adopted the OREC Pricing Schedule in Ocean Wind's application, is that the OREC price would correspond to the Energy Year that the Project was operating in, regardless of the actual date that Commercial Operation began. For example, under the terms of the June 21 Order, Phase I of the Project has a COD of May 2024. Accordingly, the OREC Pricing Schedule reflects one month of ORECs at the \$98.10 price for Energy Year 2024. Given the six-month Reservation of Rights Period, it is permissible for Phase I to achieve commercial operation through November 1, 2024 without further Order of the Board. For example, should Phase I achieve commercial operation in July 2024 (which is in Energy Year 2025), it would receive the \$100.06 OREC pricing that corresponds to Energy Year 2025 from July 2024 through May 31, 2025. Starting in June 2025, the OREC price would adjust to \$102.06, which is the OREC price for Energy Year 2026.

Therefore, Ocean Wind seeks clarification that, if the Board approves the [REDACTED]

[REDACTED] For example, if Phase One achieves commercial operation in [REDACTED], it would receive the Energy Year [REDACTED] as of that date. In the alternative, should the Board consider this request to be in the nature of an update to the June 21 Order, Ocean Wind requests approval of the update. Whether deemed a clarification or an update, approval of this request is necessary to [REDACTED]

[REDACTED] Conversely, if this Petition is not granted, it will cause financial harm to Ocean Wind due to circumstances wholly beyond the Project's control. To exact a financial penalty on an offshore wind developer in New Jersey may be seen by potential developers of future offshore wind projects as increasing the risk associated with the such offshore wind development, resulting in future, higher OREC prices to ratepayers.

16. [REDACTED]

[REDACTED]

[REDACTED], the Project will still receive ORECs over the full 20-year period contemplated in the July 21 Order. As discussed above, the OREC Pricing Schedule included in Attachment A to the Petition starts with prices for Energy Year [REDACTED] and goes through Energy Year [REDACTED] (i.e., through [REDACTED]). Under the requested [REDACTED] (and retention of the Reservation of Rights Period) [REDACTED]

[REDACTED] Under that scenario, the 20-year OREC period would run through [REDACTED] Accordingly, so that the Project receives the full 20 years of ORECs, [REDACTED]

[REDACTED] Based on the 2% escalation factor built into the OREC Pricing Schedule, the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

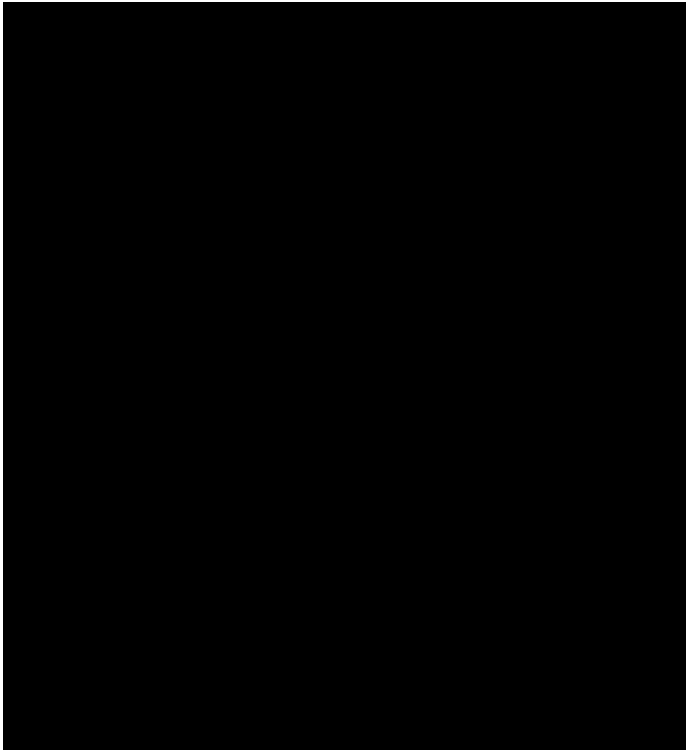
[REDACTED]

⁷ [REDACTED]

Original Schedule

Energy Year	Deflator (2%)	Net OREC (\$USD)	Deflated OREC Value (\$USD)
2021	1.000		0
2022	0.980		0
2023	0.961		0
2024	0.942	98.10	92
2025	0.924	100.06	92
2026	0.906	102.06	92
2027	0.888	104.10	92
2028	0.871	106.18	92
2029	0.853	108.30	92
2030	0.837	110.47	92
2031	0.820	112.68	92
2032	0.804	114.93	92
2033	0.788	117.23	92
2034	0.773	119.57	92
2035	0.758	121.96	92
2036	0.743	124.40	92
2037	0.728	126.89	92
2038	0.714	129.43	92
2039	0.700	132.02	92
2040	0.686	134.66	92
2041	0.673	137.35	92
2042	0.660	140.10	92
2043	0.647	142.90	92
2044	0.634	145.76	92
2045	0.622	148.68	92
2046	0.610	0	0

Real USD \$ [REDACTED]



18. An alternative calculation also establishes that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The following table compares the OREC impact to ratepayers under the proposed [REDACTED] six-month Reservation of Rights Period:

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

■ Thus, whether viewed in terms of real dollars over the 20-year OREC period or in NPV terms, it is clear that the [REDACTED] [REDACTED] will not result in additional costs to ratepayers.

VII. CONCLUSION

■ Ocean Wind is proud that it will continue to be partners with the State of New Jersey in an evolving industry that will continue to generate clean energy, jobs and economic development and help the State achieve its goal of 100% clean energy by 2050. In the spirit of that partnership, Ocean Wind requests that the Board determine [REDACTED]

[REDACTED] For all the foregoing reasons, Ocean Wind respectfully requests that the Board issue an Order: [REDACTED]

[REDACTED]
[REDACTED]; (3) clarifying that the Project will receive the OREC price that corresponds to each Energy Year of the OREC Pricing Schedule, as discussed hereinabove; and (4) [REDACTED]
[REDACTED]

COZEN O'CONNOR
Attorneys for Ocean Wind LLC



By: Gregory Eisenstark
Ira G. Megdal

DATED: June 14, 2021

Communications addressed to the Petitioner in this case are to be sent to:

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Attachment A- Ocean Wind Schedule Progression

Ocean Wind is working diligently to [REDACTED] it has incurred due to the pause in federal permitting during 2019-2020. To account for the broad range of uncertainties that relate to offshore wind project development, the Project works with a number of different schedules, to reflect a range of factors that may accelerate or slow the progress of the Project in its development and construction. In particular, the Project works with a probabilistic approach to represent the range of uncertainty, with, for example a P50 schedule indicating that there is a 50% chance that the actual schedule outcome will be faster, and a 50% chance that the actual schedule outcome will be slower. A P20 schedule, meanwhile, indicates a schedule where there is a 20% chance that the actual schedule outcome will be faster, and an 80% chance that the actual schedule outcome will be slower.

Current P20 schedule:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

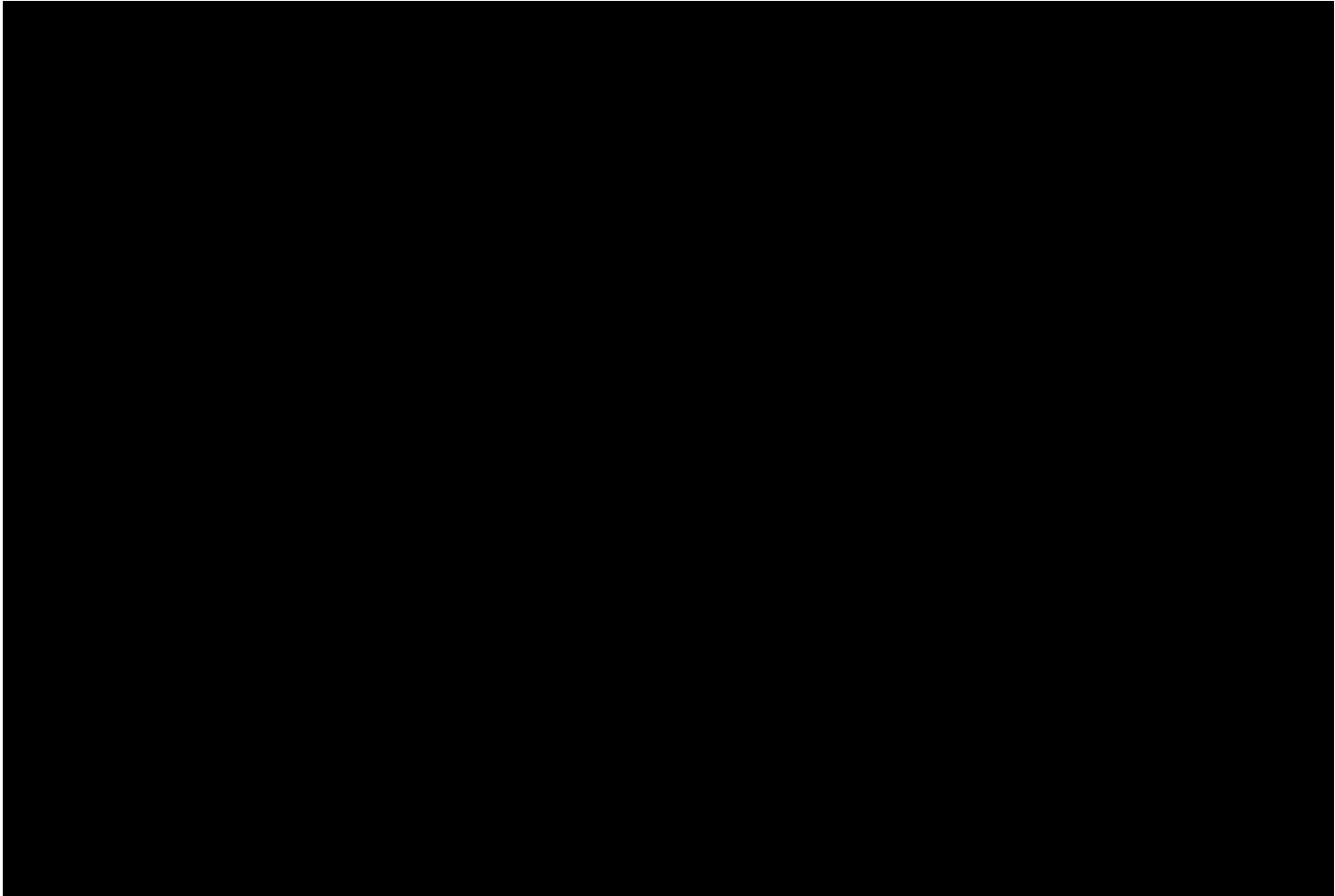
[REDACTED]

[REDACTED]

[REDACTED]

9 [REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



Current P50 schedule:

[REDACTED]

[REDACTED]

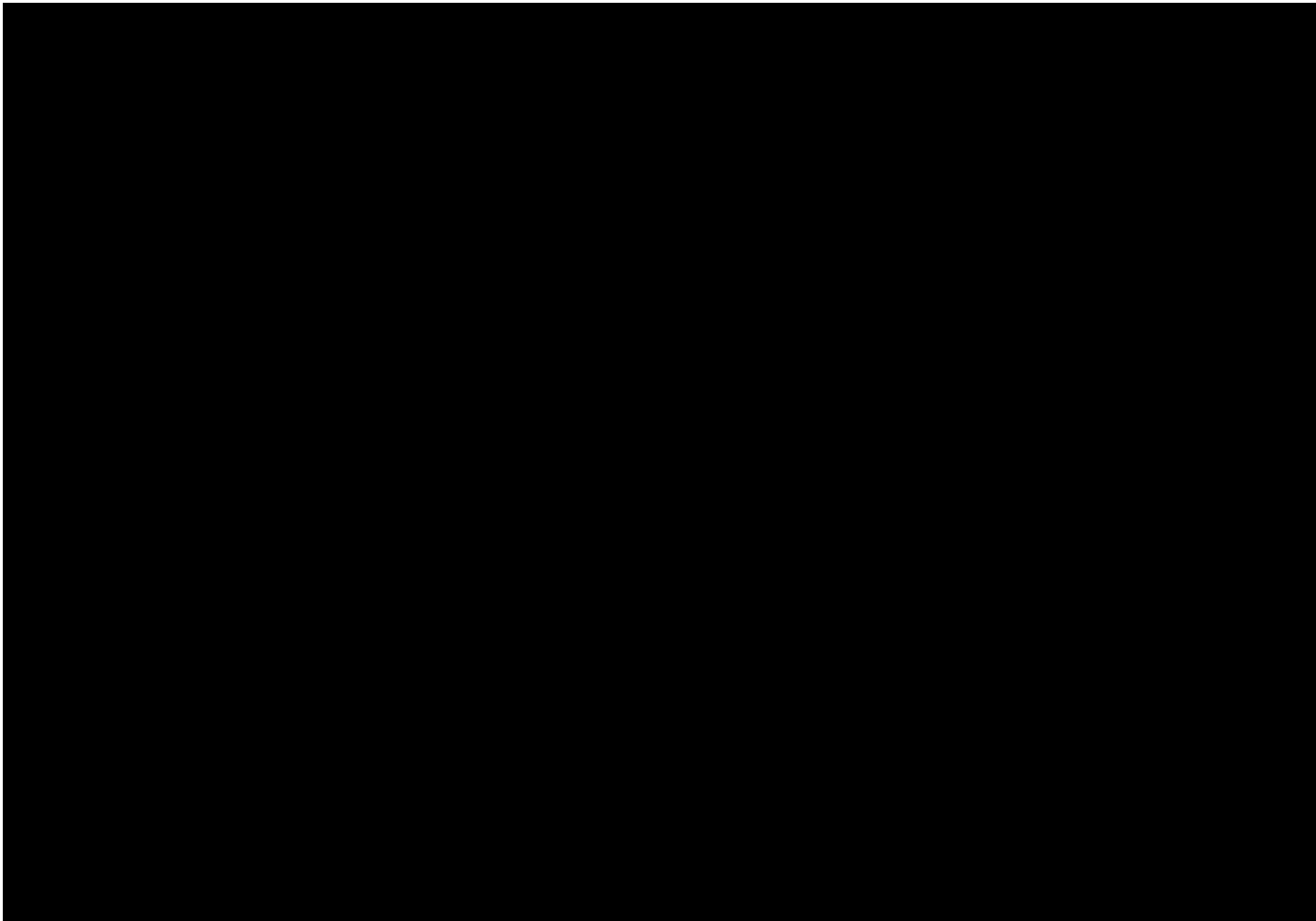
10
11

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] 12	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

12 [REDACTED]



In summary, Ocean Wind's request for an [redacted] retention of the
Reservation of Rights Period is required to [redacted]

[redacted]

[redacted]

[REDACTED]

[REDACTED]

VERIFICATION

Marc Reimer, of full age, being duly sworn, according to law, deposes and says:

1. I am the Project Development Director of Ocean Wind LLC, and am authorized to make this Verification on behalf of Ocean Wind LLC.
2. I have read the contents of the foregoing Petition and hereby verify that the statements therein in related to Ocean Wind LLC are true and accurate to the best of my knowledge and belief.

Marc Reimer

Marc Reimer

Sworn to and subscribed before me

this 11th day of June, 2021.

Gregory Eisenstark

Gregory Eisenstark
Attorney-at-Law
State of New Jersey

This Verification is being submitted in electronic form. The undersigned attorney, Gregory Eisenstark, certifies that the affiant acknowledge the genuineness of the signature and that the Verification or a copy with an original signature affixed will be filed if requested by the Board of Public Utilities.

Gregory Eisenstark

Gregory Eisenstark, Esq.