



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

DIVISION OF CLEAN ENERGY

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) DOCKET NO. QO22020041

Parties of Record:

Gregory Eisenstark, Esq., Cozen O'Connor on behalf of Ocean Wind LLC
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Jay A. Gillian, Mayor of Ocean City, New Jersey
Dorothy F. McCrosson, Esq., McCrosson & Stanton, P.C. as Ocean City Solicitor
Melissa Rasner, Municipal Clerk of Ocean City

BY PRESIDENT FIORDALISO:

By this Order, I set forth a modified procedural schedule and include Ocean City, New Jersey, as a party of record in this proceeding.

BACKGROUND

On February 2, 2022, Ocean Wind LLC ("Ocean Wind" or "Petitioner") filed a petition ("Petition") with the New Jersey Board of Public Utilities ("Board" or "BPU"), pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across Green Acres-restricted properties owned by the City of Ocean City, New Jersey ("Ocean City"), and that certain municipal consents needed for particular environmental permits in or with respect to Ocean City, are reasonably necessary for the construction or operation of their Qualified Offshore Wind Project, Ocean Wind I.

On February 23, 2022, the Board retained the Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and to modify any schedules that may be set as necessary to secure

a just and expeditious determination of the issues (“February 23 Order”). Further, the February 23 Order directed any entities seeking to intervene or participate in this matter file the appropriate motions with the Board by March 9, 2022. The Board did not receive any motions by the deadline.

I note that P.L. 2021, c. 178 envisions a transparent and public process for the evaluation. The Board is required to hold a public hearing and receive public comments on the petition. N.J.S.A. 48:3-87.1(f)(2).

On March 1, 2022, I issued a procedural schedule which directed all parties to comply with its terms and set a bar date for all motions of March 9, 2022 (“March 1 Order”). I further note that on March 18, 2022, the Division of Rate Counsel (“Rate Counsel”) sent a letter to the Petitioner, serving purported discovery on Ocean Wind LLC.

MODIFIED PROCEDURAL SCHEDULE

In order to accommodate the parties’ ability to meaningfully participate in this proceeding and to provide for more flexibility, I set forth the modified procedural schedule (“Modified Schedule”) in Exhibit A.

DISCUSSION AND FINDINGS

Ocean City did not submit a motion to intervene by March 9, 2022. New Jersey eminent domain proceedings consider property owners to be necessary parties. State by Adams v. New Jersey Zinc Co., 40 N.J. 560, 574 (1963); R. 4:73-2. By statute, the New Jersey Legislature tasked the Board with conducting a proceeding to determine whether it is reasonably necessary for a Qualified Offshore Wind Project to obtain real property interests owned by a municipality. N.J.S.A. 48:3-87.1(f)(2). As the municipal owner of the property in question, I **HEREBY DIRECT** Ocean City to be added as a necessary party to this proceeding so that it has the opportunity to participate under the procedural schedule set forth in Exhibit A.

To ensure Ocean City has the opportunity to prepare testimony and respond, as envisioned by my scheduling order issued on March 1, 2022, I **HEREBY ISSUE** the following Modified Schedule identified as Exhibit A. I further **DIRECT** the parties to comply with the Modified Schedule’s terms and to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding, including the exchange of information that is relevant to the Board’s inquiry. However, there is no formal discovery period established for this proceeding. The parties will have an opportunity to present evidence and arguments to satisfy due process and aid in the Board’s deliberation.

I **HEREBY DIRECT** that this Order be posted on the Board’s website. For reference, the February 23 Order and March 1 Order are included in Exhibit B.

Parties are **HEREBY DIRECTED** to serve all documents electronically.

This provisional ruling is subject to ratification or other alteration by the Board, as it deems appropriate during the proceedings in this matter.

DATED: March 22, 2022

BY:

A handwritten signature in black ink, appearing to read "Joe Fiordaliso", written over a horizontal line.

JOSEPH L. FIORDALISO
PRESIDENT

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

BPU DOCKET NO. QO22020041

SERVICE LIST

<u>OCEAN WIND</u>	<u>NJDEP</u>
<p>Orsted Offshore North America 399 Boylston St., 12th Floor Boston, MA 02116</p> <p>Aaron Bullwinkel Senior Legal Counsel Legal, Group Support aarbu@orsted.com</p> <p>Marc Reimer mreim@orsted.com</p> <p>Matthew Kaplan 437 Madison Avenue, 19th Floor New York, NY-10022 matka@orsted.com</p> <p>Cozen O'Connor One Gateway Center, Suite 910 Newark, NJ 07102</p> <p>Gregory Eisenstark, Esq. geisenstark@cozen.com</p> <p>Michael J. Connolly, Esq. mconnolly@cozen.com</p> <p>William Lesser, Esq. Cozen O'Connor PC 3 WTC, 175 Greenwich Street – 55th Floor New York, NY 10007 wlesser@cozen.com</p>	<p>401 E. State St. 7th Floor, East Wing Post Office Box 402 Trenton, NJ 08625-0402</p> <p>Shawn M. LaTourette, Commissioner commissioner@dep.nj.gov</p> <p>Sean D. Moriarty, Deputy Commissioner Legal, Regulatory and Legislative Affairs sean.moriarty@dep.nj.gov</p> <p>Megan Brunatti megan.brunatti@dep.nj.gov</p> <p>Martha Sullivan Sapp Director, Green Acres Program Mail Code 501-01 P.O. Box 420 501 East State Street, 1st floor Trenton, New Jersey 08625-0420 Martha.Sapp@dep.nj.gov</p> <p><u>Division of Rate Counsel</u></p> <p>140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625</p> <p>Brian O. Lipman, Esq., Director blipman@rpa.nj.gov</p> <p>Maura Caroselli, Esq. mcaroselli@rpa.nj.gov</p>

PSEG Service Corp.
80 Park Plaza, T5
Newark, NJ 07101

Cara Lewis, Esq.
cara.lewis@pseg.com

Ana Murteira, Esq.
ana.murteira@pseg.com

Ocean City

City of Ocean City 861 Asbury Avenue
Ocean City NJ 0822

Hon. Jay Gillian, Mayor
mayor@ocnj.us

Melissa Rasner, Municipal Clerk
mrasner@ocnj.us

Bobby Barr Council President
118 Roosevelt Boulevard
Ocean City, NJ 08226
rbarr@ocnj.us

Dorothy F. McCrosson, Esq., City Solicitor
McCrosson & Stanton, P.C.
200 Asbury Avenue
Ocean City, New Jersey 08226
dmccrosson@ocnj.us

Tomaso Rotondi, Council Vice President
407 Bay Avenue
Ocean City, NJ 08226
trotondi@ocnj.us

Karen Bergman, City Council Member 39
Bayview Place
Ocean City, NJ 08226
kbergman@ocnj.us

Keith Hartzell, City Council Member
720 Asbury Avenue, Apt. 3
Ocean City, NJ 08226
khartzell@ocnj.us

Megan Lupo, Esq.
mlupo@rpa.nj.gov

T. David Wand, Esq.
dwand@rpa.nj.gov

Robert Glover, Esq.
rglover@rpa.nj.gov

Board of Public Utilities

44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, NJ 08625

Secretary of the Board
board.secretary@bpu.nj.gov

Robert Brabston, Esq. Executive Director
robert.brabston@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

Counsel's Office

Abe Silverman, Esq., Chief Counsel
abe.silverman@bpu.nj.gov

Andrea Hart, Esq., Legal Specialist
Andrea.Hart@bpu.nj.gov

Kimberly Diamond, Esq., Senior Counsel
Kimberly.diamond@bpu.nj.gov

Division of Clean Energy

Kelly Mooij, Director
Kelly.mooij@bpu.nj.gov

Jim Ferris, Deputy Director
Jim.ferris@bpu.nj.gov

Véronique Oomen, Project Manager
Renewable Energy
Veronique.Oomen@bpu.nj.gov

Jody Levchuk, City Council Member
2 Bayonne Place
Ocean City, NJ 08226
jlevchuk@ocnj.us

Peter V. Madden City Council Member
47 Bay Road
Ocean City, NJ 08226
pmadden@ocnj.us

Terrence Crowley Jr., City Council Member
123 Bay Avenue
Ocean City, NJ 08226
tcrowley@ocnj.us

Cape May County

Board of County Commissioners
Cape May County
4 Moore Road
Cape May Court House, NJ 08210

Kevin Lare, Acting Administrator
kevin.lare@co.cape-may.nj.us

Gerald M. Thornton, Commissioner Director
gerald.thornton@co.cape-may.nj.us

Rita M. Rothberg, County Clerk
County of Cape May
7 N Main Street
P.O. Box 5000
Cape May Court House, NJ 08210-5000
coclerk@co.cape-may.nj.us

Kira Lawrence, Research Scientist
Kira.lawrence@bpu.nj.gov

Earl Pierce
Earl.Pierce@bpu.nj.gov

Division of Law

Department of Law
Hughes Justice Complex
25 Market Street
PO Box 112
Trenton, NJ 08625

Pamela Owen, DAG
pamela.owen@law.njoag.gov

Daren Eppley, DAG
daren.eppley@law.njoag.gov

Paul Youchak, DAG
paul.youchak@law.njoag.gov

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

**Exhibit A:
Procedural Schedule**

Item	Date
Motions Due	March 9, 2022
Ocean Wind's Responses to Supplemental Questions	March 14, 2022
Opposition and Testimony from Parties	April 27, 2022
Ocean Wind Reply	May 11, 2022
Public Hearing	May 19, 2022
Public Written Comments Deadline	June 2, 2022
Settlement Conference	Week of June 6 2022
Ocean Wind, Property Owner and Associated Governing Bodies Respond to Public Comment	June 16, 2022
Oral Argument	June 24, 2022

Further details regarding the Public Hearing and Oral Argument will be forthcoming.

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

Exhibit B:
February 23 Order and March 1 Order



Agenda Date: 2/23/22
Agenda Item: 8B

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CLEAN ENERGY

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) DOCKET NO. QO22020041

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., Cozen O'Connor, P.C., on behalf of Ocean Wind LLC

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board" or "BPU") retains Ocean Wind LLC's ("Ocean Wind" or "Company") petition which requests that the Board determine: 1) certain easements owned by City of Ocean City, New Jersey ("Ocean City") are reasonably necessary for the construction and operation of Ocean Wind's qualified offshore wind project ("QOWP"); and 2) municipal consents needed from Ocean City for the issuance of permits from the New Jersey Department of Environmental Protection ("NJDEP") are reasonably necessary for the construction of the QOWP ("Petition").

BACKGROUND

In response to Governor Murphy's Executive Order No. 8, which called upon the Board to fully implement the Offshore Wind Economic Development Act, the Board issued its first offshore wind solicitation. Ocean Wind submitted an application and in June 2019, the Board approved Ocean Wind's 1,100 MW offshore wind project, Ocean Wind 1, as a QOWP ("Project"). Since the award, Ocean Wind has been in the planning, permitting and preconstruction phase of the Project. A

significant aspect of the preconstruction activities involves obtaining the necessary easements and municipal consents for the onshore cable route, which will bring the renewable electricity from the offshore wind turbines to the electric transmission and distribution system in New Jersey.

On February 2, 2022, Ocean Wind filed the Petition with the Board, pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across Green Acres-restricted properties owned by Ocean City, and that certain municipal consents needed for particular environmental permits in or with respect to Ocean City, are reasonably necessary for the construction or operation of the QOWP, Ocean Wind I.

N.J.S.A. 48:3-87.1(f) grants the Board the authority to make a determination on a petition from a QOWP "seeking authority to obtain the easement, right-of way, or other real property interest."

DISCUSSION

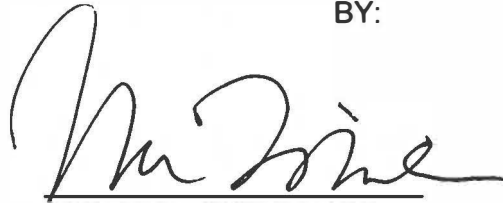
The Board has determined that it should retain the Petition for hearing. Accordingly, pursuant to N.J.S.A. 48:2-32, the Board **HEREBY DESIGNATES** President Joseph L. Fiordaliso as the presiding officer with authority to rule on all motions that arise during the pendency of this proceeding and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the Board **HEREBY DIRECTS** that any entity seeking to intervene or participate in this matter file the appropriate application with the Board on or before March 9, 2022. Any party wishing to file a motion for admission of counsel, pro hac vice, should do so concurrently with any motion to intervene or participate.

In addition, in compliance with the Board's Order in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically. No hard copies shall be filed until the Board lifts the restrictions imposed in that Order. The Board **HEREBY DIRECTS** Staff to post this Order to the Board's website.

The effective date of this Order is February 25, 2022.

DATED: February 23, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARYANNA HOLDEN
COMMISSIONER




DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

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

BPU DOCKET NO. QO22020041

SERVICE LIST

<u>OCEAN WIND</u>	<u>Division of Rate Counsel</u>
Orsted Offshore North America 399 Boylston St., 12th Floor Boston, MA 02116	140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625
Aaron Bullwinkel Senior Legal Counsel Legal, Group Support aarbu@orsted.com	Brian O. Lipman, Director blipman@rpa.nj.gov
Marc Reimer mreim@orsted.com	Maura Caroselli, Esq. mcaroselli@rpa.nj.gov
Matthew Kaplan Orsted 437 Madison Avenue, 19th Floor New York, NY-10022 matka@orsted.com	Megan Lupo, Esq. mlupo@rpa.nj.gov
Cozen O'Connor One Gateway Center, Suite 910 Newark, NJ 07102	<u>Board of Public Utilities</u>
Gregory Eisenstark, Esq. geisenstark@cozen.com	44 South Clinton Ave., 1 st Floor Post Office Box 350 Trenton, NJ 08625-0350
Michael J. Connolly, Esq. mconnolly@cozen.com	Aida Camacho-Welch, Board Secretary board.secretary@bpu.nj.gov
William Lesser, Esq. Cozen O'Connor PC 3 WTC, 175 Greenwich Street – 55 th Floor New York, NY 10007 wlesser@cozen.com	Robert Brabston, Esq. Executive Director robert.brabston@bpu.nj.gov
PSEG Service Corp. 80 Park Plaza, T5 Newark, NJ 07101	Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov
Cara Lewis, Esq. cara.lewis@pseg.com	<u>Counsel's Office</u>
	Abe Silverman, Esq., Chief Counsel abe.silverman@bpu.nj.gov
	Andrea Hart, Esq., Legal Specialist Andrea.Hart@bpu.nj.gov
	Kimberly Diamond, Esq., Senior Counsel Kimberly.diamond@bpu.nj.gov

Ana Murteira, Esq.
ana.murteira@pseg.com

Ocean City

City of Ocean City 861 Asbury Avenue
Ocean City NJ 0822

Hon. Jay Gillian, Mayor
mayor@ocnj.us

Melissa Rasner, Municipal Clerk 6
mraser@ocnj.us

Bobby Barr Council President
118 Roosevelt Boulevard
Ocean City, NJ 08226
rbarr@ocnj.us

Dorothy F. McCrosson, Esq., City Solicitor
McCrosson & Stanton, P.C.
200 Asbury Avenue
Ocean City, New Jersey 08226
dmccrosson@ocnj.us

Tomaso Rotondi, Council Vice President
407 Bay Avenue
Ocean City, NJ 08226
trotondi@ocnj.us

Karen Bergman, City Council Member 39
Bayview Place
Ocean City, NJ 08226
kbergman@ocnj.us

Keith Hartzell, City Council Member
720 Asbury Avenue, Apt. 3
Ocean City, NJ 08226
khartzell@ocnj.us

Jody Levchuk, City Council Member
2 Bayonne Place
Ocean City, NJ 08226
jlevchuk@ocnj.us

Peter V. Madden City Council Member
47 Bay Road
Ocean City, NJ 08226
pmadden@ocnj.us

Division of Clean Energy

Kelly Mooij, Director
Kelly.mooij@bpu.nj.gov

Jim Ferris, Deputy Director
Jim.ferris@bpu.nj.gov

Véronique Oomen, Project Manager
Renewable Energy
Veronique.Oomen@bpu.nj.gov

Kira Lawrence, Research Scientist
Kira.lawrence@bpu.nj.gov

Division of Law

Department of Law
Hughes Justice Complex
25 Market Street
Post Office Box 112
Trenton, NJ 08625

Pamela Owen, DAG
pamela.owen@law.njoag.gov

Daren Eppley, DAG
daren.eppley@law.njoag.gov

Paul Youchak, DAG
paul.youchak@law.njoag.gov

NJDEP

401 E. State St.
7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

Shawn M. LaTourette, Commissioner
commissioner@dep.nj.gov

Sean D. Moriarty, Deputy Commissioner
Legal, Regulatory and Legislative Affairs
sean.moriarty@dep.nj.gov

Megan Brunatti
megan.brunatti@dep.nj.gov

<p>Terrence Crowley Jr., City Council Member 123 Bay Avenue Ocean City, NJ 08226 tcrowley@ocnj.us</p> <p><u>Cape May County</u></p> <p>Board of County Commissioners CapeMay County 4 Moore Road Cape May Court House, NJ 08210</p> <p>Kevin Lare, Acting Administrator kevin.lare@co.cape-may.nj.us</p> <p>Gerald M. Thornton, Commissioner Director gerald.thornton@co.cape-may.nj.us</p> <p>Rita M. Rothberg, County Clerk County of Cape May 7 N Main Street Post Office Box 5000 Cape May Court House, NJ 08210-5000 coclerk@co.cape-may.nj.us</p>	<p>Martha Sullivan Sapp Director, Green Acres Program Mail Code 501-01 Post Office Box 420 501 East State Street, 1st floor Trenton, New Jersey 08625-0420 Martha.Sapp@dep.nj.gov</p>
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Trenton, New Jersey 08625-0350
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DIVISION OF CLEAN ENERGY

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) ORDER WITH PROCEDURAL SCHEDULE AND REQUEST FOR SUPPLEMENTAL INFORMATION) DOCKET NO. QO22020041

Parties of Record:

Brian O. Lipman, Esq., Acting Director, New Jersey Division of Rate Counsel

BY PRESIDENT FIORDALISO:

By this Order, I set forth the procedural schedule and request the filing of supplemental information.

BACKGROUND

On February 2, 2022, Ocean Wind LLC ("Ocean Wind" or "Petitioner") filed a petition ("Petition") with the New Jersey Board of Public Utilities ("Board" or "BPU"), pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across Green Acres-restricted properties owned by the City of Ocean City, New Jersey ("Ocean City"), and that certain municipal consents needed for particular environmental permits in or with respect to Ocean City, are reasonably necessary for the construction or operation of their qualified offshore wind project ("QOWP"), Ocean Wind I.

On February 23, 2022, the Board retained the Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues ("February 23 Order"). Further, the February 23 Order directed any entities seeking to intervene or participate in this matter file the appropriate motions with the Board by March 9, 2022.

I note that P.L. 2021, c. 178 envisions a transparent and public process for the evaluation. The Board is required to hold a public hearing and receive public comments on the petition. N.J.S.A. 48:3-87.1(f)(2).

SUPPLEMENTAL QUESTIONS

In order to create a more robust record for this proceeding on which to base any decision and to provide all parties and the public with the information needed to provide input, Ocean Wind shall supplement its Petition by submitted responses to questions, set forth in Exhibit B.

DISCUSSION & FINDINGS

I **HEREBY ISSUE** the following procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms and to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding. The parties will have an opportunity to present evidence and arguments to satisfy due process and aid in the Board's deliberation.

The public will have an opportunity to file comments and attend a public hearing. I, President Fiordaliso, will preside over the public hearing. Notice of the public hearing shall be provided to the "news media, the owner of the real property subject to the petition, and the governing body and municipal clerk of the municipality and the clerk of the county in which the lands proposed to be conveyed are located." N.J.S.A. 48:3-87.1(f)(2). Public Comments may be submitted using the Board's Public Document Search tool, located at <https://publicaccess.bpu.state.nj.us/> using DOCKET NO. QO22020041

Comments are considered "public documents" for purposes of the State's Open Public Records Act and any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3.

I **HEREBY DIRECT** that, in addition to motions to intervene or participate set forth in the February 23 Order, all other motions be submitted by March 9, 2022. Following that date, motions will only be accepted if they are shown to be in the interest of justice.

I have reviewed the supplemental questions set forth in Exhibit B, and **HEREBY DIRECT** the Petitioner to submit responses to these questions by 5 pm EST March 11, 2022

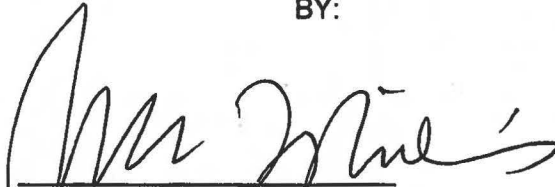
I **HEREBY DIRECT** that this Order be posted on the Board's website.

Parties are **HEREBY DIRECTED** to serve all documents electronically.

This provisional ruling is subject to ratification or other alteration by the Board, as it deems appropriate during the proceedings in this matter.

DATED: 3/1/2022

BY:



JOSEPH L. FIORDALISO
PRESIDENT

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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SERVICE LIST

OCEAN WIND

Orsted Offshore North America
399 Boylston St., 12th Floor
Boston, MA 02116

Aaron Bullwinkel Senior Legal Counsel
Legal, Group Support
aarbu@orsted.com

Marc Reimer
mreim@orsted.com

Matthew Kaplan
437 Madison Avenue, 19th Floor
New York, NY-10022
matka@orsted.com

Cozen O'Connor
One Gateway Center, Suite 910
Newark, NJ 07102

Gregory Eisenstark, Esq.
geisenstark@cozen.com

Michael J. Connolly, Esq.
mconnolly@cozen.com

William Lesser, Esq.
Cozen O'Connor PC
3 WTC, 175 Greenwich Street – 55th Floor
New York, NY 10007
wlesser@cozen.com

PSEG Service Corp.
80 Park Plaza, T5
Newark, NJ 07101

Cara Lewis, Esq.
cara.lewis@pseg.com

Ana Murteira, Esq.
ana.murteira@pseg.com

New Jersey Board of Public Utilities

44 South Clinton Ave., 1st Floor
P.O. Box 350
Trenton, NJ 08625

Aida Camacho-Welch, Board Secretary
board.secretary@bpu.nj.gov

Robert Brabston, Esq. Executive Director
robert.brabston@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

Counsel's Office

Abe Silverman, Esq., Chief Counsel
abe.silverman@bpu.nj.gov

Andrea Hart, Esq., Legal Specialist
Andrea.Hart@bpu.nj.gov

Kimberly Diamond, Esq., Senior Counsel
Kimberly.diamond@bpu.nj.gov

Division of Clean Energy

Kelly Mooij, Director
Kelly.mooij@bpu.nj.gov

Jim Ferris, Deputy Director
Jim.ferris@bpu.nj.gov

Véronique Oomen, Project Manager
Renewable Energy
Veronique.Oomen@bpu.nj.gov

Kira Lawrence, Research Scientist
Kira.lawrence@bpu.nj.gov

New Jersey Division of Rate Counsel

140 East Front Street, 4th Floor
P.O. Box 003 Trenton, NJ 08625

Brian O. Lipman, Esq., Director
blipman@rpa.nj.gov

Maura Caroselli, Esq.
mcaroselli@rpa.nj.gov

Megan Lupo, Esq.
mlupo@rpa.nj.gov

T. David Wand, Esq.
dwand@rpa.nj.gov

Robert Glover, Esq.
rglover@rpa.nj.gov

Division of Law

Department of Law
Hughes Justice Complex
25 Market Street
PO Box 112
Trenton, NJ 08625

Pamela Owen, DAG
pamela.owen@law.njoag.gov

Daren Eppley, DAG
daren.eppley@law.njoag.gov

Paul Youchak, DAG
paul.youchak@law.njoag.gov

Ocean City

City of Ocean City 861 Asbury Avenue
Ocean City NJ 0822

Hon. Jay Gillian, Mayor
mayor@ocnj.us

Melissa Rasner, Municipal Clerk 6
mraser@ocnj.us

Bobby Barr Council President
118 Roosevelt Boulevard
Ocean City, NJ 08226
rbarr@ocnj.us

Dorothy F. McCrosson, Esq., City Solicitor
McCrosson & Stanton, P.C.
200 Asbury Avenue
Ocean City, New Jersey 08226
dmccrosson@ocnj.us

Tomaso Rotondi, Council Vice President
407 Bay Avenue
Ocean City, NJ 08226
trotondi@ocnj.us

Karen Bergman, City Council Member 39
Bayview Place
Ocean City, NJ 08226
kbergman@ocnj.us

Keith Hartzell, City Council Member
720 Asbury Avenue, Apt. 3
Ocean City, NJ 08226
khartzell@ocnj.us

Jody Levchuk, City Council Member
2 Bayonne Place
Ocean City, NJ 08226
jlevchuk@ocnj.us

Peter V. Madden City Council Member
47 Bay Road
Ocean City, NJ 08226
pmadden@ocnj.us

Terrence Crowley Jr., City Council Member
123 Bay Avenue
Ocean City, NJ 08226
tcrowley@ocnj.us

Cape May County

Board of County Commissioners

Cape May County
4 Moore Road
Cape May Court House, NJ 08210

Kevin Lare, Acting Administrator
kevin.lare@co.cape-may.nj.us

Gerald M. Thornton, Commissioner Director
gerald.thornton@co.cape-may.nj.us

Rita M. Rothberg, County Clerk
County of Cape May
7 N Main Street
P.O. Box 5000
Cape May Court House, NJ 08210-5000
coclerk@co.cape-may.nj.us

NJDEP

401 E. State St.
7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

Shawn M. LaTourette, Commissioner
commissioner@dep.nj.gov

Sean D. Moriarty, Deputy Commissioner
Legal, Regulatory and Legislative Affairs
sean.moriarty@dep.nj.gov

Megan Brunatti
megan.brunatti@dep.nj.gov

Martha Sullivan Sapp
Director, Green Acres Program
Mail Code 501-01
P.O. Box 420
501 East State Street, 1st floor
Trenton, New Jersey 08625-0420
Martha.Sapp@dep.nj.gov

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

**Exhibit A:
Procedural Schedule**

Item	Date
Motions Filed	March 9, 2022
Ocean Wind's Responses to Supplemental Questions	March 14, 2022
Opposition and Testimony from Parties	April 13, 2022
Ocean Wind Reply	April 27, 2022
Public Hearing	May 5, 2022
Public Written Comments Deadline	May 20, 2022
Settlement Conference	Week of May 23, 2022
Ocean Wind, Property Owner and Associated Governing Bodies Respond to Public Comment	June 3, 2022
Oral Argument	June 24, 2022

Further details regarding the Public Hearing and Oral Argument will be forthcoming.

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

**Exhibit B:
Supplemental Questions**

General:

1. Please list the criteria that were used to evaluate the different cable routes, and describe how the criteria were weighed in the selection process.
2. Please describe the qualifications of the individuals involved in the cable route selection process.

Please provide documents to support the answers to the questions below:

Jason Kalwa testimony, Page 11, lines 10-21:

3. Please provide an assessment as to whether construction methods as well as impact from construction would differ substantially between different cable routes. Note any differences in impact on traffic as well as public access, especially as it relates to tourism. How did these impacts weigh in the cable route selection process?

Pilar Patterson testimony, page 4, lines 21 through page 5, lines 9:

4. Please provide more detail on the factors that would affect the identified impacts, upgrade costs, and timeline associated with the choice of Higbee and Ontario as POI.

Pilar Patterson testimony, page 7, lines 1-8:

5. Please provide supporting information, including data sources, on how "inlets, wildlife refuges, and wildlife management areas" were defined. For any GIS data used in the resource maps, please clarify whether temporal accuracy considerations were made regarding updates to these data sources and how these may have influenced the resulting information.

Pilar Patterson testimony, page 7, lines 9-12:

6. Please list the design and construction criteria that were used to remove potential alternative landfall sites from further consideration.

Pilar Patterson testimony, page 7, lines 12-17:

7. Please elaborate on the methodology for the additional screening (i.e. based on real estate availability, windshield surveys, and meeting with local municipalities) that was conducted to narrow the number of landfall options.

Pilar Patterson testimony, page 8, lines 6-9:

8. Please explain why the existing, previously disturbed Right of Way on and around the Roosevelt Bridge could not be used, and a Green Acres diversion is needed.

Pilar Patterson testimony, page 8, line 20 through page 11, line 9:

9. Please compare the easements and permits that would be required for the alternative routes, to the easements and permits required for the "Preferred Route." Note any differences in Green Acres diversions needed.

Pilar Patterson testimony, page 10, lines 10-13:

10. Are there any potential use conflicts associated with the offshore cable route of the "Preferred Route" (e.g. prime fish grounds, borrow areas, environmental preserves, historic sites)? If yes, please describe and explain how they compare to similar issues cited in association with other cable routes considered by Ocean Wind.

Pilar Patterson testimony, page 11, lines 17 through page 12, line 2:

11. Please provide an assessment as to whether easements upon, across, and under Green-Acres restricted properties for cable beach crossings would differ substantially between different cable landfall locations.

Pilar Patterson testimony, Appendix C:

12. What is the linear distance of road disturbed from the beach crossing to POI for the considered routes?

Pilar Patterson testimony, Appendix C:

13. Please describe the "abandoned railroad option" (purple line on map in Appendix C) and what concerns or limitations are associated with this route.

Madeline Urbish testimony, pages 3-5:

14. Can a person present at meetings prior to Ms Urbish employment by Ocean Wind, provide a recount of these meetings?

Madeline Urbish testimony, Appendices:

15. Please provide copies of the correspondence between Ocean Wind and Ocean City Prior to May 13, 2021.