

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

**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**

Rebuttal Testimony

of

Pilar Patterson

**Re: Rebuttal to the Direct Testimony of Maximilian Chang on Behalf of the
Division of Rate Counsel and to Issues Raised in a Letter of Counsel
Submitted on behalf of the City of Ocean City**

Dated: May 11, 2022

1 **I. INTRODUCTION AND BACKGROUND**

2 **Q. Please state your name and business address.**

3 A. My name is Pilar Patterson. My business address is Orsted North America, Inc.,
4 399 Boylston Street, 12th Floor, Boston, MA 02116.

5 **Q. Are you the same Pilar Patterson who submitted direct pre-filed testimony in**
6 **this matter?**

7 A. Yes. In addition, since I filed my direct testimony, I have been promoted and my
8 current title is Head of Mid-Atlantic Permitting for Ørsted North America, Inc.
9 With respect to the Ocean Wind 1 Offshore Wind Project, my responsibilities
10 continue to include developing and executing permitting strategy, define and
11 manage permitting risk, manage and perform high level stakeholder engagement.

12 **Q. Would you describe the purpose of your rebuttal testimony?**

13 A. I am testifying on behalf of petitioner Ocean Wind, LLC (“Ocean Wind”) in
14 response to certain issues raised in the pre-filed testimony of Maximilian Chang on
15 behalf of the Division of Rate Counsel (“Rate Counsel”). I also respond to certain
16 allegations in a letter submitted by the City of Ocean City’s (“Ocean City”) Solicitor. More specifically, I respond to Mr. Chang’s: (1) statements about the
17 reduction in acreage of one of the easements Ocean Wind seeks approval to acquire;
18 (2) contention that Ocean Wind should be required to submit cost estimates for
19 alternative routes considered; and (3) claim that the Board of Public Utilities
20 (“Board” or “BPU”) should require Ocean Wind to provide further information
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1 about the so-called “Railroad Route.” In regard to Ocean City’s letter¹, I address
2 the suggestion that the so-called “Great Egg Harbor” route is a better alternative
3 than the Preferred Route.²

4 As was the case with my direct testimony, this rebuttal testimony supports
5 Ocean Wind’s petition seeking a determination that certain easements across Green
6 Acres-restricted properties and municipal consents for New Jersey Department of
7 Environmental Protection (“NJDEP”) permits in Ocean City are reasonably
8 necessary for the construction or operation of the Ocean Wind Qualified Offshore
9 Wind Project (“QOWP”).

10 **II. RESPONSE TO MAXIMILIAN CHANG’S TESTIMONY**

11 **Q. Please respond to Mr. Chang’s statements (testimony, p. 10, line 13 to p. 11,**
12 **line 4) that the acreage of the easements Ocean Wind seeks has been reduced**
13 **from 0.838 acres in the original Petition to 0.658 acres in a response to an**
14 **informal data request.**

15 A. On April 29, 2022, Ocean Wind filed an amended Petition and amended version of
16 my direct testimony explaining this change. As discussed in that amended
17 testimony, at the time of filing my original testimony on February 2, 2022, Ocean
18 Wind had calculated the total easement acreage to be 0.838 acres, which included
19 0.77 acres at the beach landing site and 0.068 acres at the bridge crossing at Crook
20 Horn Creek. However, Ocean Wind has since determined that only 0.579 acres of

¹ I have been advised by counsel that Ocean City’s letter is procedurally defective, in that it is a letter of counsel rather than testimony of an expert or fact witness. Accordingly, while I respond to certain statements in Ocean City’s letter, the Board should give no weight to that letter in the context of the evidentiary record of this proceeding.

² The “Preferred Route” is described in detail in my direct testimony at pp. 7-8 and Appendix B.

1 easement is required at the beach landing. Thus, the total acreage of the required
2 easements is 0.657 acres.

3 **Q. In regard to the appraised value of the easements Ocean Wind seeks approval
4 of, Mr. Chang states that “the Company did not provide Rate Counsel with
5 copies of the appraisals . . .” Is that statement accurate?**

6 A. No, it is not. In fact, Ocean Wind filed copies of the appraisals with its February
7 2, 2022 Petition, as Appendix K to the Direct Testimony of Madeline Urbish
8 (Exhibit OW-3). I also note that in his rebuttal testimony, Ocean Wind rebuttal
9 witness Matthew Kaplan addresses aspects of Mr. Chang’s recommendations
10 concerning the cost of the easements.

11 **Q. Mr. Chang states that “Ocean Wind should provide the Board with
12 information on the costs of the alternatives and preferred route to demonstrate
13 that the preferred route is reasonably necessary relative to the alternatives.”
14 (Chang Testimony, p. 15, lines 3-5). Please respond to this statement.**

15 A. First, I note that Ocean Wind witness Matthew Kaplan explains in his rebuttal
16 testimony why Mr. Chang’s concerns about transmission cost upgrades are wholly-
17 irrelevant within the context of this matter.

18 Moreover, there is no requirement (or reason) for Ocean Wind to have
19 developed cost estimates for each alternative route it considered. As I discussed in
20 my direct testimony, many of the alternative routes were eliminated at an early
21 stage of the process and it was not possible (or prudent) to develop cost estimates
22 for routes that were not feasible. Second, as Mr. Chang notes in his testimony, the
23 standard for the Board to approve this petition is that the proposed easements “are

1 reasonably necessary for the construction or operation of the qualified offshore
2 wind project.” *N.J.S.A. 48:3-87.1(f)(2)*. The legal standard is not one of “least
3 cost” as Mr. Chang suggests. Rather, many other factors, in addition to cost, are
4 relevant in determining a preferred route for the onshore portion of the Ocean Wind
5 1 project. These factors include the following:

- 6 • Minimize extreme changes in slope;
- 7 • Property availability and State-owned and existing utility right-of-way
8 (“ROW”);
- 9 • Avoid known Superfund Sites or sites designated as hazardous;
- 10 • Avoid known locations of historic or archaeological resources;
- 11 • Avoid or minimize the number of infrastructure (e.g., roads, bridges, culverts)
12 crossings;
- 13 • Minimize impacts to wetlands and floodplains;
- 14 • Minimize the overall length of the route to minimize impacts to terrestrial
15 communities, wildlife species, and sensitive habitats;
- 16 • Minimize impacts to aesthetic resources; and
- 17 • Minimize impacts to sensitive receptors such as hospitals, schools, and
18 churches.

19 After the initial statewide screening of interconnection points, taking into
20 consideration the geographic, engineering, and interconnection criteria, a desktop
21 analysis of the practicable interconnection options was conducted using
22 geographical information system (GIS) data to identify opportunities and
23 constraints. Constraints were defined as resources or conditions that could limit or

1 prevent siting and routing. Constraints also included areas restricted by regulatory
2 requirements or areas where impacts on resources would be difficult to mitigate.
3 Opportunities were defined as resources or conditions that would facilitate Project
4 development.

5 The identification of opportunities and constraints were also based on
6 technical guidelines (i.e., engineering and design requirements). These guidelines
7 are specific to the Project and provide technical limitations related to the design,
8 ROW requirements, and reliability.

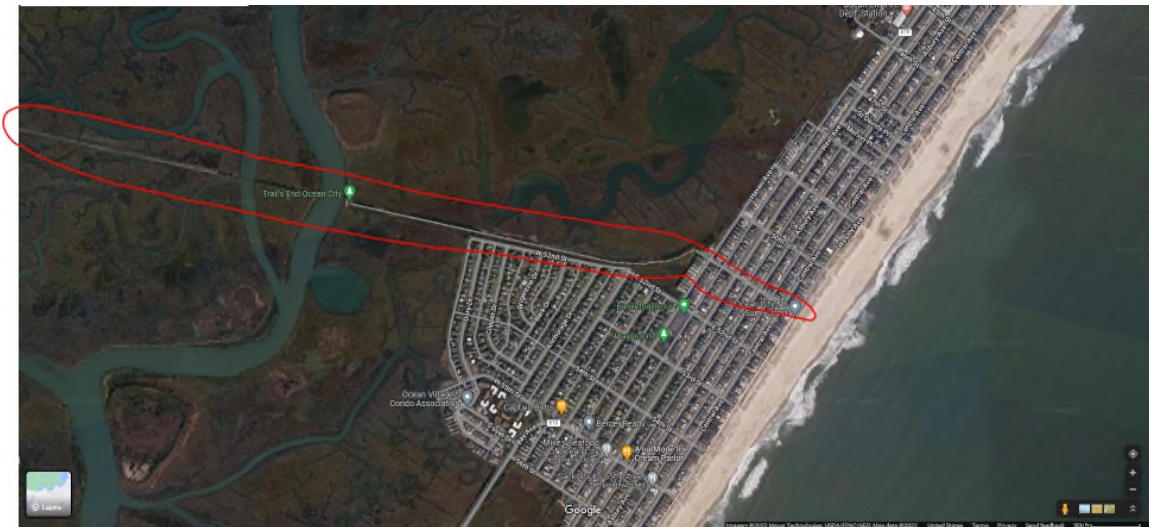
9 **Q. Mr. Chang also refers to an alternative route that would have used an**
10 **abandoned railroad right of way and recommends that “the Board should**
11 **investigate the Railroad Route more thoroughly before it determines that it is**
12 **not preferable to the preferred route.” (Chang Testimony, p. 14, lines 14-15).**
13 **Please respond.**

14 A. In the first instance, this matter does not call for the Board to determine whether
15 some alternative route is “preferable” to the Preferred Route. Rather, as I discussed
16 above in response to one of Mr. Chang’s other statements, the purpose of this
17 proceeding is for the Board to determine whether the requested easements are
18 “reasonably necessary” under the statutory criteria.

19 Second, even if that were the purpose of this proceeding, as explained in
20 response to the Board’s Supplemental Question 13, there were many reasons Ocean
21 Wind eliminated this alternative from consideration. Assuming Mr. Chang is
22 referring to the historic railroad ROW area depicted in the graphic below, there
23 many reasons why it was not advanced:

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- This route would not eliminate the need to obtain a Green Acres division. The associated beach landfall parcels at 51st and 52nd Street are all owned by Ocean City and thus are encumbered; and a portion of the old railroad ROW may be owned by Ocean City and would also be Green Acres encumbered.
- This route would result in a much longer cable route with greater overall impact – especially in the impacts to wetlands and waterways surrounding the ROW and on Route 9 in Upper Township. A significant amount of wetlands would be impacted.
- It is more difficult to construct underground electric lines in wetlands
- This alternative would impact a NJ State Historic Property Office registered/eligible historic district and historic property (Atlantic City Railroad Cape May Division Historic District



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1 **III. RESPONSE TO THE OCEAN CITY SOLICITOR’S LETTER**

2 **Q. In the Ocean City Solicitor’s letter dated April 27, 2022, Ocean City contends**
3 **that the “Great Egg Harbor” route may be a better alternative than the**
4 **Preferred Route. Please respond.**

5 **A. The Great Egg Harbor Route was extensively evaluated and eliminated for the**
6 **following reasons:**

- 7 • Cable burial depths within the inlet are a concern due to annual changes in
8 bathymetry and shifting sediments;
- 9 • Increased risk for cable damage, operation and concerns, and feasibility of
10 laying cable within the shifting inlet shallow waters;
- 11 • Design and cable protection challenges associated with shifting sands at
12 mouth of inlet;
- 13 • Access to the inlet by other vessels would be restricted during construction,
14 which would result in additional impacts to other marine uses and
15 navigation. Due to low water depth within the Great Egg Harbor, the cable
16 would need to be buried within the limits of the authorized federal and state
17 channel. If the cable were installed into the Great Egg Harbor Inlet there
18 would be a safety zone around the cable laying vessel while within the inlet
19 and channel and could result in disruptions to typical vessel traffic.
- 20 • Once in the estuary, shallow water limits which barges can be utilized for
21 cable burial, presenting installation challenges including potential
22 requirements for specialized equipment or a reducing in the number of
23 spools of cable;

- 1 • Installing the cable to the required burial requirements within the inlet may
2 not be practicable. There is an existing United States Army Corps of
3 Engineers (“USACE”) borrow area at the mouth of the inlet. USACE
4 typically does not authorize crossing of borrow areas, and where it does
5 allow crossing would require a cable burial depth of 80 feet, which is not
6 technically feasible for the Project; and
- 7 • In-water route through the Great Egg Harbor Bay and Shipping Channel
8 would result in 5.8 miles of cable burial within designated shellfish
9 habitat.
- 10 • Please note, my direct testimony referred to the crossing of two historic
11 bridges. While these bridges have been replaced, the designation as
12 individually eligible for the State or National Register of Historic Places
13 remains in place and will continue to be until an official finding is made that
14 they are no longer eligible.

15 **IV. CONCLUSION**

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17 **Q. Please summarize your rebuttal testimony.**

18 A. Ocean Wind has filed an amendment to the Petition updating the total acreage of
19 the required easements over Green Acres-restricted properties owned by Ocean
20 City, which is 0.657 acres. Contrary to Mr. Chang’s statement, Ocean Wind
21 provided copies of the appraisals for the easements with its direct testimony in this
22 matter.

23 I explain why it was not necessary or appropriate for Ocean Wind to have
24 created cost estimates for each of the potential alternative routes considered. With

1 respect to the so-called abandoned railroad right-of-way alternative route, there are
2 many factors that made this potential alternative not viable. Finally, with respect
3 to the Ocean City Solicitor's letter concerning the Great Egg Harbor alternative
4 route, I discuss and explain the many issues and challenges that led Ocean Wind to
5 remove this potential alternative from consideration.

6 **Q. Does this conclude your rebuttal testimony at this time?**

7 A. Yes, it does.