

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

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**IN THE MATTER OF THE PETITION OF  
OCEAN WIND, LLC PURSUANT TO  
N.J.S.A. 48:3-87.1(f) FOR A  
DETERMINATION THAT EASEMENTS  
ACROSS GREEN ACRES-RESTRICTED  
PROPERTIES AND CONSENTS NEEDED  
FOR CERTAIN ENVIRONMENTAL  
PERMITS IN, AND WITH RESPECT TO,  
THE CITY OF OCEAN CITY ARE  
REASONABLY NECESSARY FOR THE  
CONSTRUCTION OR OPERATION OF  
THE OCEAN WIND 1 QUALIFIED  
OFFSHORE WIND PROJECT**

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⋮ BPU Docket No. \_\_\_\_\_  
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**VERIFIED PETITION**  
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**TO THE HONORABLE BOARD OF PUBLIC UTILITIES:**

Ocean Wind, LLC (“Ocean Wind”), the owner of a Qualified Offshore Wind Project (the “QOWP” or the “Project” or “Ocean Wind 1”) pursuant to *N.J.S.A. 48:3-87.1 et seq.*, is a Delaware limited liability company, with its principal office at 520 Pacific Avenue, Atlantic City, N.J. 08401. Ocean Wind files this Petition pursuant to *N.J.S.A. 48:3-87.1(f)*, seeking the New Jersey Board of Public Utilities’ (“Board” or “BPU”) determination that certain easements across Green Acres-restricted properties owned by the City of Ocean City (“Ocean City”) and certain municipal consents needed for certain environmental permits in, and with respect to Ocean City, are reasonably necessary for the construction or operation of the Project. The Project is the first offshore wind project approved by the Board as a QOWP and the first to be approved to receive Offshore Wind Renewable Energy Certificates (“ORECs”). As such, the Project will help to implement Governor Murphy’s Executive Order No. 8, which 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). In support of this Petition, the Company respectfully shows:

**I. BACKGROUND**

1. Governor Murphy’s Executive Order No. 8 called upon the Board to fully implement 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 for each energy year in which the Project is in operation over a 20-year OREC term.

4. In addition, by Order dated March 24, 2021, the Board approved PSEG Renewable Generation, LLC’s acquisition of a 25% equity interest in Ocean Wind (which transaction closed on April 12, 2021). Thus, Ocean Wind is now owned indirectly by Orsted North America, Inc. (75%) and by PSEG Renewable Generation, LLC (25%).

5. Since the issuance of the June 21 Order, Ocean Wind has been in the planning, permitting and pre-construction phase of the Project. A significant aspect of these preconstruction activities concerns the onshore cable route. The onshore cable route is necessary

to bring the renewable electricity from the wind turbines in the Atlantic Ocean to interconnect with the existing electricity grid onshore, to bring the benefits of renewable wind generation to residents and businesses in New Jersey.

## II. JURISDICTION AND REGULATORY STANDARD FOR APPROVAL

6. Ocean Wind is filing this Petition pursuant to *N.J.S.A.* 48:3-87.1(f), which provides, *inter alia*:

Notwithstanding the provisions of any other State law, rule, or regulation to the contrary, a qualified offshore wind project or an open access offshore wind transmission facility approved by the board pursuant to this section shall, after consultation with a municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof:

\* \* \*

(2) be authorized to obtain easements, rights-of-way, or other real property interests on, over, or through any real property other than public streets, thoroughfares, or rights-of-way, owned by a municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, that are reasonably necessary for the construction or operation of a qualified offshore wind project or an open access offshore wind transmission facility. If a qualified offshore wind project or an open access offshore wind transmission facility is unable to obtain an easement, right-of-way, or other real property interest from a municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, **after 90 days of a written request therefor to the applicable entity, the qualified offshore wind project or open access offshore wind transmission facility, as the case may be, may file a petition with the board seeking authority to obtain the easement, right-of-way, or other real property interest.**

\* \* \*

Following the public hearing and receipt of public comment on the petition, **the board shall determine whether the requested easement, right-of-way, or other real property interest are reasonably necessary for the construction or operation of the qualified offshore wind project** or open access offshore wind transmission facility.

*N.J.S.A.* 48:3-87.1(f)(2)(emphasis added).

The statute further provides that, should the Board approve a QOWP's Petition under this subsection and

determines that the requested easement, right-of-way, or other real property interest are reasonably necessary for the construction or operation of the qualified offshore wind project or open access offshore wind transmission facility, **the board shall issue an order approving the acquisition of the requested easement, right-of-way, or other real property interest, and notwithstanding the provisions of any other State law, rule, or regulation to the contrary, such order shall effectuate the qualified offshore wind project's or the open access offshore wind transmission facility's property interest and shall be recorded by the appropriate county recording officer at the request of the qualified offshore wind project** or open access offshore wind transmission facility.

*N.J.S.A. 48:3-87.1(f)(2)(emphasis added).*

7. This section of OWEDA also provides that a QOWP:

**(3) be authorized to file a petition with the board seeking a determination that all municipal or county approvals, consents, or affirmative filings with other public entities required to construct or operate a qualified offshore wind project or an open access offshore wind transmission facility are preempted and superseded, upon a finding by the board that such municipal or county approvals, consents, or affirmative filings are reasonably necessary for the construction or operation of the qualified offshore wind project** or the open access offshore wind transmission facility. If the board makes a determination pursuant to this paragraph preempting a municipal or county action that is a condition of the issuance of a permit or other approval of the Department of Environmental Protection or any other department or agency of the State, then notwithstanding the provisions of any other State law, rule, or regulation to the contrary, the department or agency, as applicable, may act without prior municipal or county approval, consent, or affirmative filing. To the extent that a municipal or county approval, consent, or affirmative filing involves the acquisition of an easement, right-of-way, or other real property interest, the procedures set forth in paragraph (2) of this subsection shall apply.

*N.J.S.A. 48:3-87.1(f)(3)(emphasis added).*

8. Beginning in 2019, Ocean Wind commenced discussions and written communications with Ocean City about the Project, including the consents and property rights required from and with respect to Ocean City. Because the Project had not been able to secure

the required consents and property rights, on August 11, 2021, Ocean Wind submitted a formal, written request to Ocean City concerning the easements, consents, and associated actions it required from Ocean City. *See* Testimony of Madeline Urbish, Exhibit OW-3. More than 90 days have passed since the August 11, 2021 letter, and Ocean Wind has been unable to obtain the required easements, consents and associated actions from Ocean City.

9. Accordingly, Ocean Wind is filing this Petition, along with its supporting pre-filed testimony, exhibits and attachments, pursuant to *N.J.S.A.* 48:3-87.1(f)(2) and (3). Specifically, Ocean Wind requests a Board Order that finds that certain easements over property owned by Ocean City (which are Green Acres-restricted and require diversions) are reasonably necessary for the construction and operation of the Ocean Wind 1 QOWP; and that certain municipal consents and approvals are preempted and superseded as they are reasonably necessary for the construction and operation of the Ocean Wind 1 QOWP. Specifically, the municipal consents and approvals are required for the issuance of certain environmental permits by the New Jersey Department of Environmental Protection (“NJDEP”) in, and with respect to, property (including portions of the road right-of-way (“ROW”<sup>1</sup>)) located in Ocean City.

10. This Petition is one of first impression under OWEDA. However, in similar contexts involving public utility projects, both the Board and the courts of this State have long-held that the welfare of the public generally transcends the municipal borders and local municipal concerns. As explained by the New Jersey Supreme Court in *Petition of Monmouth Consolidated Water Company*, 47 *N.J.* 251, 258 (1966), the Board’s jurisdiction is appropriate

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<sup>1</sup> Ocean Wind has a statutory right to construct the underground electric facilities in the public road ROW. *See N.J.S.A.* 48:3-87.1(f)(1). *See* discussion below at Paragraph 23.

and important because local officials cannot be expected to balance local interests against the greater good of the public.

11. For the reasons set forth in this Petition and supporting testimony, exhibits and attachments, the relief requested herein with respect to the onshore portion of the Project is reasonably necessary to allow Ocean Wind to construct or operate the Ocean Wind 1 QOWP.

### **III. DESCRIPTION OF THE PROJECT AND THE ONSHORE CABLE ROUTE**

12. The Project is an 1,110 MW offshore wind farm. The offshore wind turbines will be located in the United States Department of the Interior, Bureau of Ocean Energy Management (“BOEM”) lease area OCS-A-498. The wind turbines will be connected to an offshore substation. From the offshore substation, a transmission cable installed under the seabed will bring the electricity onshore.

13. As discussed in the direct testimony of Ocean Wind witnesses Jason Kalwa (Exhibit OW-1) and Pilar Patterson (Exhibit OW-2), an undersea cable will come ashore in Ocean City, making landfall at the beach lots owned by Ocean City via horizontal directional drilling (“HDD<sup>2</sup>”) at 35th Street in Ocean City. The underground cable will travel west to Bay Avenue, north on Bay Avenue to Roosevelt Boulevard (County Route 623), west across Peck Bay (undeveloped area) at Roosevelt Boulevard Bridge (via HDD) and then continue on within the Roosevelt Boulevard ROW, turning north on State Route 9 (North Shore Road) to the proposed substation property near the decommissioned B.L. England Generating Station (“B.L.

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<sup>2</sup> HDD is a trenchless method of construction that is accomplished in phases using a specialized horizontal drilling rig with ancillary tools and equipment. The HDD method involves drilling a hole under a waterbody or other features and subsequently pulling a prefabricated segment of pipe back through the hole. No surface impacts are anticipated, and the surface use will remain the same after construction.

England”), in Upper Township, New Jersey. This route is referred to as the “Preferred Route” in this Petition.

14. As also discussed in the testimony and exhibits of Pilar Patterson (Exhibit OW-2), Ocean Wind conducted a comprehensive analysis to determine the best route for the onshore portion of the Project.

15. Ocean Wind first examined potential points of interconnection. Initially, a total of 15 interconnection points were reviewed for the Project. Based on further study, Ocean Wind identified three potential interconnection points. After one of these potential interconnection points was eliminated, the Project developed offshore and onshore export cable route corridors, landfall options and export cable routes. A main goal of this process was to site onshore components within previously disturbed areas and existing road ROWs to the maximum extent practicable to minimize environmental impacts.

16. Ultimately, the site of the former Oyster Creek nuclear generating station (in Lacey Township) and the B.L. England facilities were selected as interconnection points for the Project. The onshore cable facilities at issue in this matter are those required for the interconnection at B.L. England.

17. Ocean Wind then undertook additional analysis to determine opportunities and constraints for the offshore and onshore export cables. Resource maps were developed using existing GIS resource data. Existing resources were reviewed and included bathymetry, geology, contaminated sediments, commercial and recreational fishing activities, navigation channels, anchorage areas, shipping activities, restricted areas, public open space, environmentally sensitive areas, cultural and historical resources, existing infrastructure, surface waters (wetlands

and watercourses), and threatened and endangered species, as these resources are likely to impact the development, permitting, and construction of the Project.

18. The resource maps were used to identify and develop Study Areas, corridors, and route options. Corridors were selected to take advantage of opportunities and avoid constraints where possible. Route options were then developed based on resource opportunities and constraints in combination with engineering requirements. Onshore routes that crossed railroad ROWs were eliminated based on engineering and construction challenges; and routes that crossed inlets, wildlife refuges, and wildlife management areas were eliminated due to sensitive habitats and permitting requirements.

19. Several landfall options were identified within each Study Area during the desktop study. These landfall sites were then reviewed to see if they met design and construction criteria. If the landfall did not meet those criteria it was removed from further evaluation. The remaining landfalls were then screened based on real estate availability, windshield surveys, and meetings with the local municipalities.

20. Ocean Wind ultimately identified several potential landfall sites and routes to B.L. England. These included three routes through Ocean City, including the Preferred Route; a route through Great Egg Harbor Inlet, the Shipping Channel and Great Egg Harbor Bay; a landfall in Strathmere, within Upper Township, Cape May County, continuing west to Sea Isle City and to the substation; and a landfall in Sea Isle City, continuing west to the substation at B.L. England. *See Exhibit OW-2.*

21. Based on the detail analysis discussed in Pilar Patterson's direct testimony (Exhibit OW-2), Ocean Wind determined that the Preferred Route was the best alternative. The



Preferred Route has the least impacts to natural resources, including wetlands and water bodies, and residential and historic properties.

#### **IV. CONSTRUCTION AND INTERCONNECTION**

22. The details of the construction, engineering and interconnection of the onshore cable are discussed in the direct testimony of Jason Kalwa (Exhibit OW-1). As Mr. Kalwa explains, the Project will require an underground electric transmission cable that will come ashore and run underground within the public road ROWs in Ocean City, as well as under and through properties owned in fee by Ocean City for which easements are required. The cable will connect to a substation, comprised of switchgear and transformers, which, in turn, will interconnect with the PJM grid.

23. In regard to the portion of the onshore cable that will be installed within the public road ROWs, *N.J.S.A. 48:3-87.1(f)(1)* provides:

(f) Notwithstanding the provisions of any other State law, rule, or regulation to the contrary, a qualified offshore wind project or an open access offshore wind transmission facility approved by the board pursuant to this section shall, after consultation with a municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof:

(1) have authority to place, replace, construct, reconstruct, install, reinstall, add to, extend, use, operate, inspect, and maintain wires, conduits, lines, and associated infrastructure, whether within, under, or upon the public streets, thoroughfares, or rights-of-way of any municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, provided that the wires, conduits, lines, and associated infrastructure are located underground, except to the extent necessary as determined by the board.

Notwithstanding the provisions of any other State law, rule, or regulation to the contrary, no municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, shall prohibit, or charge a fee for, the use of public streets, thoroughfares, or rights-of way for the purposes set forth in this subsection, other than a fee for a road opening permit, and the issuance of a road opening permit shall not be withheld, except for bona fide public safety reasons;

Accordingly, Ocean Wind does not require BPU approval (or municipal consent) to install the underground portions of the onshore cable within the public ROWs in Ocean City. Ocean Wind has included a description of this portion of the Project in this filing so that the Board has a complete record of the planned construction through Ocean City. *See* Mr. Kalwa's direct testimony, Exhibit OW-1. Nonetheless, Ocean Wind recognizes that *N.J.S.A. 48:3-87.1(f)(1)* is a recently-enacted amendment to OWEDA and the Board's interpretation of it may differ. Accordingly, if the Board interprets *N.J.S.A. 48:3-87.1(f)(1)* to require its approval of a QOWP's use of the public road ROW, Ocean Wind requests that the Board make such a determination and conclude that Ocean Wind's use of the public road ROW as set forth in this Petition is reasonably necessary for the construction and operation of the Project.

24. The portion of the onshore cable at issue in this Petition will be constructed underground. As Mr. Kalwa explains in his testimony, the transmission cable installation will likely be a configuration of underground duct banks where the cable is installed in conduits to reduce the footprint of activities and ensure they can be located within existing roadways, to the extent possible, to minimize disturbance using conventional construction activities utilizing standard traffic management arrangements.

25. The export cable voltage is expected to be 275 kV. The grid interconnection cable (i.e., the cable at the point of the interconnection with the substation in Upper Township) is expected to be 138 kV. A short portion of the interconnection cable (which is not at issue here) will use overhead construction where it interconnects with the substation.

26. The export cable construction will follow typical utility construction techniques. The duct bank portion will mostly involve creating a trench, installing the facilities, and then back-filling and restoring the area (e.g., paving). Construction will utilize the HDD installation

method where necessary to minimize impacts. A road opening permit from the Ocean City Engineering department will be required prior to commencing construction. Once construction is complete, the area will be fully restored.

27. Routine maintenance of the underground cable will be required, much as it is for other existing underground electric facilities. Mr. Kalwa's direct testimony provides additional details of the maintenance of the facilities. *See* Exhibit OW-1.

28. As discussed above, the onshore cable will interconnect with the PJM grid at a substation to be located in Upper Township, New Jersey. Accordingly, an interconnection agreement among Ocean Wind, Atlantic City Electric Company, and PJM has been executed.

**V. EASEMENTS AND ASSOCIATED RIGHTS REQUIRED WITHIN OCEAN CITY**

29. Ocean Wind requires permanent rights of way and easements, approximately 30 feet in width, for the construction, reconstruction, installation, operation, maintenance, inspection, patrolling, decommissioning, replacement and repair of a certain onshore export cable and associated equipment and facilities upon, across, and under Ocean City-owned Green Acres restricted properties identified on the Official Tax Map of Ocean City as Block 611.11, Lots 137 and 145, Block 3500, Lot 1 (including riparian grant), and Block 3350.01, Lot 17 (collectively, the "Properties"), totaling 0.838 acres. *See* Direct Testimony of Pilar Patterson, Exhibit OW-2, for additional details concerning the easements.

30. In addition, there are Green Acres restrictions on the Properties in Ocean City. Witness Pilar Patterson discusses the process the Project plans to follow regarding diversion of the Green Acres restrictions with respect to the Properties. *See* Exhibit OW-2.

31. For the reasons set forth in the direct testimonies of Ms. Patterson and Mr. Kalwa, these easements are reasonably necessary for both the construction and operation of the Project.

**VI. ENVIRONMENTAL PERMITS REQUIRED FOR CONSTRUCTION WITHIN OCEAN CITY**

32. Ocean Wind will require Waterfront Development, Wetlands Act of 1970, Coastal Area Facilities Review Act, Flood Hazard Area Control Act, and Freshwater Wetlands Protection Act Individual Permits, and a Tidelands License from the New Jersey Department of Environmental Protection (“NJDEP”). In addition, New Jersey Pollution Discharge Elimination System Stormwater Construction Permit (5G3), New Jersey Pollution Discharge Elimination System construction dewatering permit (B7 or BGR), Water Allocation Permit, and a Treatment Works Approval will also be required. In addition, once construction is underway, additional NJDEP permits or approvals may be required. Please see the direct testimony of Pilar Patterson (Exhibit OW-2).

33. Ocean Wind must have the legal authority and/or consent from Ocean City to perform the Project activities on the properties owned by Ocean City and within Ocean City’s road ROW for the NJDEP to issue the permits for the Project. As discussed in Ms. Patterson’s direct testimony, Ocean City has been unwilling to provide consents needed for any NJDEP permit applications. Accordingly, Ocean Wind requests that the Board preempt and supersede Ocean City’s municipal consent with respect to any and all permits the Project must receive from the NJDEP, and conclude that the Project may obtain the necessary permits and approvals from the NJDEP.

**VII. OCEAN WIND’S ATTEMPT TO SECURE CONSENTS AND EASEMENTS FROM OCEAN CITY PRIOR TO FILING THIS PETITION**

34. Starting in 2019, Ocean Wind has been engaged in meaningful communications with Ocean City regard the Project and the consents and property rights required from and with

respect to Ocean City. Ocean Wind witness Madeline Urbish discusses these issues in detail in her pre-filed direct testimony. *See* Exhibit OW-3.

35. In August of 2019, Ocean Wind held an open house in Ocean City to provide details about the Project, following the BPU's June 21, 2019 Order. In November 2019, Ocean Wind representatives met with Ocean City officials to discuss the Project, proposed cable routes, and geotechnical details, including the fact that certain easements or rights-of-way would be required from Ocean City.

36. In February 2020, Ocean Wind hosted another open house in Ocean City, again to educate the public and Ocean City officials about the Project. This open house was planned in coordination with Ocean City's Mayor.

37. Ocean Wind continued to discuss the required easements with Ocean City throughout 2020. During the summer and fall of 2020, Ocean Wind and the Ocean City Solicitor jointly developed a draft municipal ordinance that would have given the Project the right to install underground cable and associated facilities in Ocean City. Ultimately, in November 2020, the Ocean City Solicitor informed the Project that Ocean City was not ready to proceed with adoption of the ordinance.

38. In addition, during the fall of 2020, Ocean Wind held three virtual open houses to provide further information and to answer questions about the Project. More than 900 individuals registered for these open houses.

39. In December 2020, Ocean Wind participated in a virtual public meeting of the Ocean City Council. During the meeting, Ocean Wind provided the Mayor and Ocean City Council with an update on the status of the Project and the need for the ordinance to allow the installation of the onshore cable within the municipality.

40. During January and February of 2021, Ocean Wind had additional meetings with the Mayor and Ocean City Council members to continue to answer their questions and address any concerns. Between February and September 2021, the Project continued discussions with City Council members. In addition, in April of 2021, the BOEM held three virtual scoping hearings about the Project. The purpose of this hearings was for the public to learn about the project's Construction and Operations Plan (COP), ask questions, and provide oral testimony.

41. In June and July 2021, Ocean Wind held three additional meetings with the Mayor and Ocean City Council members. During a July meeting, Ocean Wind discussed permitting details and a timeline for the Project, in addition to the potential for hosting an open house in Ocean City.

42. As discussed above, on August 11, 2021, Ocean Wind submitted a formal letter and request to Ocean City pursuant to *N.J.S.A. 48:3-87.1 et seq.*, providing the requisite 90-day statutory notice and requesting the easements and consents from Ocean City that are reasonably necessary for the construction and operation of the Project. Although the Project team continued to meet with the Mayor and certain Ocean City Council members through September 2021, Ocean Wind has not received any formal response to its August 11, 2021 letter.

43. In regard to the City's cooperation with respect to Green Acres-restricted properties and NJDEP permits, the Project also had extensive outreach and discussions, from July 2021 through the end of that year. Ocean Wind explained to Ocean City the need to hold a Green Acres diversion scoping hearing and explained the required NJDEP permits, as well as the timelines required. *See* Direct Testimony of Madeline Urbish (Exhibit OW-3). Despite these efforts, Ocean City has not agreed to grant the easements needed for the Project and submit to

the Green Acres diversion process, or provided the consent required for the NJDEP permit applications.

44. In regard to the acquisition of easements, after the August 11, 2021 letter, on December 22, 2021, the Project made a formal offer to Ocean City to acquire the easements. *See* Direct Testimony of Madeline Urbish (Exhibit OW-3). On December 23, 2021, the City Solicitor sent a letter stating that the City was not ready to begin the Green Acres process and expressing concern over the City's support for the Project. On January 10, 2022, Ocean Wind contacted the City Solicitor and Business Administrator to discuss the Green Acres compensation offer and process. Ocean Wind sent another email to the City Solicitor on January 12, 2022 regarding the Green Acres process and to notify the Ocean Wind would be filing this Petition with the BPU in the absence of the City's cooperation. While the Project continues to engage in good faith discussions with Ocean City, as of the filing of this Petition, Ocean Wind has been unable to reach an agreement to obtain the necessary easements and property rights.

#### **VIII. REQUEST FOR BOARD TO RETAIN THIS MATTER**

45. As discussed in the testimony of Pilar Patterson, Exhibit OW-2, resolution of this Petition is time-sensitive. Under the BPU's June 2019 Order, the first phase of commercial operation for the Project is required to begin May 1, 2024. In order for Ocean Wind to achieve the scheduled commercial operation dates, it must begin construction of the onshore portions of the Project by 2023. Resolution of the issues set forth in this Petition are necessary for Ocean Wind to acquire the necessary property rights and environmental permits, so that it may in turn begin construction. More specifically, for the BOEM to issue its Record of Decision for the Project, the NJDEP must issue its federal consistency determination for the Project on or before October 28, 2022. In order to meet this deadline, Ocean Wind has been advised by NJDEP that

the Project must receive all relevant NJDEP permits and approvals, including approvals for the Green Acres diversion of the Properties, before October 28, 2022. Given the time needed to construct the Project after all approvals and permits are issued, Ocean Wind respectfully requests that the Board retain this matter and not refer it to the Office of Administrative Law for hearings and an initial decision. The Board itself can hold any requisite hearings before a designated Commissioner.

**IX. PRE-FILED TESTIMONY**

46. Attached hereto and made part hereof is the following pre-filed direct testimony:

<u>Exhibit No.</u>	<u>Witness</u>	<u>Subject Matter of Testimony</u>
OW-1	Jason Kalwa	Ocean Wind 1 Onshore Transmission and Interconnection Related Facilities to be Constructed and Installed in the City of Ocean City, Cape May County, New Jersey
OW-2	Pilar Patterson	Onshore Cable Routes Considered, Easements Across Green Acres-Restricted Properties and Consents For Environmental Permits for the Ocean Wind 1 Project
OW-3	Madeline Urbish	Community Outreach, Including Ocean Wind, LLC's Attempts to Secure the Necessary Easements Across Green Acres-restricted Properties through the Diversion Process, and Consents Needed for NJDEP Permit Applications from the City of Ocean City, New Jersey

**IX. PUBLIC NOTICE AND PUBLIC HEARING**

47. Under *N.J.S.A. 48:3-87.1(f)(2)*, the Board is required to “conduct, or cause to be conducted, a public hearing in order to provide an opportunity for public input on the Petition. Notice of the public hearing shall be given in a manner and form as determined by the [B]oard in order to provide an opportunity for public input to be received on the petition.” Accordingly,



Ocean Wind has included a draft form of public notice, which is provided as Appendix B to the Direct Testimony of Madeline Urbish (Exhibit OW-3).

**X. SERVICE OF PAPERS**

48. This filing, including a copy of the Petition and all pre-filed testimony and exhibits, is being served on the Clerk of the City of Ocean City, the Mayor of the City of Ocean City, the members of the Ocean City Council, the City Solicitor for the City of Ocean City, the Administrator of the Board of County Commissioners of the County of Cape May, the Commissioner Director of the Board of County Commissioners of the County of Cape May, the Cape May County Clerk, the Department of Law & Public Safety, Division of Law, the Director of the Division of Rate Counsel, and the Commissioner of the Department of Environmental Protection.

49. Copies of all correspondence and other communications relating to this proceeding should be addressed to:

**Gregory Eisenstark, Esq.  
Michael Connolly, Esq.  
Cozen O'Connor, PC  
One Gateway Center, Suite 910  
Newark, New Jersey 07102**

**- and -**

**William Lesser, Esq.  
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**- and -**

**Aaron Bullwinkel, Esq.  
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399 Boylston Street, 12th Floor  
Boston, MA 02116**

**-and-**

**Cara Lewis, Esq.  
Ana Murteira, Esq.  
PSEG Services Corp.  
80 Park Plaza, T5  
Newark, NJ 07101**

**XI. CONCLUSION**

**WHEREFORE**, Ocean Wind, LLC respectfully requests that the Board:

(i) Retain jurisdiction over this matter, designate a Presiding Commissioner, establish a hearing date, and designate the time and manner of notice and persons in interest to be given such notice;

(ii) Upon and after any such hearings, determine that the relief requested in this Petition, as more specifically described herein above, is reasonably necessary for the construction and operation of the Project;

(iii) Specifically find and determine that that the easements described in this Petition over property owned by Ocean City (which are Green Acres-restricted) are reasonably necessary for the construction and operation of the Ocean Wind 1 QOWP; and issue an Order approving the acquisition of the necessary easements across the Properties, as defined herein, which shall then be recorded in the Cape May County recording office.

(iv) Specifically find and determine that municipal consents or other affirmative filings needed from Ocean City that are a condition of the issuance of a permit or other approval

of the NJDEP are reasonably necessary for the construction and operation of the Ocean Wind 1 QOWP, thereby preempting and superseding any required municipal consents or approvals; and

(v) Grant such other and further relief as the Board may deem appropriate or necessary.

Respectfully submitted,

**COZEN O'CONNOR, PC**  
Attorneys for Ocean Wind, LLC

Dated: February 2, 2022

By: \_\_\_\_\_



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(973) 200-7411  
[geisenstark@cozen.com](mailto:geisenstark@cozen.com)

**AFFIDAVIT**  
**OF**  
**VERIFICATION**

Marc Reimer, being duly sworn upon his oath, deposes and says:

1. I am the Authorized Person of Ocean Wind, LLC (“Ocean Wind”) and I am duly authorized to make this Affidavit of Verification on behalf of Ocean Wind.

2. I have read the contents of the foregoing Petition, and I hereby verify that the statements of fact and other information contained therein are true and correct to the best of my knowledge, information and belief.

*Marc Reimer*

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Marc Reimer

Sworn to and subscribed  
electronically this 2<sup>nd</sup> day  
of February, 2022.

*Gregory Eisenstark*

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Gregory Eisenstark  
Attorney-at-Law,  
State of New Jersey

The undersigned attorney, Gregory Eisenstark, certifies that the affiant electronically acknowledged the genuineness of the signature.

*Gregory Eisenstark*

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Gregory Eisenstark, Esquire