



CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

DEPARTMENT OF LAW

April 27, 2022

Honorable Joseph F. Fiordaliso, President
New Jersey Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
Trenton, NJ 08625-0350

Re: IMO Petition of Ocean Wind, LLC
BPU Docket No. QO22020041

Dear President Fiordaliso:

Please accept this letter as the response of the City of Ocean City to Ocean Wind's March 14 response to the Board's supplemental questions.

Preliminarily, Ocean City objects to the Board's consideration of Ocean Wind's application.

By regulation, it is the local government unit which is entitled to initiate an application for diversion of lands on its ROSI. N.J.A.C. 7:36-26.8. The reason for this is self-evident: the local elected officials are in a unique position to understand the will and needs of the residents and property owners in that municipality and are best equipped to evaluate the need for the diversion.

The Board will note that Ocean City neither filed nor participated in nor consented to the application currently before the Board.

The Board would be correct to conclude that Ocean City's absence from this process is indicative of an absence of local consensus that this application is in the best interests of Ocean City and its various constituent groups, which include taxpayers, residents, business owners and visitors, among others.

One of the many reasons for a lack of consensus on the pending application is the vast list of unknowns associated with the Ocean Wind project at this time, including, but not limited to, its effects on birds, sea life and the fishing industry. More information is needed on the decommissioning of these projects. Until the environmental impacts of the project have been fully vetted by disinterested agencies, it is unreasonable for Ocean City, the community to be most directly impacted by the proposed construction, to be expected to take a position on the project.

Further, Ocean City respectfully reserves the right to challenge any and all approvals granted to Ocean Wind pursuant to N.J.S.A. 48:3-87.1(f) as *ultra vires* and/or void and/or voidable for lack of approval by Ocean City's Mayor and/or governing body.

With respect to Ocean Wind's responses to the Board's supplemental questions, Ocean City notes the following:

1. The criteria listed in response to supplemental Question 1 do not include the position taken by the elected officials regarding the proposed diversion. This omission puts in stark relief Ocean Wind's failure to consider the interests of the community to be most immediately burdened with this project.

2. Ocean Wind has failed to make a compelling case that the proposed route cutting a swath across the width of Ocean City with a duct bank is the best alternative.

Ocean City suggests that the Board carefully consider the Great Egg Harbor Route as a better alternative to the route through the island of Ocean City.

The Great Egg Harbor Route appears to be of comparable length.

As an underwater route, it presents challenges, however, none which cannot be overcome.

The inlet is of sufficient width to accommodate this route without impacting the borrow area on the Ocean City shore.

Restriction of other vessels during construction in this wide inlet does not equate to a closure of the inlet. Navigation would continue during the temporary period of construction, as it did during the construction of the Ocean City Longport Bridge.

Disturbance of shellfish habitat typically requires a monetary contribution to the NJ DEP's dedicated fund for shellfish habitat mitigation and restoration. NJAC 7:7-9.2. This should not be an insurmountable hurdle for Ocean Wind.

Ocean City disputes Ocean Wind's claim that "The route would cross under two historic bridges with low clearance, making construction significantly challenging". The bridges in question have been mischaracterized. The Ocean City-Longport bridge and the Route 52 bridge are both relatively new bridges (built in 2002 and 2012 respectively) and both have high clearances (65' and 55', respectively).

The overwhelming benefit of the Great Egg Harbor route is the utter lack of disturbance to the citizenry of Ocean City. The city's pristine beach would not be excavated, the streets would not be opened, the wetlands would not be disturbed.

Ocean City would still bear the aesthetic effects of this project, and whatever consequences they may bring. However, the island would not be defaced and the activities of the people on the island would not be interrupted.

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The Great Egg Harbor Route may be more expensive for Ocean Wind to implement. However, that should be of no consequence to your analysis.

Thank you for carefully considering the concerns of Ocean City.

Very truly yours,


Dorothy F. McCrosson, Solicitor
City of Ocean City

cc: Distribution list via email