

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

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**REDACTED (PUBLIC) VERSION**

**COZEN O’CONNOR  
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**I. NATURE OF THIS AMENDED 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.

On June 14, 2021, Ocean Wind filed a petition for approval of a permissible delay in the commercial operation dates (“CODs”) of the Project, and for clarification/update of the Offshore Wind Renewable Energy Certificate (“OREC”) Pricing Schedule (“Original Petition”). After Ocean Wind filed the Original Petition, on July 26, 2021, the Staff of the Board of Public Utilities (“Board Staff”; “Board” or “BPU”) requested additional information about the request. On August 9, 2021, Ocean Wind responded to Board Staff’s questions. Thereafter, Ocean Wind has determined to modify certain aspects of the Original Petition. By this filing, Ocean Wind seeks the Board’s approval of a [REDACTED]

[REDACTED]. Ocean Wind is withdrawing its request for clarification of the OREC pricing schedule.

This Amended Petition amends, supersedes and replaces the Original Petition. In support of this Amended 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.<sup>1</sup>

## **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.<sup>2</sup>

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<sup>1</sup> June 21 Order, Attachment A, p. 26.

<sup>2</sup> June 21 Order, Attachment B, p. 27.

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.*

#### **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 (“ROD”) is issued, and the COP is approved by BOEM.

7. The project schedule included in Ocean Wind’s application, submitted to the Board in December 2018, anticipated that BOEM would issue its NOI for the Project [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].<sup>3</sup> 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, so that the

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<sup>3</sup> The July 2019 Project schedule is used as the baseline reference schedule throughout this Amended Petition.

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]

[REDACTED] The issuance of all federal approvals is anticipated to be no later than 90 days after the ROD. 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]

[REDACTED]. Ocean Wind asks the Board to take note of the fact that it is in Ocean Wind's financial interest and in the interests of New Jersey ratepayers that the clean renewable energy from the Project be delivered as soon as possible.

[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.<sup>4</sup>

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<sup>4</sup> June 21 Order, Attachment B, pp. 28-29.

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.* Delays beyond the six-month Reservation of Rights Period are subject to Board approval. *Id.*

Ocean Wind continues to develop the Project in the context of significant uncertainties with regards to both its development and construction activities, [REDACTED]

[REDACTED]

[REDACTED]. In turn, Ocean Wind is no longer requesting that the Reservation of Rights Period, as discussed in the June 21 Order, be retained.<sup>5</sup>

9. Pursuant to the terms of the June 21 Order, Ocean Wind seeks Board approval of [REDACTED]. 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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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<sup>5</sup> This is a change from the Original Petition, wherein Ocean Wind requested [REDACTED]

[REDACTED]. Thus, if the Board approves this request, [REDACTED]

[REDACTED]. Attachment A contains additional details on Ocean Wind's [REDACTED].

10. The Project's request for a [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]. Accordingly, Ocean Wind is seeking approval of the [REDACTED]  
[REDACTED]. By this request for [REDACTED], Ocean Wind seeks to provide [REDACTED].

12. Ocean Wind remains fully committed to achieving commercial operation at the soonest date possible. In fact, due to its [REDACTED]  
[REDACTED], it is very much in Ocean Wind's financial interest to do so. In this regard, Ocean Wind has undertaken a number of actions to mitigate the impact of the BOEM NOI delay. A discussion of these actions is included in Attachment B to this Amended Petition. However, due to the [REDACTED]

[REDACTED]

[REDACTED].

13. Due to the Fourteen Month Federal Pause, Ocean Wind will incur significant financial harm. As referenced in Ocean Wind's August 9, 2021 responses to Board Staff's questions, a delay in the Project [REDACTED]. The Project continues to take proactive measures that significantly reduce the impact of the Project on ratepayers, for example via Capacity Interconnection Rights acquisitions and by seeking effective utilization of federal tax credits. These measures will result in lower costs to ratepayers than had Ocean Wind not pursued them.

14. Ocean Wind seeks confirmation that, [REDACTED], the Project will still receive ORECs over the full 20-year period as contemplated in the July 21 Order. Under the [REDACTED].

15. In the Original Petition, Ocean Wind sought clarification of certain aspects of the OREC Pricing Schedule. By this Amended Petition, Ocean Wind is limiting the scope of its request to the permissible delay itself.

## **VI. CONCLUSION**

17. 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]. For all the foregoing reasons, Ocean



Wind respectfully requests that the Board issue an Order: (1) [REDACTED]  
[REDACTED]; and (2) confirming that the Project will receive ORECs  
over the full 20-year period as contemplated in the July 21 Order.

Respectfully submitted,

COZEN O'CONNOR  
Attorneys for Ocean Wind LLC



By:  
Gregory Eisenstark

DATED: December 7, 2021

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

COZEN O'CONNOR

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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]

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[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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

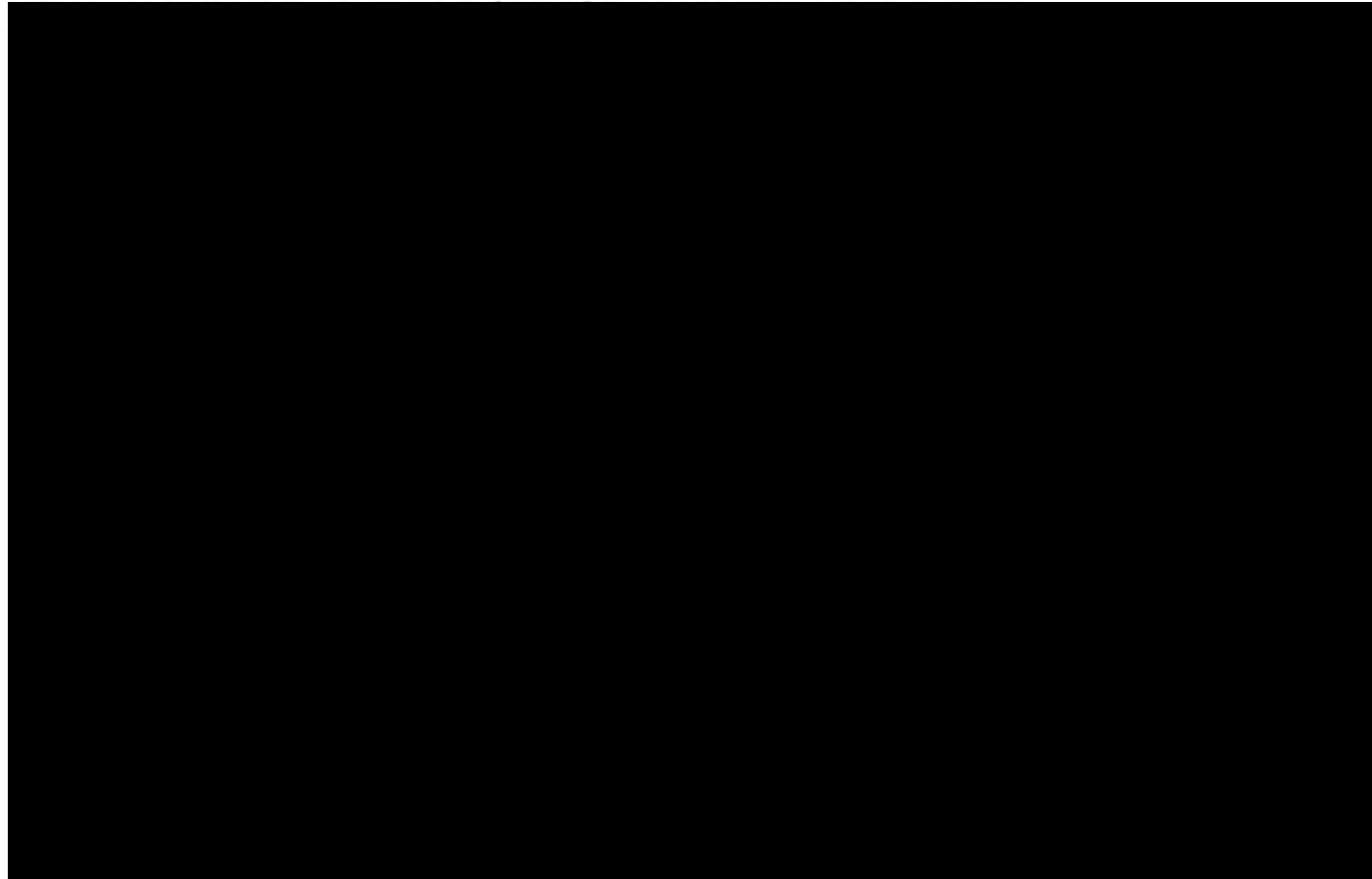
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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



In summary, Ocean Wind's request for an [REDACTED] is required to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

**Attachment B**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

• [REDACTED]

[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 Amended 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.



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Marc Reimer

Sworn to and subscribed before me

this 7th day of December, 2021.



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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.



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Gregory Eisenstark, Esq.