

**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 CERTAIN EASEMENTS AND  
CONSENTS NEEDED FOR CERTAIN ENVIRONMENTAL  
PERMITS IN, AND WITH RESPECT TO, THE COUNTY OF  
CAPE MAY COUNTY ARE REASONABLY NECESSARY FOR  
THE CONSTRUCTION OR OPERATION OF THE OCEAN  
WIND 1 QUALIFIED OFFSHORE WIND PROJECT**

**Direct Testimony**

**of**

**Madeline Urbish**

**Re: Community Outreach, Including Ocean Wind LLC's Attempts to  
Obtain the Necessary Easements and Consents Needed for  
NJDEP Permit Applications from the County of Cape May  
County, New Jersey**

**Dated: May 20, 2022**



1           **I.       INTRODUCTION AND BACKGROUND**

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

3   A.     My name is Madeline Urbish. My business address is 399 Boylston St., 12<sup>th</sup>  
4         Floor, Boston, MA 02116.

5   **Q.     By whom are you employed and in what capacity?**

6   A.     I am employed by Orsted North America, Inc. (“Orsted”) as Head of Government  
7         Affairs and Policy for New Jersey and am affiliated with Ocean Wind LLC’s  
8         (“Ocean Wind”) Qualified Offshore Wind Project (“QOWP”). My  
9         responsibilities include setting and shaping Orsted’s legislative and regulatory  
10        agenda to positively impact the emerging offshore wind market in North America;  
11        developing and maintaining working relationships with the Governor’s Office,  
12        state agencies, members of the Legislature, New Jersey’s congressional  
13        delegation and local elected officials; managing and coordinating the team of  
14        external governmental affairs consultants and government affairs counterparts at  
15        PSEG Renewable Generation, LLC (“PSEG”) and serving as a primary point of  
16        contact for Orsted with New Jersey stakeholders and regional trade associations,  
17        among other responsibilities and duties.

18   **Q.     Please describe your professional experience and educational background.**

19   A.     I served as a senior associate at River Crossing Strategy Group, where I  
20         represented and advised clients on New Jersey state politics and policies,  
21         including energy and environmental initiatives, among other issues. I developed  
22         and executed advocacy efforts and engagement strategies directed at key  
23         stakeholders, including state and local government entities. Prior to that, I was a



1 policy advisor in the Office of Governor Phil Murphy, focusing on energy,  
2 environmental, and agricultural policy. I oversaw the implementation of key  
3 clean energy policies across multiple departments and authorities and managed  
4 related interdepartmental initiatives. I previously worked at the New Jersey  
5 Audubon, one of the state's largest environmental organizations, where I served  
6 as director of the Coalition for the Delaware River Watershed, managing a four-  
7 state coalition comprised of more than 120 non-governmental organizations. I led  
8 federal advocacy efforts and managed ongoing relationships with governmental  
9 and non-governmental partners, including local, state and national elected  
10 officials and their staffs. I have a Masters of Public Administration degree from  
11 the University of Pennsylvania and a Bachelor of Arts degree in History and  
12 Political Science from the College of New Jersey. My education, experience and  
13 qualifications are fully set forth in Appendix A to my testimony.

14 **Q. Have you previously testified in Board of Public Utilities (“Board” or**  
15 **“BPU”) proceedings?**

16 A. Yes. I submitted pre-filed testimony on February 2, 2022 on behalf of the  
17 petitioner In the Matter of the Petition of Ocean Wind LLC Pursuant to N.J.S.A.  
18 48:3-87.1(f) for a Determination that Easements Across Green Acres-Restricted  
19 Properties and Consents Needed for Certain Environmental Permits in, and with  
20 respect to, the City of Ocean City Are Reasonably Necessary for the Construction  
21 or Operation of the Ocean Wind 1 Qualified Offshore Wind Project, BPU Docket  
22 Number QO22020041.



1   **Q.     Have you testified in proceedings before other utility regulatory commissions**  
2       **or administrative bodies?**

3   A.     No.

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

5   A.     I am testifying on behalf of petitioner Ocean Wind in support of its petition  
6       seeking a determination that certain easements over property owned by the  
7       County of Cape May, New Jersey (“Cape May County” or “County”) and certain  
8       consents and approvals for New Jersey Department of Environmental Protection  
9       (“NJDEP”) permits in Cape May County, are reasonably necessary for the  
10      construction and operation of the Ocean Wind 1 QOWP (“Ocean Wind 1” or  
11      “Project”). More specifically, my testimony will address formal and informal  
12      outreach to Cape May County since Project inception regarding necessary  
13      consents and permitting. The purpose of my testimony is to demonstrate that  
14      prior to filing this petition, Ocean Wind engaged in meaningful discussions with  
15      the County regarding the necessary permitting approvals for the construction and  
16      operation of the Project. I will outline these communications with the County that  
17      Ocean Wind engaged in prior to filing the petition and both the informal and  
18      formal requests to secure the necessary approvals and consents.

19   **Q.     Are there any prospective public hearing requirements under New Jersey**  
20       **law for Ocean Wind relative to this Petition?**

21   A.     Yes. Ocean Wind must comply with the statutory public hearing requirements  
22       dictated by New Jersey law, specifically at N.J.S.A. 48:3-87.1(f)(2). A draft form  
23       of public notice is set forth in Appendix B to my testimony.



1           **II.    OUTREACH TO CAPE MAY COUNTY REGARDING PROJECT**  
2           **DESIGN AND NECESSARY COUNTY APPROVALS FOR**  
3           **PERMITTING**  
4

5   **Q.    Please describe the earliest communications Ocean Wind had with Cape May**  
6           **County regarding the Project.**

7    A.    Several communications and meetings with Cape May County were held before  
8           the March 10, 2021 start of my employment with Orsted. First, on August 21,  
9           2019, County Engineer Robert Church authorized the Project to survey Cape May  
10          County roads for purposes of wetlands delineation. Then on February 7, 2020,  
11          County Engineer Robert Church confirmed the County's jurisdiction over  
12          relevant roads for the proposed Project cable route. On February 28, 2020, a call  
13          took place between Project personnel and Cape May County representatives in  
14          which County Engineer Robert Church stated that he had been instructed to  
15          provide the Board of Commissioners with an example license agreement for  
16          private utilities to utilize Cape May County roadways, as potentially applicable to  
17          Project needs. On July 13, 2020, a virtual meeting took place between Project  
18          representatives and Cape May County officials, including Commissioner Director  
19          Gerald Thornton and Commissioner Will Morey, to discuss the overall Project  
20          status and the likely need for easements within the County to further Project  
21          progress. County representatives advised Ocean Wind that they did not want to  
22          authorize easements until both Ocean City and Upper Township had agreed to  
23          their respective easements for the Project. On February 1, 2021, County Engineer  
24          Robert Church authorized a road opening permit for the Project to survey Cape  
25          May County roads for archeological survey purposes.



1 **Q. What were the next steps Ocean Wind took regarding the County's**  
2 **involvement with the Project?**

3 A. On May 13, 2021, Ocean Wind sent a letter to Gerald Thornton, Commissioner  
4 Director of Cape May County. The letter thanked Mr. Thornton for his time and  
5 perspectives over the past two years of Project development and previewed a  
6 meeting request to discuss next steps. Ocean Wind proposed establishing a team  
7 of Ocean Wind officials from the Project and government leadership representing  
8 Cape May County in order to share updates about the Project and discuss benefits  
9 the Project could provide to the community of Cape May County. A true and  
10 correct copy of the May 13, 2021 letter sent by Aaron Bullwinkel on behalf of  
11 Ocean Wind to Gerald Thornton, Commissioner Director of Cape May County, is  
12 attached hereto as Appendix C.

13 Following this letter, we held in-person meetings with Commissioner  
14 Director Gerald Thornton, Commissioner Jeffrey Pierson, and then-Acting  
15 Administrator Judge Michael Donohue on May 24, 2021. We presented on the  
16 Project description, benefits, needs, and next steps among other areas for  
17 discussion. A true and correct copy of the slide deck from this presentation is  
18 attached hereto as Appendix D. We also hosted an information session for local  
19 and municipal elected officials to discuss the Project broadly. On May 27, 2021,  
20 we followed up with Judge Donohue by email to answer questions from the prior  
21 meeting, including the estimated electric rate impact and the closest distance from  
22 Cape May County to the wind turbines.



1           In August 2021, we made several attempts to follow up with Cape May  
2           County officials through phone calls. On September 2, 2021, Ocean Wind  
3           submitted a letter to Judge Michael Donohue requesting a meeting with members  
4           of the Cape May County Board of Commissioners to discuss Project updates and  
5           certain applications that would be submitted in connection with the Project. It had  
6           been conveyed to Ocean Wind that Judge Donohue would be serving as the  
7           attorney and point person for the County regarding the Project and its  
8           communications with Ocean Wind. The letter explained that Ocean Wind wished  
9           to explain the reason for its expected applications and to provide a general  
10          overview of the Project status. A true and correct copy of the September 2, 2021  
11          letter sent by Keith Davis on behalf of Ocean Wind to Hon. Michael J. Donohue,  
12          J.S.C., Ret., is attached hereto as Appendix E.

13           Ocean Wind followed up with Judge Donohue on September 9, 2021 to  
14          request a meeting with the Project team, but Judge Donohue responded that he  
15          was at least a couple weeks away from being prepared to meet with Ocean Wind  
16          to discuss the Project.

17   **Q.   When did Ocean Wind first request County approval for necessary**  
18   **approvals and consents related to the Project?**

19   A.   Pursuant to N.J.S.A. 48:3-87.1 *et seq.*, on September 28, 2021, Ocean Wind sent a  
20          letter to Kevin Lare, Acting Administrator for the Board of County  
21          Commissioners for Cape May County, copying Gerald Thornton, Commissioner  
22          Director, and Leonard Desiderio, Commissioner Vice Director, providing the  
23          requisite 90-day statutory notice and requesting the specific approvals and



1 consents from Cape May County that are reasonably necessary for the  
2 construction and operation of the Project. The letter provided notice of specific  
3 requests related to certain permits, property rights, approvals and consents needed  
4 for the Project from Cape May County. The letter detailed that Ocean Wind  
5 requested Cape May County's consent for the Project to apply for NJDEP  
6 Division of Land Resource Protection ("DLRP") permits, including (i) the NJDEP  
7 DLRP multi-permit application; (ii) geotechnical survey investigation permits (if  
8 additional surveys are required); (iii) permissions or easements for the NJDEP  
9 Bureau of Tidelands Management tidelands grant or license for onshore cable  
10 route access across mapped tidelands (if required); (iv) road opening permits and  
11 highway occupancy permits (if required) for specific routes within County rights-  
12 of-ways (with specific routes identified); (v) Cape Atlantic Conversion District  
13 Soil and Sediment Control Plan Certification approval for cable installation; (vi)  
14 NJDEP temporary dewatering permits for water withdrawal from construction  
15 dewatering activities (if required); and (vii) County consent for an application to  
16 the NJDEP for a diversion of specified Green Acres property (if required), and  
17 specified by block and lot number. The letter began the 90-day time period under  
18 New Jersey law for the County to provide its consent in connection with Ocean  
19 Wind's environmental permit applications. A true and correct copy of the  
20 September 28, 2021 letter sent by Marc Reimer on behalf of Ocean Wind to  
21 Kevin Lare, Acting Administrator, is attached hereto as Appendix F.

22 Immediately following submission of the September 28, 2021 letter, a  
23 representative of PSEG emailed requesting a meeting with Ocean Wind and the



1 County to discuss the County's internal processes for environmental/land use  
2 permitting, the Project's schedule and timing, and NJDEP permit application  
3 requirements. The County responded, stating that Judge Donohue would serve as  
4 the County's liaison for the Project and requesting that PSEG and Ocean Wind  
5 coordinate scheduling with Judge Donohue.

6 **Q. What happened next with Ocean Wind's Project engagement within the**  
7 **County?**

8 A. On October 7, 2021, a representative of PSEG emailed the County Board of  
9 Commissioners to inform them of the upcoming Ocean Wind Open House,  
10 scheduled for November 6, 2021 in Ocean City. The purpose of this open house  
11 was to educate the public about the Project and answer questions from the  
12 audience both in-person and online.

13 **Q. What happened next with respect to Ocean Wind's request for necessary**  
14 **County approvals and consents related to the Project?**

15 A. After hearing nothing from Judge Donohue or the County Board of  
16 Commissioners after sending the September 28, 2021 letter, I reached out again to  
17 Mr. Lare and Judge Donohue on October 20, 2021 requesting to schedule a  
18 meeting to discuss the Project. Judge Donohue responded that the County was  
19 conducting its own due diligence related to the Project and would reach out to  
20 Ocean Wind when it was ready to meet. Judge Donohue stated, without  
21 prejudice, that the County was willing to assist in technical issues and land-use-  
22 needs interactions between Ocean Wind and Cape May County. I then responded  
23 to Judge Donohue to thank the County for its willingness to assist Ocean Wind on



1 the technical aspects of the Project while the County continues its due diligence,  
2 and to request the County reach out when it would be ready to schedule a  
3 meeting.

4 **Q. Did you hear back from Cape May County regarding Ocean Wind's request**  
5 **for County approvals and consents related to the Project?**

6 A. No. After not hearing back regarding a meeting between Ocean Wind and Cape  
7 May County, Ocean Wind submitted a letter to Judge Donohue on December 20,  
8 2021. Ocean Wind reiterated in this letter that it requests County consent to  
9 Ocean Wind's submission of permit applications to the Division of Land Use at  
10 the NJDEP in order to allow for initiation of the environmental review process no  
11 later than by January 21, 2022. The letter explained that the County consent will  
12 not confer land rights to the Project, but rather will allow for the initiation of  
13 environmental review through the state permitting process. A true and correct  
14 copy of the December 20, 2021 letter sent by Marc Reimer on behalf of Ocean  
15 Wind to Judge Donohue, Special Counsel, is attached hereto as Appendix G. In  
16 the cover email accompanying the letter, Ocean Wind again requested to schedule  
17 a meeting with County officials to discuss the Project and potential benefits to the  
18 County.

19 **Q. Did Cape May County respond to this letter from Ocean Wind?**

20 A. Yes. Cape May County reached out to Ocean Wind requesting to schedule a  
21 meeting between County officials and the Project team. On January 7, 2022, we  
22 held a preliminary call over Zoom to discuss logistics for a broader in-person  
23 meeting regarding the Project. The attendees discussed scheduling a broader



1 meeting and the Project's permitting needs and requests from the County, as  
2 previously set forth by Ocean Wind in the September 28, 2021 and December 20,  
3 2021 letters. Following this meeting, Ocean Wind submitted to Cape May  
4 County the landowner consent forms needed for the NJDEP environmental permit  
5 applications.

6 On January 12, 2022, a broader meeting took place in-person with  
7 representatives of Ocean Wind and Cape May County. Attendees on behalf of the  
8 County included Gerald Thornton, Director Cape May County Board of  
9 Commissioners, Kevin Lare, County Administrator, and Judge Michael Donohue,  
10 Wind Projects Liaison/Special Counsel, as well as representatives of Cultural  
11 Heritage Partners (a law firm retained by the County). The County  
12 representatives and we agreed at the outset to treat this meeting and future  
13 meetings as confidential settlement discussions, and to refrain from publicizing  
14 the materials shared during the course of these meetings.

15 **Q. What if anything happened following the January 12, 2022 meeting?**

16 A. On January 24, 2022, counsel for Cape May County reached out to me to request  
17 dates for a second meeting between the County and Ocean Wind. Counsel for  
18 Cape May County explained that the Board of Commissioners would be  
19 discussing on January 25, 2022 on whether to grant consent to Ocean Wind to  
20 commence NJDEP review. We responded with potential dates for a February  
21 2022 meeting.

22 **Q. What is the current status of the County's consents to Ocean Wind's Project**  
23 **needs?**



1 A. On February 11, 2022, Judge Donohue submitted a letter to Ocean Wind, stating  
2 that the County found the meeting on January 12, 2022 was productive and that  
3 the County was willing to engage in further dialogue with Project representatives.  
4 However, Judge Donohue explained that the Board of Commissioners voted  
5 unanimously to decline to grant its consent to Ocean Wind for its NJDEP  
6 environmental permits. Cape May County expressed that part of its reason for  
7 declining consent was based on Ocean Wind's recent BPU filing pertaining to  
8 easements needed from Ocean City and that they believed dialogue should have  
9 continued notwithstanding Project timelines. A true and correct copy of the  
10 February 11, 2022 letter from Judge Donohue, on behalf of Cape May County, to  
11 Keith Davis, on behalf of Ocean Wind, is attached hereto as Appendix H.

12 On February 18, 2022, Ocean Wind responded to Judge Donohue with a  
13 letter thanking Cape May County for its willingness to have an ongoing dialogue.  
14 Ocean Wind explained that it filed the Ocean City petition after years of  
15 discussions regarding the necessary property rights. Ocean Wind expressed to the  
16 County its desire and offer to continue discussions both with Ocean City and with  
17 the County regarding the Project. The letter closed with a request to hold another  
18 meeting in order to continue discussions. A true and correct copy of the February  
19 18, 2022 letter from Keith Davis on behalf of Ocean Wind to Judge Donohue, on  
20 behalf of Cape May County, is attached hereto as Appendix I.

21 Since then, we have continued to engage with Cape May County officials  
22 concerning scheduling additional meetings and addressing highway occupancy  
23 use and road opening permits. A representative of the project connected with



1 Judge Donohue via phone on March 10, 2022 to request a follow up meeting with  
2 the County and was told the Commissioners were continuing their own due  
3 diligence and planned to host stakeholder meetings and that once those occurred  
4 he would reach out to schedule a meeting with the project. The project  
5 representative reached out again several weeks later and spoke with Judge  
6 Donohue on April 1, 2022 to request a meeting. Judge Donohue indicated the  
7 County Commissioners would be able to schedule a meeting after their upcoming  
8 April 12 meeting.

9 We have engaged in further communications with County officials  
10 beginning in January of 2022 in order to ascertain the accuracy of certain real  
11 estate-related questions and assumptions concerning County ownership of  
12 properties for proposed routes. The County has requested that Ocean Wind  
13 submit requests through the New Jersey Open Public Records Act, but has also  
14 indicated that it may be preparing responses to Ocean Wind's requests. As of the  
15 date of this filing, outside of the OPRA process, Ocean Wind has not received  
16 responses from the County to its questions.

17 Ocean Wind has also engaged in communications with representatives of  
18 the Ocean City Crew Boosters, Inc., a non-profit corporation that has an  
19 agreement with Cape May County to use an area within County road ROW for  
20 recreation. These discussions remain positive and ongoing.

21 **Q. Has Ocean Wind submitted a formal offer to acquire the necessary**  
22 **easements from Cape May County?**



1 A. Yes. On April 12, 2022, Ocean Wind submitted a letter to Cape May County  
2 confirming that its proposed underground onshore export cable across certain  
3 roadways is on dedicated road right-of-way. The letter also contained a formal  
4 offer to acquire permanent and temporary easements across the specified County  
5 property, assuming the County deemed the area in question to be County-owned  
6 property and not within County road ROW. The letter included copies of  
7 drawings depicting the necessary easements across County-owned property.  
8 Specifically, Ocean Wind offered the County \$10,000 for the necessary  
9 easements. This offer was slightly more than ten times the estimated appraised  
10 value of the permanent easements. A true and correct copy of this April 12, 2022  
11 letter from Marc Reimer on behalf of Ocean Wind, to Judge Donohue on behalf  
12 of Cape May County, is attached hereto as Appendix J. Ocean Wind has yet to  
13 reach a resolution with Cape May County for Ocean Wind to acquire the  
14 necessary property rights.

15 **III. SUMMARY OF OCEAN WIND'S COMMUNITY OUTREACH**  
16 **AND ENGAGEMENT WITH CAPE MAY COUNTY**  
17

18 **Q. Did Ocean Wind engage in sufficient outreach with Cape May County prior**  
19 **to filing this petition?**

20 A. Yes. Beginning as far back as August 2019, immediately after the BPU awarded  
21 Ocean Wind the Project, and then subsequently in earnest in May 2021, Ocean  
22 Wind engaged in discussions with representatives of Cape May County, including  
23 the designated special counsel Judge Donohue and members of the County Board  
24 of Commissioners, to discuss the Project, potential benefits to the County,  
25 concerns raised by the County, and necessary approvals and consents needed from



1 the County for the NJDEP environmental permits. We routinely made ourselves  
2 available to answer questions, address concerns, and hold discussions regarding  
3 the Project; however, we were often met with delays when attempting to advance  
4 discussions and schedule meetings to discuss the Project and necessary County  
5 consents. This culminated in the September 28, 2021 letter in which Ocean Wind  
6 identified the approvals and consents needed by the Project for the NJDEP  
7 permits and to advance the state environmental review process. The September  
8 28, 2021 letter was followed by another letter on December 20, 2021, again  
9 requesting the County meet with Ocean Wind to discuss NJDEP permitting  
10 requirements and an explanation for the urgent timetable. While the subsequent  
11 meeting on January 12, 2022 was productive, the County Board of  
12 Commissioners then unanimously declined to provide consent for the NJDEP  
13 permit applications. Additionally, the Ocean Wind project team has regularly  
14 attempted to schedule follow up meetings with the County since the January 12,  
15 2022 meeting; however, as of the date of this filing, the County has not provided  
16 meeting date or time options to the Project.

17 **Q. Has the County given any indication that it would prospectively accept the**  
18 **requests made by Ocean Wind associated with the Project?**

19 A. Unfortunately, no. After all the discussions, meetings, and letters exchanged by  
20 Ocean Wind and Cape May County, there has been no indication that Cape May  
21 County will voluntarily provide Ocean Wind with any of the necessary approvals  
22 or consents for environmental permitting, or grant the required easements. That  
23 said, the County has cooperated with Ocean Wind in providing consent to



1 perform certain environmental surveys and to post required signage in advance of  
2 a Green Acres hearing for property owned by the City of Ocean City. However,  
3 due to the overall lack of cooperation from the County as described herein, Ocean  
4 Wind has determined that it must seek recourse with the Board as authorized by  
5 New Jersey law, to ensure that the Project deadlines are met. At all times, the  
6 Project team has been ready and willing to meet with the appropriate leadership  
7 and representatives of the County to discuss Ocean Wind's requests and the  
8 benefits the Project can provide to the County and its residents. Ocean Wind  
9 believes there is a lot that can be gained by the County through its involvement in  
10 the Project and welcomes the opportunity to reach an agreement with the County  
11 that addresses the County's concerns while enabling the Project to advance.  
12 However, Ocean Wind must ensure it secures the necessary approvals, easements,  
13 and consents so as to not delay the construction and operation of the Project and  
14 so that it can provide the State with clean energy and significant economic  
15 benefits.

16 **Q. Does this conclude your direct testimony at this time?**

17 A. Yes, it does.



# MADLINE URBISH

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## **PROFESSIONAL EXPERIENCE**

### **Ørsted Offshore North America**

#### ***Head of Government Affairs & Policy, NJ***

**Mar. 2021 – Present**

- Set and shape Ørsted's legislative and regulatory agenda to positively impact the emerging offshore wind market in North America and establish Ørsted as a thought leader on state-level issues affecting offshore wind, actively tracking and advancing relevant legislation and regulation
- Formulate political strategies to advance Ørsted's market interests and assist Ocean Wind's Project Development team in navigating the state and local regulatory processes
- Develop and maintain positive working relationships with the Governor's Office, state agencies, members of the Legislature, the New Jersey congressional delegation, and local elected officials
- Manage and coordinate Ørsted's team of external government affairs consultants, closely coordinate and maintain regular channels of communication with government affairs counterparts at PSEG, and serve as the primary point of contact for Ørsted with New Jersey stakeholders and regional trade associations
- Participate in global initiatives with Ørsted's international team of government affairs and public relations professional

### **River Crossing Strategy Group**

#### ***Senior Associate***

**Jan. 2019 – Mar. 2021**

- Represent and advise clients on New Jersey state politics and policies, including energy, transportation, environmental protection, agriculture, healthcare and vaccination, and anti-hunger initiatives, among other issues
- Develop and execute advocacy and engagement strategies to achieve clients' discreet and broad goals, including identifying key decision makers in state and local government and outside stakeholders, building and managing governmental and stakeholder relationships, and coordinating communications with decision makers, stakeholders, and clients
- Forge and maintain strong working relationships with principles and staff in the Governor's Office, Board of Public Utilities, Department of Environmental Protection, Legislature, and other state and local government entities
- Consult with and assist offshore wind client on developing its bid for competitive OREC solicitation, engaging with external stakeholders, and connecting with local, state, and federal government officials
- Track and analyze state legislation, work with clients to develop policy recommendations for bills, and coordinate with clients on delivering public testimony
- Assist in drafting state legislative and budget language in consultation with clients, legislators, legislative staff, executive branch staff, and other stakeholders
- Participate in the development of the firm's political giving strategy and its implementation

### **Office of Governor Phil Murphy**

#### ***Policy Advisor***

**Jan. 2018 – Jan. 2019**

- Advised the Governor and senior staff on all issues related to energy, environment, and agriculture policy
- Oversaw the implementation of key clean energy policies across multiple departments and authorities and the front office's response to emerging issues relating to energy, environment, and agriculture
- Shaped and provided feedback on regulations and legislation concerning offshore wind and solar energy, environmental protection, energy efficiency, agriculture, appropriations, viticulture, land preservation, environmental justice, water resources, and other policy portfolio issues



- Managed interdepartmental initiatives with the Board of Public Utilities, Department of Environmental Protection, Economic Development Authority, Department of Agriculture, Department of Health, Motor Vehicle Commission, Department of Labor and Workforce Development, the Port Authority of New York and New Jersey, and more
- Coordinated with New Jersey congressional delegation and staff on key issues including Federal Energy Regulatory Commission and RTO policy, the Clean and Drinking Water Revolving Fund, lead service line replacement resources, site remediation, and environmental justice.
- Supervised front office communications on energy, environment, and agriculture issues
- Met with stakeholders, including local government representatives, companies, advocates, and other interested parties to hear concerns, recommendations, and requests on a variety of energy, environmental, and agricultural issues on behalf of the Governor and front office

**New Jersey Audubon**

***Director, Coalition for the Delaware River Watershed***

**Dec. 2015 – Jan. 2018**

- Managed a four-state coalition made up of over 120 NGOs, including environmental conservation nonprofits, local watershed organizations, fishing and hunting associations, and clean water advocacy groups
- Led federal advocacy efforts, including passage of the Delaware River Basin Conservation Act and subsequent appropriations for the Delaware River Basin Restoration Program
- Managed strong, ongoing relationships with governmental and NGO partners, including local, state, and national elected officials and their staff, Coalition members, funders, and other governmental entities, including state agencies and the Delaware River Basin Commission
- Worked closely with congressional and federal agency staff on developing legislative language and strategies, producing program implementation plans, and communicating across agencies and the legislature
- Oversaw daily operations of the Coalition, such as supervising staff, overseeing multiple projects, managing budgets, and directing both internal and external communications
- Assisted the New Jersey Audubon government relations team on efforts to advance legislation at the state level

**Warwick Group Consultants, LLC**

***Senior Public Policy Advisor***

**Apr. 2015 – Dec. 2015**

- Conducted technical regulatory and legislative research on a variety of issues, including appropriations bills, flood insurance programs, and water and surface transportation infrastructure
- Tracked and analyzed federal legislation and developed policy recommendations to increase the efficacy and efficiency of the U.S. Army Corps of Engineers' flood risk management and shoreline protection programs
- Guided 13 county and municipal clients through the U.S. Army Corps of Engineers' civil works program to expedite shoreline protection studies and implementation resulting in clients receiving over \$5 million in federal funding
- Developed language for water resources legislation in coordination with congressional staff

**U.S. House of Representatives – Rep. Tony Cárdenas, CA-29**

***Legislative Intern***

**Jan. 2015 – Apr. 2015**

- Conducted legislative research and produced memos and briefs on a variety of issues including health care, education, and alternative sources of energy
- Provided independent policy analysis on several issues including Medicare and the "Doc Fix"
- Drafted speeches for the Congressman, including one-minute floor speeches

**The College of New Jersey – Center for Community Engaged Learning & Research**

***Policy and Public Relations Coordinator***

**Sep. 2011 – Dec. 2014**



- Managed external relations for the Center for Community Engaged Learning & Research, the Bonner Institute for Civic & Community Engagement, and the Trenton Prevention Policy Board
- Coordinated all policy and collective impact initiatives within the Center including the Trenton Prevention Policy Board, the Mercer County Reentry Task Force, and other community-based efforts
- Provided independent policy analysis on a variety of complex issues including juvenile delinquency, urban education, homelessness, and student democratic engagement, among others
- Managed a community-based coalition focused on addressing juvenile delinquency and promoting positive youth development in Trenton through policy and practice recommendations, including one which resulted in receiving a \$1.1 million grant from the New Jersey Attorney General's Office to implement a violence reduction strategy
- Produced reports, policy briefs, white papers, press releases, and other documents under various deadlines
- Established and maintained strong, on-going relationships with local, county, and state officials as well as over 20 community partner organizations

### **New Jersey State Legislature – Assemblywoman Bonnie Watson Coleman**

#### ***Legislative Research Aide***

**Sep. 2009 – Aug. 2011**

- Conducted research on a variety of issues for the Assemblywoman's legislative agenda, including secondary and higher education, expungement, and prisoner reentry
- Communicated on behalf of the Assemblywoman with constituents, state departments, and other organizations
- Staffed the Assemblywoman and Assemblyman Gusciora at various meetings, speaking engagements, and events.

### **ORGANIZATIONS & VOLUNTEER EXPERIENCE**

Chamber of Commerce of Southern New Jersey, Member, Board of Directors – Dec. 2021-Present

New Jersey Future, Member, Board of Trustees – Sep. 2021-Present

Lambertville City Council, Councilwoman – Dec. 2019-Dec. 2020

Lambertville Planning Board of Adjustments, Member – 2019

Lambertville Zoning Board of Adjustments, Member – 2017-2019

New Leaders Council–New Jersey, 2017 Fellow

Delaware River Greenway Partnership, Member, Board of Trustees – 2016-2018

### **EDUCATION**

<b>University of Pennsylvania</b> Master of Public Administration	<b>The College of New Jersey</b> Bachelor of Arts in History, Political Science
----------------------------------------------------------------------	------------------------------------------------------------------------------------

### **SKILLS**

- Exceptional interpersonal communication, public speaking, and writing skills developed through producing reports, memos, and comments, managing interdepartmental and coalition relations, and presenting at conferences
- Excellent ability to analyze and evaluate complex policies and develop multifaceted responses and solutions
- Strong leadership skills developed through managing staff, interdepartmental initiatives, and numerous projects
- Thorough knowledge of federal, state, and local legislative and budget processes
- Strong time management and organizational skills developed from project and personnel management
- Proven problem solving and management skills in a consistently changing and demanding workplace



## Appendix B

Joseph L. Fiordaliso  
President

Mary-Anna Holden  
Dianne Solomon  
Upendra Chivukula  
Bob Gordon  
Commissioners

State of New Jersey  
Governor Philip D. Murphy  
Lt. Governor Sheila Y. Oliver

Board of Public Utilities



[www.nj.gov/bpu/](http://www.nj.gov/bpu/)



### NOTICE<sup>1</sup>

**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 CERTAIN EASEMENTS AND CONSENTS NEEDED FOR CERTAIN  
ENVIRONMENTAL PERMITS IN, AND WITH RESPECT TO, THE COUNTY OF CAPE MAY ARE  
REASONABLY NECESSARY FOR THE CONSTRUCTION OR OPERATION OF THE OCEAN WIND 1  
QUALIFIED OFFSHORE WIND PROJECT**

Docket No. \_\_\_\_\_

Pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., and N.J.S.A. 48:3-87.1(f)(2), the New Jersey Board of Public Utilities ("NJBP" or "Board") hereby gives notice and invites all interested parties and members of the public to participate in a Public Hearing. The meeting will take place in two sessions to provide opportunity for increased public participation.

#### **PUBLIC HEARING SESSION #1**

**DATE:** \_\_\_\_\_

**START TIME:** 9:00 A.M.

**LOCATION:** Zoom Virtual Webinar

(Note: If you are typing in the URL, please use all UPPERCASE text.)

If you would like to speak during Session #1 of the public hearing, you must register via this form:

(Note: If you are typing in the URL, please use all UPPERCASE text.)

<sup>1</sup> Not a paid legal advertisement.  
LEGAL\57990180\1



## Appendix B

**Joseph L. Fiordaliso**  
**President**

Mary-Anna Holden  
Dianne Solomon  
Upendra Chivukula  
Bob Gordon  
**Commissioners**

**State of New Jersey**  
Governor Philip D. Murphy  
Lt. Governor Sheila Y. Oliver



**Board of Public Utilities**



[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

### **PUBLIC HEARING SESSION #2**

**DATE:** \_\_\_\_\_  
**START TIME:** 5:30 P.M.

**LOCATION:** Zoom Virtual Webinar  
(Note: If you are typing in the URL, please use all UPPERCASE text.)

If you would like to speak during Session #2 of the public hearing, you must register via this form.  
(Note: If you are typing in the URL, please use all UPPERCASE text.)

**Please note that both sessions of this meeting will be conducted via Zoom. If you would like to speak during the public hearing, you must register for a session before attending via one of the registration links provided above.** We encourage stakeholders to check the webinar system requirements ahead of the meeting.

On May 18, 2022, Ocean Wind LLC ("Ocean Wind"), filed a Verified Petition with the Board under BPU Docket No. \_\_\_\_\_, together with supporting testimony and exhibits. The Verified Petition seeks the Board's determination that certain easements upon, across and under property owned by the County of Cape May ("Cape May County"), and consents needed from Cape May County for certain environmental permits in, and with respect to Cape May County, are reasonably necessary for the construction or operation of the Ocean Wind 1 Qualified Offshore Wind Project ("Project"). The property at issue is identified on the Official Tax Map of Ocean City as Block 3350.01, Lot 17.01 owned in fee by Cape May County.

The easements and related consents sought in the Verified Petition concern a segment of the onshore cable route that is proposed to be constructed in Cape May County. The onshore cable route will help transmit power from Ocean Wind's 1,100 MW offshore wind farm to load centers in the state.



## Appendix B

**Joseph L. Fiordaliso**  
**President**

Mary-Anna Holden  
Dianne Solomon  
Upendra Chivukula  
Bob Gordon  
**Commissioners**

**State of New Jersey**  
Governor Philip D. Murphy  
Lt. Governor Sheila Y. Oliver



### **Board of Public Utilities**



[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

A copy of this Notice of Public Hearing on the Verified Petition is being served upon the Clerk and governing body of the County of Cape May, the Clerk and Administrator of the Board of County Commissioners of the County of Cape May, the Cape May County Clerk, the Department of Law & Public Safety, New Jersey Division of Law, the Director of the New Jersey Division of Rate Counsel, and the Commissioner of the New Jersey Department of Environmental Protection. This Notice is also being provided to the local news media. A copy of the Verified Petition, supporting documents and supplemental materials will be made available on the Board's website at: [BOARD OF PUBLIC UTILITIES \(state.nj.us\)](http://BOARD OF PUBLIC UTILITIES (state.nj.us)).

The Board has the statutory authority pursuant N.J.S.A. 48:3-87.1(f) to determine whether the requested easements are reasonably necessary for the construction or operation of the Project, and if such a determination is made, the Board shall issue an order approving the acquisition of the requested easements and related approvals. The Board intends to review and consider input from the public in making their determination.

Representatives from Ocean Wind will be asked to present an overview of the project at both sessions. Board Staff and the New Jersey Division of Rate Counsel will participate in both sessions. Members of the public are invited to virtually attend and present their views on this matter by registering through the above links.

### **Comments**

In order to encourage full participation in this opportunity for public comment, please submit any requests for needed accommodations, such as interpreters, or listening assistance, 5 days prior to the above hearings to the Board Secretary at [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov).

The Board will also accept written and/or electronic comments. While all comments will be given equal consideration and will be made part of the final record of this proceeding, the preferred method of transmittal is via the Board's [Public Document Search](#) tool. Search for the docket number listed above, and post by utilizing the "Post Comments" button. Emailed comments may also be filed with the Acting Secretary of the Board, in pdf or Word format, to [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov).

Written comments may be submitted to the Acting Board Secretary, Carmen Diaz, at the Board of Public Utilities, 44 South Clinton Avenue, 1st Floor, P.O. Box 350, Trenton, New Jersey 08625-0350. All emailed or mailed comments should include the name of the Petition and the docket number.

**The deadline for comments on this matter is 5:00 P.M. ET on \_\_\_\_\_, 2022.**

All comments are considered "public documents" for purposes of the State's Open Public Records Act. Commenters may identify information that they seek to keep confidential by submitting them in accordance with the confidentiality procedures set forth in N.J.A.C. 14:1-12.3.



**OCEAN WIND, LLC**  
c/o Orsted North America, Inc.  
399 Boylston Street, 12<sup>th</sup> Floor  
Boston, MA 02116

May 13, 2021

Gerald Thornton, Commissioner Director  
Cape May County  
4 Moore Road  
Cape May Court House, NJ 08210

Re: Ocean Wind, LLC Offshore Wind Generation Project

Dear Commissioner Director Thornton:

We at Ocean Wind, LLC would like to thank you for your valuable time and perspectives during these past two years of Project Development. As we enter the next phase of the permitting process for the Ocean Wind Project, we aim to continue to work together in order to support our local communities and Cape May County as a whole.

As part of Ocean Wind's development efforts, the development of the offshore wind generation project that has been awarded to Ocean Wind by the New Jersey Board of Public Utilities, we propose a team of Ocean Wind officials from the Project meet jointly with you or your designee, representing the government leadership in Cape May County in order to:

1. share updates as to the progress of the Project and answer any questions you might have; and
2. discuss additional benefits the Project can provide to the community of Cape May County as development proceeds.

This is an exciting time for clean energy and the people of New Jersey. We look forward to the opportunities and remain committed to an open dialog and to continuing to work together in support of Cape May County, its residents, and the Ocean Wind Project,

A member of our team will reach out to schedule a meeting with the Cape May County delegation, but in the meantime, please feel free to contact Marc Reimer, Project Director at (857) 276-1725 or to coordinate a convenient time and framework for such a meeting that is most appropriate/suitable for you

I look forward to our discussions regarding this matter.

Sincerely,



Aaron Bullwinkel, Senior Legal Counsel  
Ørsted Offshore North America

cc(by e-mail): Kevin Lare, Acting Administrator  
cc(by e-mail): Jeffrey Lindsay, Counsel



# Ocean Wind Project

Cape May County Meeting

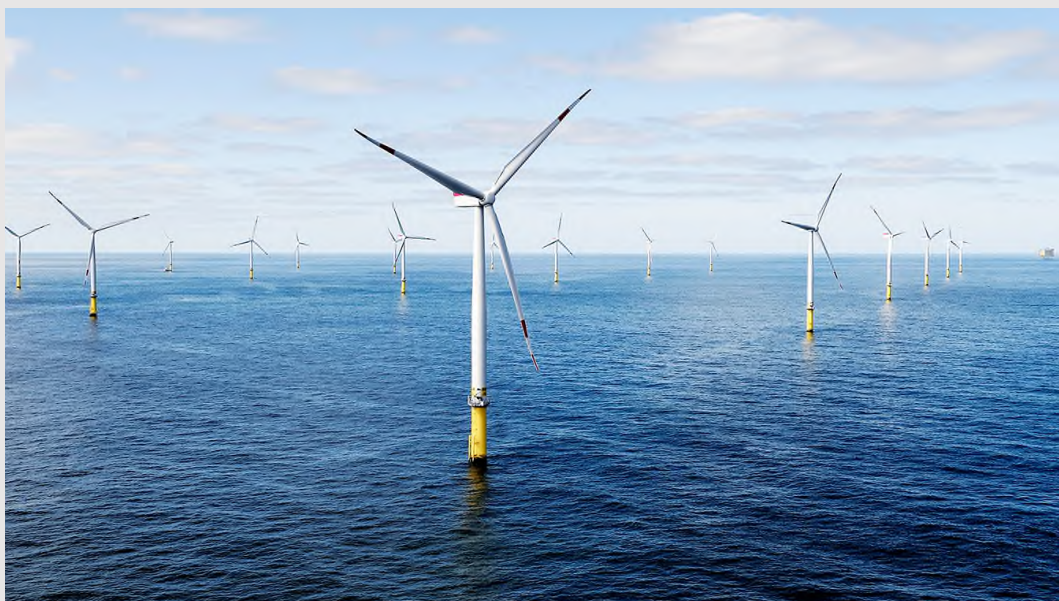
May 24, 2021

**Ocean Wind**  
An Ørsted & PSEG project





# Investing in New Jersey's Clean Energy Future



- The State of New Jersey has set an ambitious goal of generating 7,500 MW of offshore wind energy by 2035, which will provide 3.2 million New Jersey homes with clean, renewable energy and meet around 50 percent of the state's electric power need.
- The Ocean Wind Project will remove 110 million tons of CO<sub>2</sub> during the project's 25+ year lifespan. That's the equivalent of removing 21.6 million cars off Jersey's roads.
- Ocean Wind will play a key role in helping the State achieve this goal by generating more than 1,100 MW of clean energy for New Jersey homes and businesses – enough to power an average of 500,000 homes annually.



# Project Overview - Ocean Wind



- **Project overview**
- Wind Farm is located 15-27 miles off the coast of Southern New Jersey.
- 1,100 MW – Enough power for 500,000 average homes
- Up to 98 turbines to be installed.
- Commercial operations expected by the end of 2024.
- Ocean Wind is a 75/25 Joint Venture with PSEG
- Notice of Intent (NOI) issued March 30, 2021
- Draft Environmental Impact Statement scheduled May 2022
- Final Environmental Impact Statement scheduled February 2023



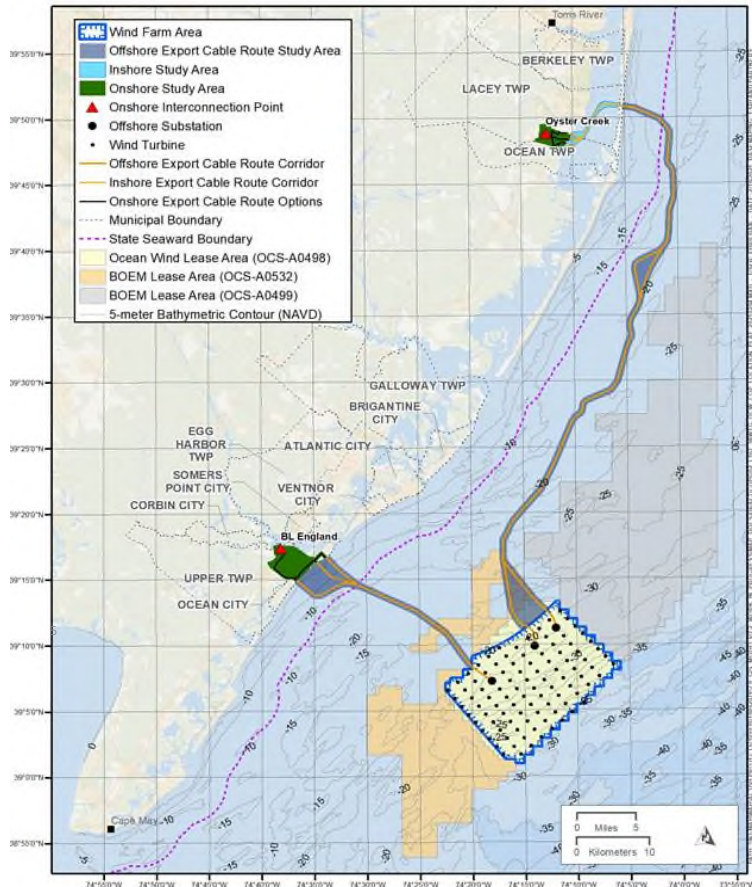
# Ocean Wind Project Benefits



- State Project Spend: Ocean Wind anticipates \$695 million will be expended in New Jersey
- Jersey Jobs: During construction Ocean Wind will create more than 1,000 direct jobs per year through the development and three-year construction cycle.
- Pro-NJ Grantor Trust: Ocean Wind has presented an opportunity for local businesses and has invested \$15 million in the Pro-NJ Grantor Trust. The Trust offers small, women-owned and minority owned businesses support in entering the emerging offshore wind industry. The Trust also provides funding for coastal resiliency projects in Ocean, Atlantic and Cape May Counties. Oversight of the Trust is provided by a group of volunteer Trustees.



# Ocean Wind Design



## Offshore Project Description:

- Up to three offshore export cables buried under the seabed floor within two cable corridors
- Northern cables cross Island Beach State Park and will be installed underground using trenchless technology to minimize disturbance on the barrier island
- During Construction Ocean Wind will:
  - Onshore: Minimize construction activities during summer recreation and tourism season
  - Offshore: Inform recreational and commercial boating and fishing communities in advance of activities
- Ocean Wind considers impacts during construction such as:
  - potential seabed / land disturbance
  - habitat conversion / noise / traffic
  - visible structures / lighting



# Ocean Wind Onshore: Cape May County



## Onshore Project Description:

- Project requires two points of interconnection .
  - Oyster Creek (Lacey Township)
  - BL England (Upper Township)
- Onshore cable routes were developed to utilize existing, disturbed rights of way. Majority of cables will be buried.
- **No construction during summer months or local summer tourism season on the barrier islands.**
  - Ocean Wind is exploring three potential landfalls: 5th Street, 13th Street, 35th Street
  - Landfall on 35<sup>th</sup> street (and routing continuance from 5<sup>th</sup> or 13<sup>th</sup> street options) would follow Roosevelt Blvd into Upper Township and then North Shore Road to BL England.



# Underground Cables - Onshore



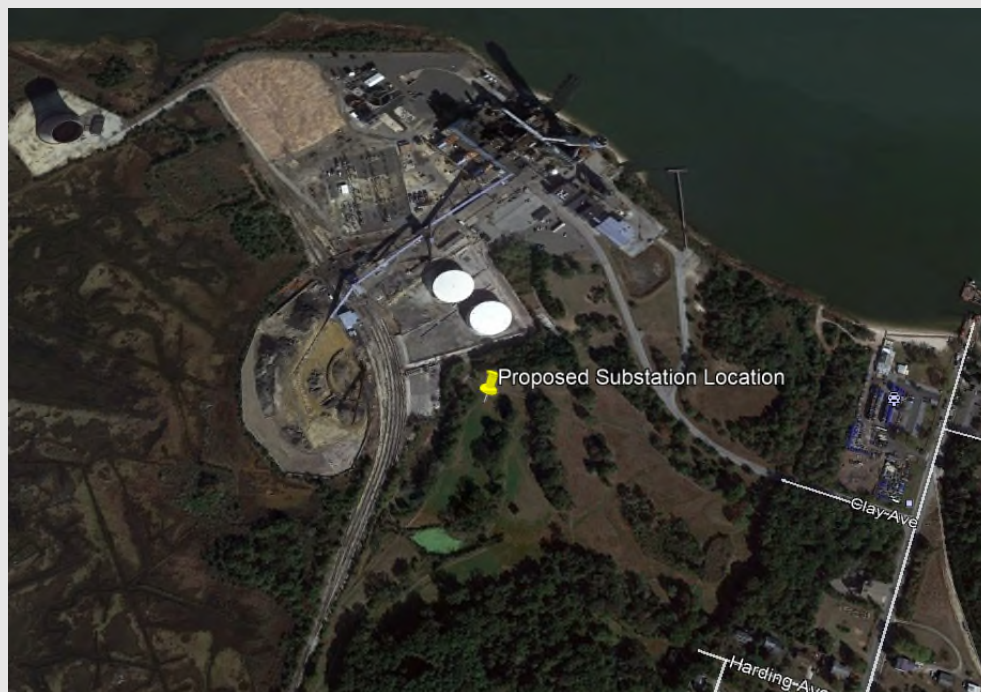
## Onshore Cables

- Onshore cables are planned to mostly be installed in existing utility rights of way.
- Planned to be buried a minimum of 3-feet deep.
- Restoration of roadways will be completed following construction.



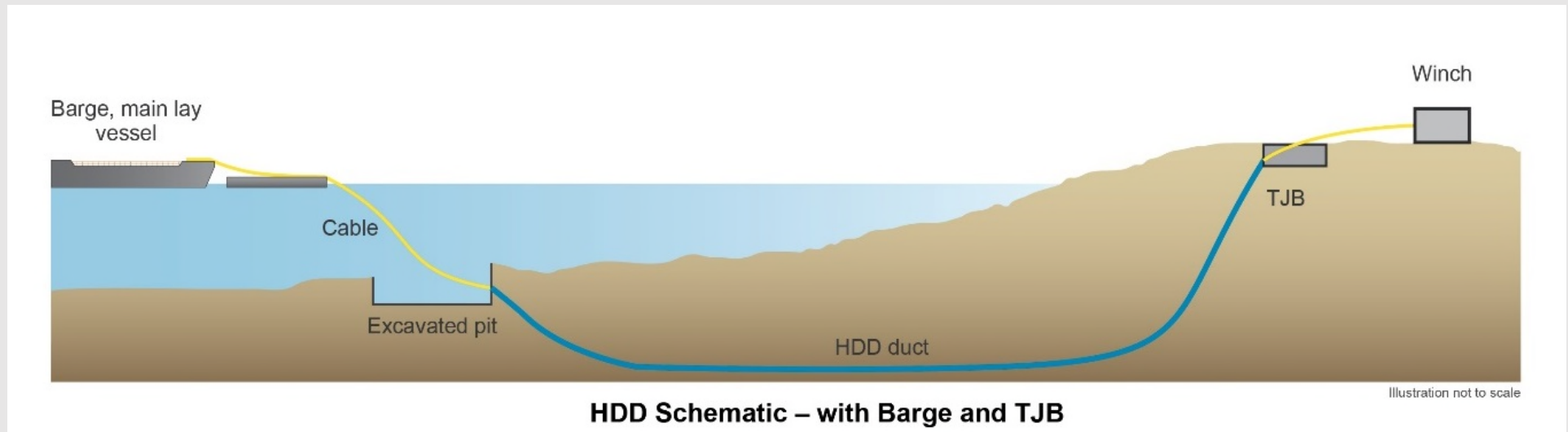
# BL England Overview

Images below show the proposed location and over-lay of the onshore substation associated with B.L. England. Note: The over-lay is just an indicative view as the design is not final.





# Beach Landing: Cape May County, Ocean City



**HDD Schematic – with Barge and TJB**

Illustration not to scale



# Offshore Wind Turbine

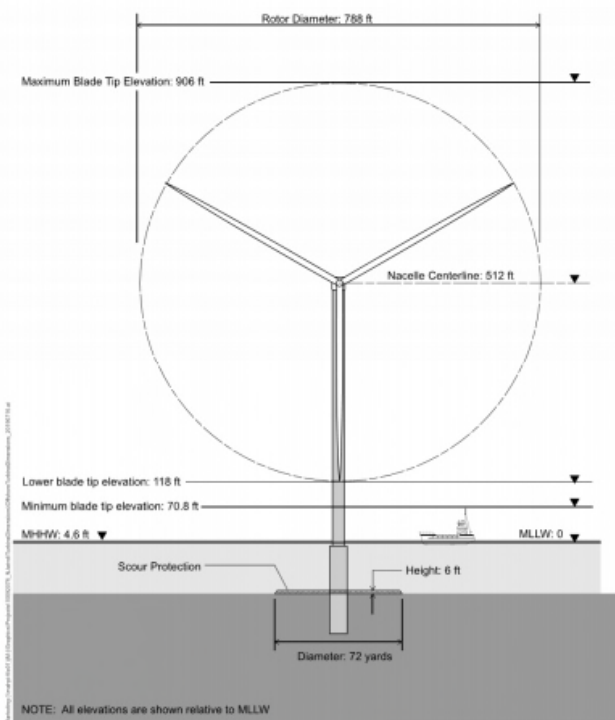


Figure 6.1.1-2 - Maximum design scenario for wind turbines.





# Investing in South Jersey Manufacturing

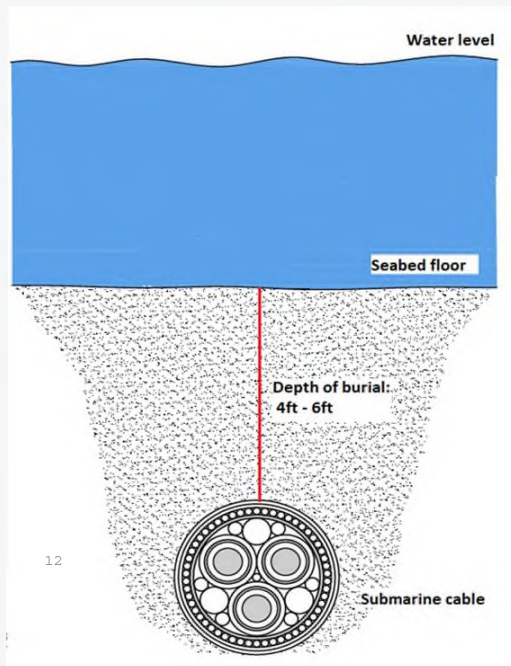
## **EEW Paulsboro Monopile Factory**

- Approx. 500,000 sq. ft. of Manufacturing Space over Six Buildings
- 80 Acres of Land for Manufacturing and Storage
- Heavy Quayside at Paulsboro





# Ocean Wind Export Cables - Offshore

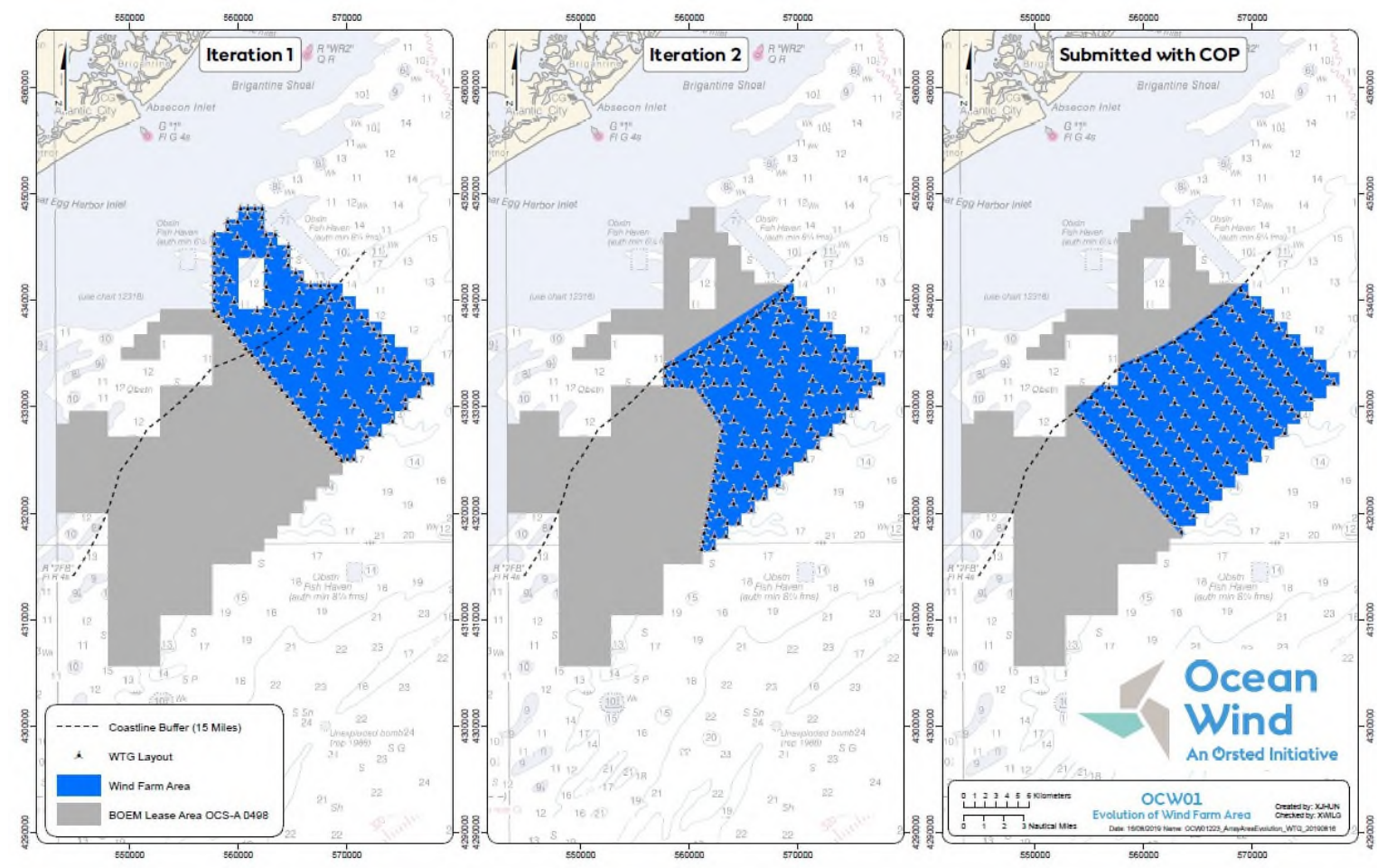


## Offshore Export Cables

- The export cables, both to BL England and to Oyster Creek will be buried at a depth between 4 and 6 feet or as required by regulation and the cable burial risk assessment analysis
- State of the art equipment and vessel technology will be used for installation



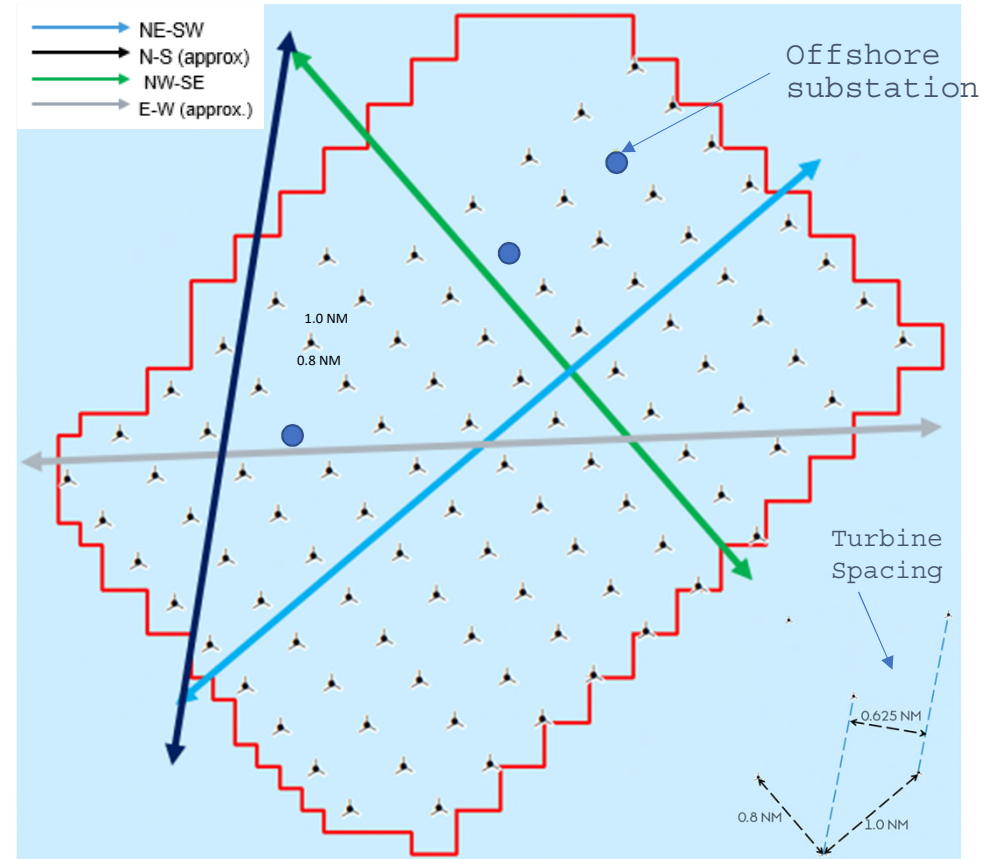
# Evolution of the Project Area





# Vessel Navigation

- Grid layout with turbine spacing 1nm x 0.8nm.
  - Clear lines of transit NW – SE, NE – SW, E – W, N – S.
  - Northern-most corridor greater than 1nm.
- Turbine spacing provides for vessels moving through and fishing within the array.
- Consistent turbine marking and lighting to aid navigation and safety operations in accordance with USCG guidelines.
- Navigational Safety Risk Assessment included in the COP.

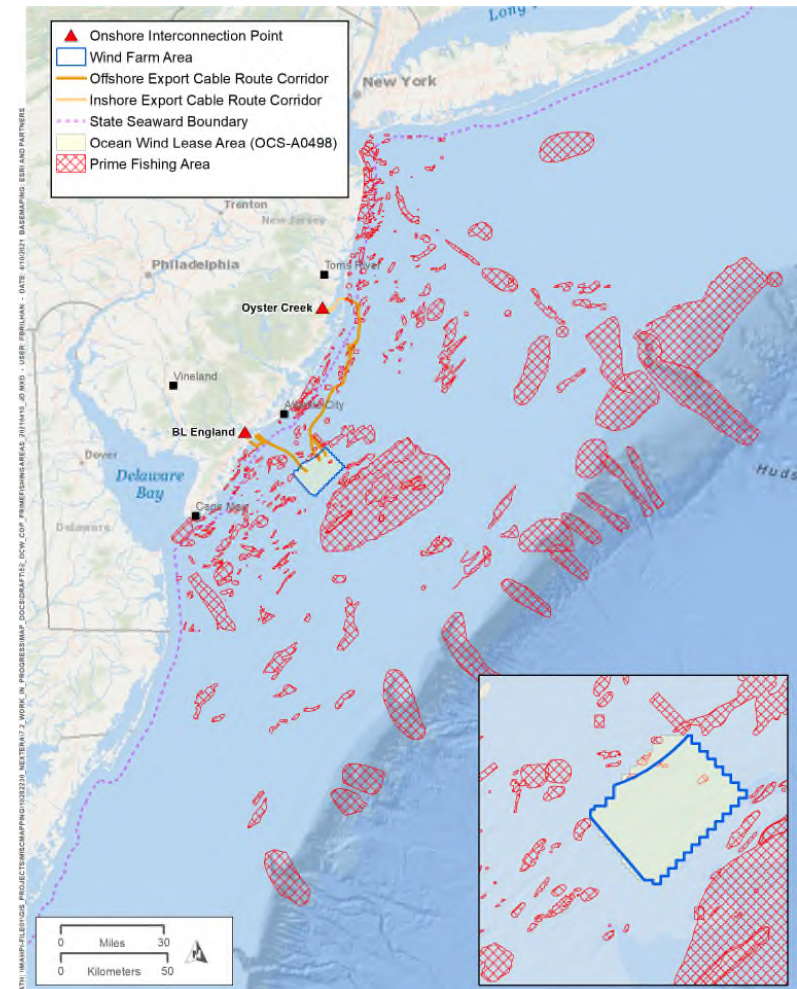




# Fisheries review and surveys

## Available data include:

- **Northeast Fisheries Science Center Seasonal Trawl Studies:** conducted between 2003 and 2016.
- **USACE Otter Trawl Surveys:** Surveys conducted 1994 to 1999.
- **Virginia Institute of Marine Science:** Seasonal nearshore bottom trawl surveys have been conducted annually since 2007.
- **National Marine Fisheries Service:** Seasonal annual bottom trawl surveys since 1999.
- **NJ Ocean Trawl Program:** Seasonal trawl surveys conducted annually for last 30 years.
- **Available GIS data:** prime fishing areas, artificial reefs, shellfish habitat, migratory finfish pathways, etc.

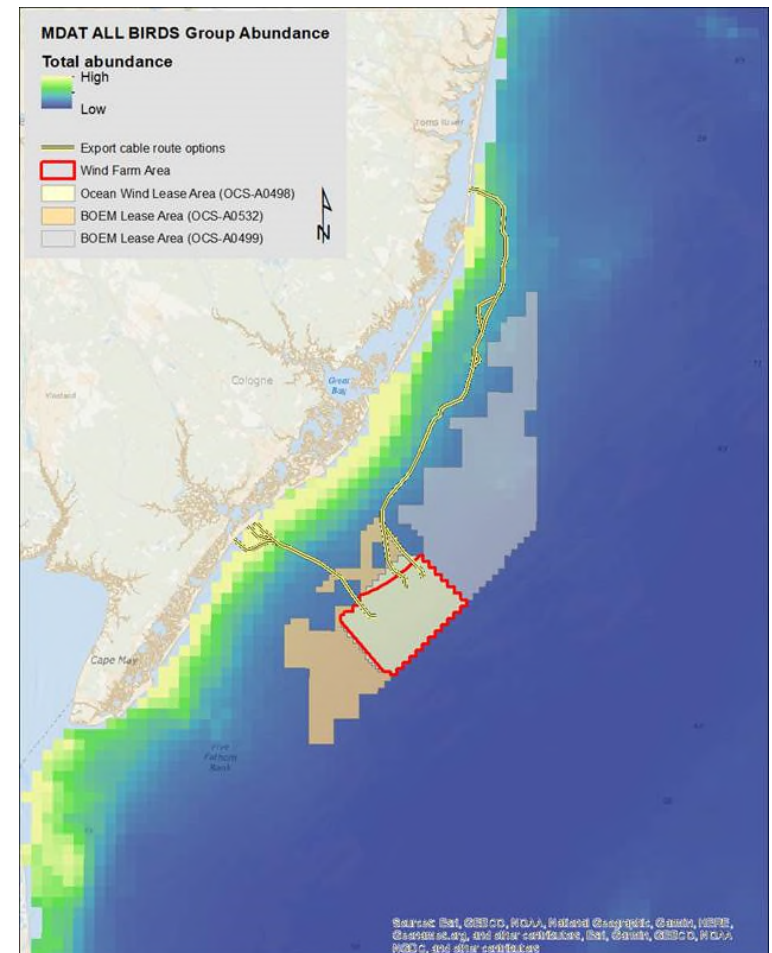




# Avian Assessment for Ocean Wind

## Available data:

- **NJDEP Ecological Baseline Survey Avian Boat-based Surveys:** 23 monthly surveys over two years ('08 –'09).
- **Marine Bird Abundance Models, Marine-Life Data and Analysis Team (MDAT):** Regional-scale seasonal predictions of density for 47 species. 1978 -2016.
- **Northwest Atlantic Seabird Catalog:** Survey records from 1978-2017.
- **Tracking studies:** diving birds, falcon, listed species.





# Windfarm Lighting

## Aircraft Lighting

- Aircraft warning lights will be located on the top of each turbine.
- Ocean Wind intends to incorporate an Aircraft Detection and Lighting System (ADLS). This system activates the aircraft warning lights only when an aircraft is within the vicinity of the wind farm during low light and night conditions.
- To understand how often the aircraft warning lights would be activated, Ocean Wind has studied historical air traffic data for flights passing within the vicinity of the wind farm.
- During the operational phase, it is estimated the lights would be active for a total of only a few hours spread over a one-year period.
- The use of ADLS is contingent on BOEM approval and compliant with Federal Aviation Administration (FAA) guidelines.

## Navigation Safety Lighting

- For marine navigation purposes, the structures will be lit in accordance with USCG offshore structure Private Aids to Navigation marking guidance. The structures will be equipped with continuous amber flashing lights that will be visible for a maximum distance of 5 nm (not visible from shore).





# Ocean Wind Visibility Study

Weather and atmospheric conditions change over the course of each day and season, making it difficult for the average observer to recognize turbine blades at distances >15 miles.

- Curvature of the earth
- Atmospheric conditions
- The thinness of the blades
- Cloud cover
- The time of day
- Haze and fog may have the greatest impact on potential visibility.





## Next Steps:

- Continued engagement with local municipal and county officials.
- Continue proactive discussions with community leaders and the fisheries
- Information sessions to engage with community members and local residents





## Key Ocean Wind Contacts:

- Maddy Urbish: Head of Government Affairs & Policy, NJ  
[MAURB@orsted.com](mailto:MAURB@orsted.com)
- Jim Gilroy: PSEG State Affairs  
[james.Gilroy@pseg.com](mailto:james.Gilroy@pseg.com)

# Thank you!





**Keith A. Davis**  
Partner

[kdavis@ndglegal.com](mailto:kdavis@ndglegal.com)

4030 Ocean Heights Avenue  
Egg Harbor Township, NJ 08234

t 609 927 1177  
f 609 926 9721

September 2, 2021

**Via Email: [michael@blaneydonohue.com](mailto:michael@blaneydonohue.com)**

Hon. Michael J. Donohue, J.S.C., Ret.  
Blaney Donohue Karavan & Weinberg, P.C.  
2123 Dune Drive – Suite 11  
Avalon, NJ 08202

RE: Ocean Wind, LLC  
Our File No. 12760-1

Dear Judge Donohue:

Our firm represents Ocean Wind, LLC with respect to the 1,100 Megawatt offshore wind project to be located approximately 15 miles off the coast of southern New Jersey.

I am requesting a meeting with certain members of the Cape May County Board of Commissioners to update them as to the status of the project and certain applications that will soon be submitted in connection with the project. We did not want to have these applications submitted without first apprising the Commissioners as to the reasons for the submissions and to just give a general overview as to where we stand. We will of course be in a position to answer any questions the Commissioners or you may have.

My assistant, Kathy Merryfield will reach out to your office to obtain some dates and times for our project team to meet with you.

We look forward to continuing our discussions. Thank you very much.

Very truly yours,

NEHMAD DAVIS & GOLDSTEIN, P.C.

By: 

KEITH A. DAVIS  
[kdavis@ndglegal.com](mailto:kdavis@ndglegal.com)

KAD/km

- c. Madeline Urbish, Head of Government Affairs & Policy, NJ (via email: [maurb@orsted.com](mailto:maurb@orsted.com))  
James Gilroy, PSEG Services Corp. (via email: [James.Gilroy@pseg.com](mailto:James.Gilroy@pseg.com))  
Matthew McDermott, Senior V.P. (via email: [mmcdermott@kzgrp.com](mailto:mmcdermott@kzgrp.com))  
Thomas Suthard (via email: [TOSUT@orsted.com](mailto:TOSUT@orsted.com))

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September 28, 2021

Kevin Lare, Acting Administrator  
Board of County Commissioners, Cape May County  
4 Moore Road  
Cape May Courthouse, NJ 08210

**Re: Ocean Wind 1 Qualified Offshore Wind Project**

Dear Mr. Lare:

Pursuant to N.J.S.A. 48:3-87.1 *et seq.*, Ocean Wind, LLC (“Ocean Wind”) is writing to formally provide the County of Cape May (“County” or “Cape May County”) with notice of specific requests pertaining to the Ocean Wind 1 Project (“Ocean Wind 1” or “Project”). Ocean Wind and the County have been engaged in ongoing discussions related to the Project since the New Jersey Board of Public Utilities approved Ocean Wind 1 as a Qualified Offshore Wind Project in June 2019.<sup>1</sup>

As discussed further below, Ocean Wind will require certain permits, approvals and consents from Cape May County for the Project. Ocean Wind therefore respectfully requests that the County provide the following:

**Permits/Approvals for the Onshore Cable Route:**

- Cape May County’s consent for the Project to apply for New Jersey Department of Environmental Protection (NJDEP) Division of Land Resource Protection (DLRP) permits. This consent includes: (1) approval to perform the regulated activities on County land/property; (2) consent for the NJDEP to enter County property; and (3) Cape May County sign-off on Property Owner Certification Form as required for application submission relevant to County property/roads/rights-of-ways. NJDEP DLRP permits requiring Cape May County consent are anticipated to include:
  - NJDEP DLRP Multi-Permit Application
    - In-Water Waterfront Development Permit for HDD installation below mean high water
    - Coastal Areas Facility Review Act (CAFRA) Permit and Coastal Consistency Determination
    - Coastal Wetlands Permit
    - Freshwater Wetlands Permit, Transition Area Waiver(s)
  - Geotechnical Survey Investigation Permits (if additional surveys required)

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<sup>1</sup> *In re Bd. of Pub. Utilities Offshore Wind Solicitation for 1,100 MW*, NJ BPU Docket No. QO18121289 (June 21, 2019).



- Permissions / easement for NJDEP Bureau of Tidelands Management Tidelands Grant or License for portion of the onshore cable route across mapped tidelands where Cape May County is the upland owner (if required).
- Road Opening permits and Highway Occupancy permits (if required) from Cape May County Department of Public Works for the portion of the onshore cable route within County rights-of-ways, including Roosevelt Boulevard (CR-623), Bay Avenue (CR-656) and part of 35th Street in Ocean City and utility/access agreements from the County to support maintenance and operation of the onshore cable within County rights-of-ways.
- Road opening permits from the Cape May County Department of Public Works for the portion (if required) of the onshore cable route along County roadways (Sea Isle Boulevard (CR-623) and the crossing of Landis Avenue (CR-619)) and utility/access agreements from the County to support maintenance and operation of the onshore cable within County rights-of-way.
- Cape Atlantic Conservation District Erosion and Sediment Control Approval for the cable installation.
- Signatures / approval on NJDEP Short Term de Minimis General Permit (B7) for groundwater discharge resulting from construction dewatering activities (if required).
- Signatures on NJDEP Temporary Dewatering permits for water withdrawal from construction dewatering activities (if required).
- Cape May County's consent to an application to the NJDEP for a diversion of Green Acres property within Ocean City (if required). The Green Acres diversion involves the following property:

Requirement	Property Name/Description	Owner	Municipality	Block	Lot
HDD onshore cable route	Roosevelt Blvd bridge crossing South (East)	Cape May County	Ocean City	3350.01	17.01

**Permits/Approvals for BL England Substation:**

- Cape May County Planning/Site Plan Approval from Cape May County Planning Department for construction.
- Cape Atlantic Conservation District Erosion and Sediment Control Approval for the substation construction.



Ocean Wind looks forward to our continued collaboration with Cape May on the items described above.

Sincerely,

---

Marc Reimer  
Project Development Director

C: Gerald M. Thornton, Commissioner Director  
Leonard Desiderio, Commissioner Vice Director



December 20, 2021

By E-mail:  
Michael Donohue, Special Counsel  
Board of County Commissioners  
Cape May County  
4 Moore Road  
Cape May Courthouse, NJ 08210

Re: Ocean Wind 1 Qualified Offshore Wind Project

Dear Mr. Donohue:

Ocean Wind LLC (“Ocean Wind”) is writing to provide Cape May County (“County”) with an update of certain matters pertaining to the Ocean Wind 1 Project (“Ocean Wind 1” or “Project”), particularly regarding permitting needs and timeline. Specifically, Ocean Wind respectfully requests that Cape May County provide consent to Ocean Wind’s submission of permit applications to the Division of Land Use at the NJ Department of Environmental Protection (“NJDEP”), in order to allow for the initiation of the environmental review process no later than January 21, 2022. Enclosed you will find a letter from the New Jersey Department of Environmental Protection (“NJDEP”), which confirms the permitting requirements for Ocean Wind 1 and supporting details for the timeline we outline below. Additionally, you will find attached previous correspondence with the County for your reference.

The information provided in this letter and the attachments has been communicated previously in meetings and via written correspondence.

#### Permitting Needs

Ocean Wind will need consent from the County for its permit applications to the NJDEP in order to allow the agency to begin its environmental review of the Project. Specifically, Ocean Wind will need Cape May County to provide consent to the submission of permit applications to the NJDEP Division of Land Use **no later than January 21, 2022**. This consent by the County will not confer land rights to the Ocean Wind Project, but rather will simply allow for the initiation of environmental review through the state permitting process. These applications include, but are not limited to, applications for authorization under the Waterfront Development Act, Wetlands Act of 1970, Coastal Area Facilities Review Act, Flood Hazard Area Control Act, and Freshwater Wetlands Protection Act. Details on these and other permitting needs can be found in the letter sent to the County by Ocean Wind in September of 2021, which is included in the attachments to this letter.



The Ocean Wind Project team is ready and able to meet with you and appropriate County leadership and staff to discuss this renewed request for consent, as well as additional benefits the Project can provide to the community in the County as development proceeds.

Sincerely,

Marc Reimer  
Project Development Director, Ocean Wind  
Ørsted Offshore North America

CC (by e-mail):  
Gerald Thornton, Commissioner Director  
Cape May County

Kevin Lare, County Administrator  
Cape May County

Jeffrey Lindsay, Counsel  
Cape May County

William Cook, Special Counsel  
Cultural Heritage Partners

Aaron Bullwinkel, Senior Legal Counsel  
Ørsted Offshore North America

Christine A. Roy, Esquire  
Rutter & Roy, LLP





# BLANEY - DONOHUE & WEINBERG, P.C.

William G. Blaney, Esquire\*

Michael J. Donohue, Esquire†□

Kyle D. Weinberg, Esquire

Frank Guaracini, III, Esquire+

John R. Dominy, Esquire\*+

Charles E. Schlager, Jr., Esquire+

Keith Davis, Esquire  
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4030 Ocean Heights Avenue  
Egg Harbor Township, NJ 08234  
Via email to: kdavis@ndglegal.com

February 11, 2022

Re: Ocean Wind 1 – County Consent to Ocean Wind 1 NJDEP Permit Applications Submission

Dear Keith:

As you know, I am handling certain aspects of the County of Cape May's interface with the Ocean Wind 1 ("OW1") project, to which you are providing certain representation. OW1 has requested that the County provide its consent to the submission by OW1 of a multi-part permit application to the New Jersey Department of Environmental protection, presumably under NJAC 7:7-23.2(g), at minimum, inasmuch as County rights-of-way are proposed for the placement of OW1 facilities.

The County found the meeting that was conducted on January 12, 2022, to be productive and is willing to continue dialogue with OW1 representatives. A meeting during the latter part of February has been discussed but we will need to avoid February 22, 2022, as that is a Board Meeting day.

However, the Board was unanimous in its decision to decline its consent at this juncture. While the Board, like all governing bodies, is not typically in the habit of revealing the contents of its deliberations, I was specifically instructed to indicate that the recent filing of a Petition with the New Jersey Board of Public Utilities aimed at taking certain interests in public property for private use from the City of Ocean City was not helpful. The Board believes dialogue with both Ocean City and the County of Cape May should have continued and that internal OW1 timelines should not have been viewed so rigidly as to lead to this disruptive and legally unprecedented step against a major component municipality of the County of Cape May.

Most Sincerely,

  
Michael J. Donohue

† Also a Member of the U.S. Supreme Court Bar  
□ Former Judge of the New Jersey Superior Court  
\*\* Also a Member of the New York Bar  
\* Also a Member of the Pennsylvania Bar  
+ Of Counsel

2123 Dune Drive – Suite 11  
Avalon, NJ 08202  
Ph. 609-435-5368  
Fx. 609-435-5473



Page 2 of 2

Cc list – all via email:

Members of the Cape May County Board of Commissioners

Kevin Lare, County Administrator

Jeff Lindsay, Esquire, County Counsel

Greg Werkheiser, Cultural Heritage Partners

Dorothy McCrosson, Esquire, City Solicitor, City of Ocean City

Janice, Schneider, Esquire, Orsted

Aaron Bullwinkel, Esquire, Orsted



**Keith A. Davis**  
Partner

kDavis@ndglegal.com

4030 Ocean Heights Avenue  
Egg Harbor Township, NJ 08234

t 609 927 1177

f 609 926 9721

February 18, 2022

**Via Email: [michael@blaneydonohue.com](mailto:michael@blaneydonohue.com)**

Hon. Michael J. Donohue, J.S.C., Ret.  
Blaney Donohue Karavan & Weinberg, P.C.  
2123 Dune Drive – Suite 11  
Avalon, NJ 08202

RE: Ocean Wind, LLC  
Our File No. 12760-1

Dear Judge Donohue:

Thank you for your letter of February 11, 2022 on behalf of Cape May County. We agree that the January 12, 2022 meeting was productive and appreciate the County's willingness to have ongoing dialogue.

While we understand the County's disappointment with the filing of a petition with the Board of Public Utilities in regard to the City of Ocean City, I want to make sure your client understands that Ocean Wind, LLC ("Ocean Wind") would have preferred to not make such a filing. Ocean Wind would have much rather had successful dialogue with the City of Ocean City that resulted in a voluntary agreement allowing Ocean Wind to acquire the property rights and municipal consents necessary for the Project to proceed. Unfortunately, after years of such discussions, the City of Ocean City was unwilling to come to such an agreement and allow the project to acquire the necessary easements or submit applications to the State to initiate critical environmental reviews.

Ocean Wind believes that Cape May County is in a unique position to bring the City of Ocean City and it together so that there can be an amicable resolution for all parties involved. While Ocean Wind has some flexibility in terms of the timing of its applications pertaining to County-owned property to various government entities, it was apparent to Ocean Wind that the City of Ocean City had no desire to have such meaningful dialogue, necessitating the BPU filing.

While the BPU filing has been made, there is nothing stopping the parties from continuing to have discussions and Ocean Wind has expressed its willingness to participate in this dialogue. We look forward to continuing to meet with the County to continue our discussions and ask for a date, time and location that is convenient to you, your co-counsel and client.



Hon. Michael J. Donohue, J.S.C., Ret.  
February 18, 2022  
Page 2

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Thank you very much.

Very truly yours,

NEHMAD DAVIS & GOLDSTEIN, P.C.

By: 

\_\_\_\_\_  
KEITH A. DAVIS

[kdavis@ndglegal.com](mailto:kdavis@ndglegal.com)

KAD/km

- c. Greg Werkheiser, Esquire (via email: [greg@culturalheritagepartners.com](mailto:greg@culturalheritagepartners.com))  
Jeffrey Lindsay, Esquire (via email: [Jeffrey.Lindsay@CO.CAPE-MAY.NJ.US](mailto:Jeffrey.Lindsay@CO.CAPE-MAY.NJ.US))  
Dorothy McCrosson, Esquire (via email: [dmccrosson@ocnj.us](mailto:dmccrosson@ocnj.us))  
Madeline Urbish, Head of Government Affairs & Policy, NJ (via email: [MAURB@orsted.com](mailto:MAURB@orsted.com))  
Aaron Bullwinkel, Esquire (via email: [AARBU@orsted.com](mailto:AARBU@orsted.com))  
Marc Reimer, Project Development Director (via email: [MREIM@orsted.com](mailto:MREIM@orsted.com))  
Thomas Suthard, Stakeholder Relations Manager, NJ (via email: [TOSUT@orsted.com](mailto:TOSUT@orsted.com))

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April 12, 2022

**BY FEDEX AND & ELECTRONIC MAIL**

Michael Donohue, Esq., Special Counsel  
Board of County Commissioners, Cape May County  
4 Moore Road  
Cape May Courthouse, NJ 08210

Re: Ocean Wind, LLC  
Block 3350.01, Lot 17.01 in Ocean City  
Ocean Wind Offshore Wind Farm Project

Dear Mr. Donohue:

As you know, the New Jersey Board of Public Utilities (BPU) approved the Ocean Wind Offshore Wind Farm Project (Project) proposed by Ocean Wind, LLC (Ocean Wind) on June 21, 2019 (June 21 BPU Order) (enclosed), determining that the Project is a qualified offshore wind project. Among other things, the Project may include the proposed construction of an underground onshore export cable under Cape May County's (County) road right of way (Roosevelt Boulevard), identified on the Official Tax Map of Ocean City as Block 3350.01, Lot 17.01 (Property).

As you also know, Ocean Wind sent a letter to the County on September 28, 2021, requesting the County's consent to Ocean Wind's filing of an application to the New Jersey Department of Environmental Protection (NJDEP) for a Green Acres diversion, if required. After further research, Ocean Wind now believes that the Property is not Green Acres-restricted. The Property is not listed on the Recreation and Open Space Inventory (ROSI) on file with Green Acres. At the time the County acquired the Property in 1960, there was no Green Acres funding. In addition, based on the express language in the vesting deed, a copy of which is enclosed herewith, there is no evidence that the County ever intended to use the Property for recreational or open space purposes. In fact, given the 1960 vesting deed, it is clear that the Property is purely a public right-of-way.

Specifically, the vesting deed from Ocean City to the County provides that the Property was being acquired by the County for "relocating a portion of Roosevelt Boulevard (County Road No. 623) for the purpose of constructing a new bridge over Crook Horn Thorofare ...." The vesting deed further provides that "said tract of meadow-land is designated as Parcel No. 10 and is shown on a filed plan entitled 'Plan of Right-of-Way to be acquired by the County of Cape May for relocating a portion of Roosevelt Boulevard (County Road No. 23) Ocean City, Cape May



April 12, 2022  
Page 2

County, N.J., November 1959'. The filed map (Filed Map #1371) is enclosed herewith and delineates the boundaries of the Property as the "proposed ROW line". Based on the language in the vesting deed, coupled with the express designation on the Filed Map #1371 of the Property conveyed as road right-of-way, the evidence is clear that the County intended to acquire and use the Property for roadway purposes. To further bolster this conclusion, there is a 1963 construction plan for the Roosevelt Boulevard Bridge, a copy of which is enclosed herewith, that depicts the Property as "ROW Line". In addition, the County issued Ocean Wind a highway occupancy permit to erect a temporary sign within the Property outside of the paved street, suggesting that the County considers the Property as road right-of-way.

At various times over the past several months, Ocean Wind has requested to meet with County representatives to discuss the Project and to confirm, among other things, that the portion of the Property where Ocean Wind is proposing to cross is road right-of-way. Kindly confirm, within fourteen (14) days of this letter, whether the County agrees that the portion of the Property crossed by the Project is dedicated road right-of-way. If we do not hear back from you within fourteen (14) days, Ocean Wind will continue to assume that the Property is road right-of-way.

If the County does not agree that the portion of the Property crossed by the proposed Project is road right of way, Ocean Wind will then require a permanent right of way and easement, approximately 30 feet in width, upon, under or across the Property, totaling 0.357 acres, as depicted on the drawing enclosed herewith. In addition, Ocean Wind will require, but only during the course of construction of the Project, a temporary workspace easement, totaling 0.257 acres, also depicted on the drawing. For the permanent and temporary easements across the Property, Ocean Wind is offering the County \$10,000. This offer is based on a recent appraisal of an adjacent Ocean City-owned parcel identified as Block 3350.01, Lot 17, which was valued at \$3,400 per acre. Ocean Wind has applied a multiple of slightly over 10 times the estimated appraised value. Again, we ask that the County please confirm within fourteen (14) days of this letter whether that portion of the Property crossed by the Project is dedicated road right-of-way. If it is not, Ocean Wind is ready and willing to discuss this offer and other matters related to the Project at the County's earliest convenience and hopes to meet in person with County leadership again in the near future.

I trust you will forward this letter to County Administration and look forward to hearing from you soon. Thank you.

Sincerely,

Marc Reimer, Project Development Director  
Ocean Wind, LLC



April 12, 2022  
Page 3

By electronic mail (only) with enclosures:

cc: Greg Werkheiser, Founding Partner, Cultural Heritage Partners  
Madeline Urbish, Head of Government Affairs & Policy, Ørsted Offshore North America  
Aaron Bullwinkel, Esq., Senior Counsel, Ørsted Offshore North America  
Richard Grist, Lead Real Estate Manager, Ørsted Offshore North America

Enclosures: 1960 Vesting deed for Block 3350.01 Lot 17.01  
Filed Map #1371  
1963 construction plan for Roosevelt Boulevard Bridge  
Ocean Wind Proposed Easement Drawing for Block 3350.01 Lot 17.01  
June 21 BPU order



1012/446

DEED—Purchase and Sale—Individual or Corporation (20)

Hendricks Chen &amp; Son Co., Attorneys at New Jersey Legal Ethics Chapter 1, N. J.

# This Indenture, hereinafter in all MADE THIS

Fifth day of February in the year  
of our Lord one thousand nine hundred and sixty (1960);

Between CITY OF OCEAN CITY, a municipal corporation of the State of New Jersey,

*JOSEPH H. HAYTON*  
BY JOSE H. HAYTON, CLERK

of the first part, and COUNTY OF CAPE MAY, a body politic of the State of New Jersey,

of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of ONE (\$1.00)

DOLLAR

lawful money of the United States of America, well and truly paid by the said party of the second part to the said party of the first part, at and before the executing and delivery of these presents, the receipt whereof is hereby acknowledged, has

granted, bargained, sold, aliened, enfeoffed, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, enfeoff, release, convey and confirm, unto the said party of the second part, its successors and assigns: ALL THAT CERTAIN tract or parcel of unimproved meadowland or salt marsh, required for improving and relocating a portion of Roosevelt Boulevard (County Road No. 23) for the purpose of constructing a new bridge over Crook Horn Therefore in the vicinity of the said Therefore, in the City of Ocean City, County of Cape May and State of New Jersey. The said tract of meadowland is designated as Parcel No. 10 and is shown on a filed plan entitled "Plan of Right-of-Way to be acquired by the County of Cape May for relocating a portion of Roosevelt Boulevard (County Road No. 23) Ocean City, Cape May County, N. J., November 1959" and is more particularly bounded and described as follows:

BEGINNING at a point in the existing northeasterly right-of-way line of Roosevelt Boulevard, said point being at right angles to, and 49.00 feet distant northeasterly from a point, designated as survey station 83+30 set in the center line of the existing roadway of Roosevelt Boulevard; thence (1) Along the



1012, 447

existing northeasterly right of way line of Roosevelt Boulevard, by true bearings, south 84 degrees, 38 minutes and 48 seconds west, a distance of 767.99 feet, to a point of curvature in the said line, designated on the filed plan as P. T. Station 75+62.01; thence (2) continuing along the existing northeasterly right of way line of Roosevelt Boulevard, which is a curved line to the right, in a northwesterly direction, having a radius of 703.75 feet, through an arc of 30 degrees and 33 minutes, a distance of 376.04 feet to a point in the southeasterly bank or high water line of Crook Horn Thoroughfare; thence (3) along the said southeasterly bank or high water line of Crook Horn Thoroughfare, north 31 degrees, 56 minutes and 50 seconds east, a distance of 117.04 feet to a point in the new northeasterly right-of-way line of Roosevelt Boulevard; thence (4) along the new northeasterly right-of-way line of Roosevelt Boulevard, which is a curved line to the left, in a easterly direction, having a radius of 1830.00 feet, through an arc of 6 degrees 15 minutes and 42 seconds, a distance of 200.00 feet to a corner in the said new right-of-way line; thence (5) continuing along the new northeasterly right of way line of Roosevelt Boulevard, north 39 degrees, 32 minutes and 45 seconds east, a distance of 106.71 feet to another corner in the said new northeasterly right-of-way line; thence (6) continuing along the new northeasterly right-of-way line of Roosevelt Boulevard, north 88 degrees, 16 minutes and 15 seconds east, a distance of 769.61 feet to another corner in the said new northeasterly right-of-way line; thence (7) continuing along the new northeasterly right-of-way line of Roosevelt Boulevard, south 5 degrees, 27 minutes and 15 seconds east, a distance of 110.00 feet to the place of beginning.

CONTAINING within the above described bounds 135,680.91 square feet, or 3.114 acres.

BEING a part of the same land and premises which became vested in the City of Ocean City, a municipal corporation of New Jersey, under final decree entered October 1, 1934 in certain tax sale foreclosure proceedings in Chancery of New Jersey (Docket 101/663) entitled "City of Ocean City, a municipal corporation of New Jersey, Complainant, and Bay Realty Company, a corporation of New Jersey, et al, Defendants", and which final decree was recorded in the Cape May County Clerk's Office, Cape May Court House, New Jersey, on October 4, 1934 in Deed Book 358, page 40.



BOOK 1012 PAGE 448

Together with all and singular, the buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances, to the same belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and the profits thereof, and of every part and parcel thereof; And Also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the said party of the first part, of, in and to the said premises, with the appurtenances.

To Have and to Hold the said premises, with all and singular the appurtenances, unto the said party of the second part, its successors and assigns, to the only proper use, benefit and behoof of the said party of the second part, its successors and assigns forever.

In Witness Whereof, the said party of the first part has hereunto set its Corporate seal and caused these presents to be duly executed by its proper officers, the day and year first above written.

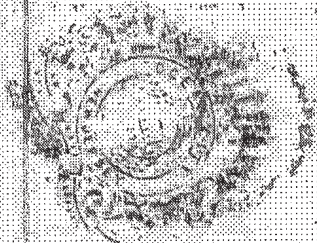
SEVEN SEALS AND DELIVERED

IN THE PRESENCE OF

ATTEST:

*Ruth E. Nickerson*  
Ruth E. Nickerson  
City Clerk

CITY OF OCEAN CITY  
By *Nathaniel C. Smith*  
Nathaniel C. Smith  
Mayor





COOR 1012 PAGE 449

STATE OF NEW JERSEY

COUNTY OF CAPE MAY

Mr. H. Brumfield, that on this FIFTH day of February

in the year of our Lord one thousand nine hundred and sixty (1960)

before me,

personally appeared RUTH G. RICKERSON

I, the undersigned, being duly qualified and sworn, do hereby certify

that she is the

who being by me duly sworn, on oath said, she is the City Clerk

of

the CITY OF OCEAN CITY, a municipal corporation of the State of New Jersey,

the grantor within named, and that NATHANIEL C. SMITH

is the

Mayor of said City, that deponent knows the common or corporate seal of said grantor and that the seal annexed to the within Deed or Conveyance is such common or corporate seal, that the said Deed or Conveyance was signed by the said Mayor and the seal of said grantor affixed thereto in the presence of deponent, that said Deed or Conveyance was signed, sealed and delivered as and for the voluntary act and deed of said grantor for the uses and purposes therein expressed, pursuant to a resolution of the Board of Commissioners of said grantor, and at the execution thereof this deponent subscribed and gave thereto as witness.

Sworn and Subscribed the  
day and year aforesaid

*Ruth G. Rickerson*  
Ruth G. Rickerson

My Commission  
Expires June 22, 1964

Notary Public for New Jersey  
66-10,565-953

**Deed**

CITY OF OCEAN CITY, a municipal  
corporation of the State of New  
Jersey

COUNTY OF CAPE MAY, a body politic  
of the State of New Jersey

Deed, February 5, 1960

Recorded in the Clerk's

Office of the County of Cape May

on the 9th day of February

A. D. 1960 at 2:10

the afternoon and

Book of 1960

and County, on page

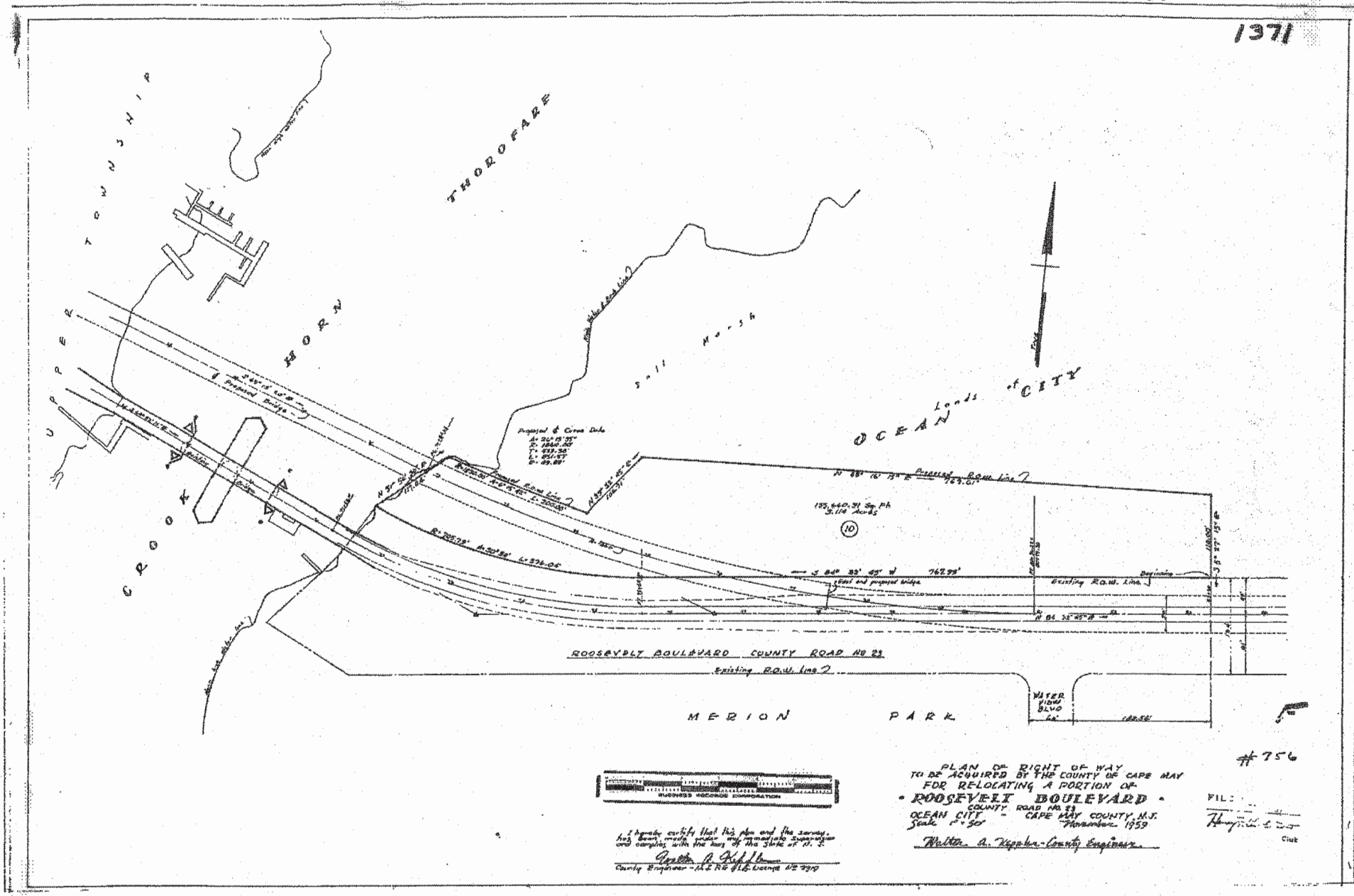
*Henry F. Rickerson*

CLERK

CHESTER TITLE AND GUARANTY COMPANY  
NATIONAL BANK OF OCEAN CITY BRANCH  
OCEAN CITY, N. J.

STATE OF  
COUNTY OF  
Mr. H. Brumfield, that on this  
in the year of our Lord one thousand nine hundred and  
day of  
before me  
personally appeared  
who I am satisfied  
acknowledged that  
signed, sealed and delivered the same as  
and







GEND: 3  
2 1/2" Cased Hole Boring  
4" Cased Hole Boring  
1" Retractable Plug Boring

Calumet Mean Sea Level Elevation - 0.0 USCGS  
Candy Hook, N.J.  
Shoals in waterway denote depth of water in feet at  
Mean Low Water.  
The numbers shown in Elevation are given of 2 P.M.  
Shoalages are shown in Elevation thus:  
F1 thru E5 - Expansion Shoes  
F1 thru F4 - Fixed Shoes  
See also 31.5. Activity of shoals  
The following within limits of 20M. to 200 nautical  
miles:  
Denotes existing contours  
For Construction Sequence see Specs.  
Dist. which have not been abandoned and  
which conform with permanent construction, with the  
reconstruction. See Specs.

HOWARD, NEEDLES, TAMMEN & BERGENDOFF  
CONSULTING ENGINEERS  
NEW YORK KANSAS CITY

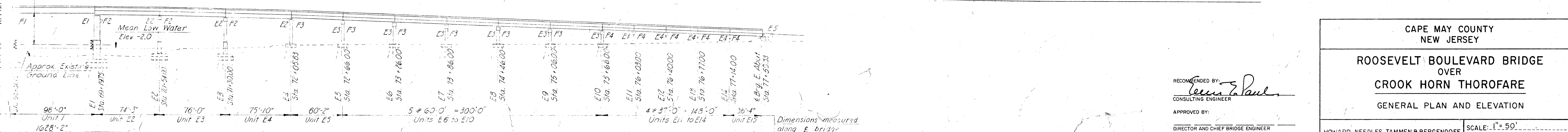
SCALE: 1" = 50'  
DATE: \_\_\_\_\_  
SHEET NO. 4 OF 44

DIRECTOR AND CHIEF BRIDGE ENGINEER  
STATE HIGHWAY DEPARTMENT

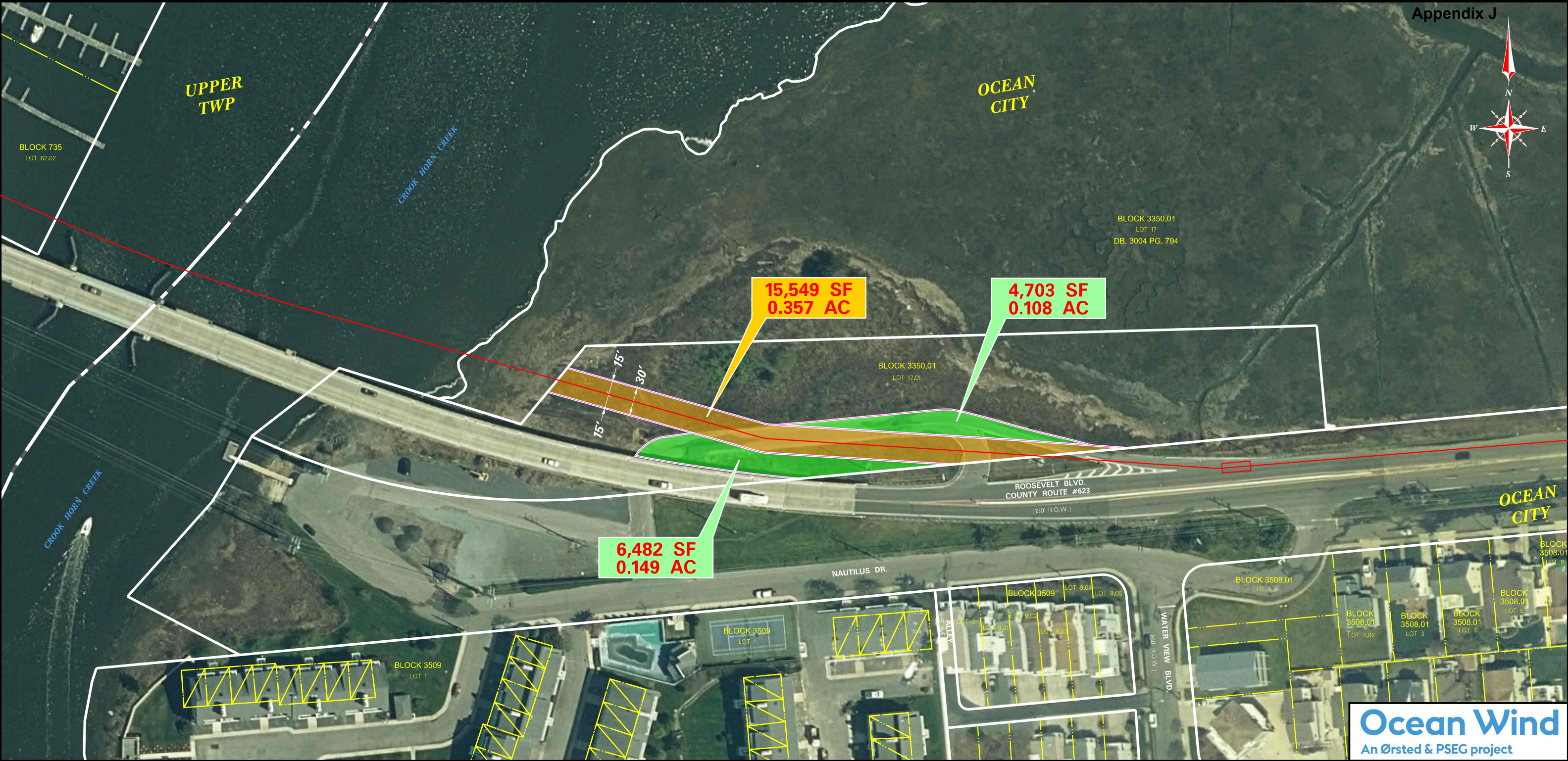
OLD To New  
-57.16

CURVE DATA				
Curve No.	$\Delta$	Radius	Tangent	Length
C/1	18°-59'-05"	21.50'	359.49'	712.40'
C/2	26°-13'-55"	1860'	433.38'	851.57'
C/11	36°-46'-03"	50'	56.28'	84.44'
C/12	36°-40'-36"	60'	67.43'	101.24'
C/13	78°-17'-02"	60'	48.83'	81.98'
C/14	88°-16'-19"	50'	48.51'	77.03'
C/15	24°-53'-30"	100'	22.07'	43.45'
C/16	15°-32'-10"	100'	13.64'	27.12'

CHECKED	M. P. B.	7-20-60	AS BUILT	WDK	2-8-6
IN CHARGE OF F.H.S.			No.	REVISION	BY DATE







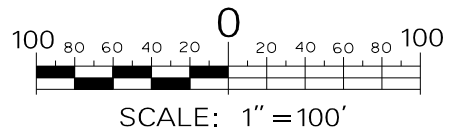
**LEGEND** NOT ALL ITEMS ARE TO SCALE

- PROJECT ROUTE
- MUNICIPAL LINE
- TAX BLOCK LINE & NUMBER
- TAX LOT LINE & NUMBER
- UTILITY EASEMENTS
- PROPOSED PERMANENT EASEMENT
- PROPOSED TEMPORARY EASEMENT

**EASEMENT AREAS TABLE**

TOTAL PERMANENT EASEMENT AREA	TOTAL TEMPORARY EASEMENT AREA
15,549 SF 0.357 AC	11,185 SF 0.257 AC

**PRELIMINARY**



**Ocean Wind**  
An Ørsted & PSEG project

**PSEG**  
Services Corporation  
SURVEYS & MAPPING  
CORPORATE HEADQUARTERS  
80 Park Plaza T20  
Newark, N.J. 07102-4194  
Email: surveying@pseg.com

**EASEMENTS  
ACROSS THE PROPERTY  
OF OCEAN CITY**

BLOCK 3350.01 LOT 17.01

OCEAN CITY CAPE MAY CO., N.J.

**EXHIBIT**

DRAWN: CCK CHECKED: BSG SCALE: AS SHOWN  
DATE: 03-08-2022 EXAMINED: MDR AUTH: Pr J-19048





Agenda Date: 6/21/19  
Agenda Item: 8D

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314**  
**Post Office Box 350**  
**Trenton, New Jersey 08625-0350**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

**CLEAN ENERGY**

IN THE MATTER OF THE BOARD OF	)	ORDER
PUBLIC UTILITIES OFFSHORE WIND	)	
SOLICITATION FOR 1,100 MW –	)	
EVALUATION OF THE OFFSHORE WIND	)	
APPLICATIONS	)	DOCKET NO. QO18121289

**PARTIES OF RECORD:**

**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel  
**Doug Copeland**, Senior Manager, EDF Renewables, Inc.  
**Elisabeth-Anne Treseder**, New England Deputy Market Lead, Ørsted  
**Christer Geijerstam**, President, Equinor Wind US



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**BY THE BOARD:**

The New Jersey Board of Public Utilities ("Board" or "BPU") here by considers the responses to its solicitation for 1,100 megawatt ("MW") of offshore wind ("OSW") capacity, in furtherance of Governor Phil Murphy's Executive Order No. 8 (2018) ("Exec. Order No. 8"). Exec. Order No. 8 calls upon the Board to fully implement the Offshore Wind Economic Development Act of 2010 ("OWEDA") and to proceed with a solicitation of 1,100 MW of OSW capacity as a first step in meeting the State's goal of 3,500 MW of OSW capacity by 2030. By this Order the Board approves the Ocean Wind 1,100 MW Project proposed by Ørsted and PSEG Renewable Generation LLC.

Global climate change is among the most pressing threats facing New Jersey's economy and represents an imminent danger to the health, safety and welfare of our citizens. The effects of climate change are already being felt throughout New Jersey. From flooding to the escalation in number and severity of storms to the unrelenting increases in average yearly temperatures, citizens are faced daily with these threats. At the same time, emissions from burning fossil fuels are impacting our citizens' health with increased asthma rates and heat islands in our cities are diminishing the quality of life of our residents. The threat is real and global. Combating this climate crisis demands swift local action and focused state leadership.

Recognizing the need to act to reduce our energy usage and transition in a thoughtful way to a clean energy future, Gov. Murphy set forth an ambitious and important goal of reaching 100% clean energy by 2050. Energy systems and climate change are inextricably linked. Within his first few weeks in office, Governor Murphy signed Exec. Order No. 8, making New Jersey's leadership in OSW a centerpiece of his environmental and energy agenda. The purpose of Exec. Order No. 8 was to reinvigorate the implementation of OWEDA. Exec. Order No. 8 sets forth a bold vision for a clean energy economy on a scale large enough to attract an active and robust wind energy market supporting large-scale production, in-state supply chain, and utilizing a trained New Jersey workforce for construction, installation, interconnection, and operations and maintenance.

While the Board's decision yields enormous benefits for the State, the Board remains conscious of the potential impacts on New Jersey ratepayers. These impacts were considered throughout the evaluation process and the Board's approval of the Ocean Wind 1,100 MW project as a qualified OSW facility is fully responsive to economic imperatives because it combines a highly competitive pricing structure with maximum economic development benefits and guarantees to the citizens of New Jersey. The Board acknowledges that today's critical step in combating climate change is being taken in partnership with families and businesses across the state and takes the charge of ensuring fair, reasonable and cost-effective rates seriously.

The Ocean Wind 1,100 MW project brings an estimated 15,000 jobs to New Jersey over the life of the project and provides the best economic development benefits to the state of any of the applicants. And by setting an early, aggressive OSW goal, New Jersey is making a strong case that key parts of the OSW supply chain should be located here, for both current and future projects inside and outside the State. During the development of the 3,500 MW initial goal, the Board expects three times as many high paying clean energy jobs through construction, installation, operations and maintenance, and decommissioning of OSW turbines.

While heralding the establishment of a new industry, the Board also remains cognizant of its charge to protect New Jersey's natural resources and significant cultural and tourism economies. New Jersey enjoys one of the best geographic locations and ocean wind profiles in



the United States for the development of a robust OSW program. The work of harnessing that wind must be done through responsibly developed and sited wind farms. The Board remains committed to ensuring that natural resources, including fish, marine mammals, birds, and other wildlife, are protected throughout the development and operation of current and future wind projects. With the largest single solicitation in the United States, we have an opportunity to collect and share valuable data to inform future development and to protect natural resources including fish, marine mammals and avian life, which make up a critical part of our rich tapestry of biological diversity.

New Jersey can advance visionary policy and innovative programs while continuing to improve the quality of delivery, mitigate costs, and improve services for consumers. We must do this while ensuring energy is affordable, accessible, and reliable for all citizens of the state. Stepping boldly into a new industry, New Jersey once again leads the way on protecting the environment while growing the economy. Today's action is another step on the path to continuing New Jersey's leadership in the fight against the impacts of climate change, for the benefit of current and future residents.

## **I. BACKGROUND AND PROCEDURAL HISTORY**

In response to Exec. Order No. 8, the Board opened an application window for 1,100 MW of OSW capacity from September 20 to December 28, 2018. Interested OSW developers were encouraged to submit an application to the Board to build an OSW facility in areas leased from the Bureau of Ocean Energy Management ("BOEM") in federal waters off the coast of New Jersey. The Board's action in this application process is primarily to consider whether or not to award State incentives to proposed OSW projects. Other federal and State authorities, including the New Jersey Department of Environmental Protection ("DEP"), among others, must separately provide relevant permits and authorization to proceed. An OREC award by the Board is contingent upon the developer obtaining all required local, State and/or federal permits and/or approvals. The Board's action here is one crucial step in facilitating the development of OSW off the coast of New Jersey.

The Board received applications from three developers for a total of fourteen bids during the application window. The Board is required by law to evaluate, deliberate and approve, conditionally approve, or deny an application within 180 days from the receipt of a completed application.<sup>1</sup>

The Board worked diligently with the DEP, the New Jersey Division of Rate Counsel ("Rate Counsel") and the Board's independent evaluator Levitan & Associates ("Levitan" or "LAI") to reach a determination that is in the best interest of the State of New Jersey.

### **OWEDA**

On August 19, 2010, OWEDA was signed into law, amending and supplementing the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 *et seq.* Among other things, OWEDA established OSW as a Class I Resource under the Renewable Energy Portfolio Standards

<sup>1</sup> See N.J.S.A. 48:3-87.1(d) ("The board shall review and approve, conditionally approve, or deny an application submitted pursuant to this section within 180 days after the date a complete application is submitted to the board.")



("RPS") and directed the Board to establish an OSW renewable energy credit ("OREC") program requiring a percentage of the State's electric load to be supplied by OSW from qualified OSW projects. A qualified OSW project is a "...wind turbine electric generation facility in the Atlantic Ocean and connected to the electric transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the Board pursuant to section 3 of P.L. 1999, c. 23 (N.J.S.A. 48:3-51)."

OWEDA defines an OREC as representing the environmental attributes of one megawatt hour ("MWh") of electric generation from an OSW project.<sup>2</sup> For each MWh delivered to the transmission grid, an OSW project will be credited with one OREC.

OWEDA also established the application requirements for OSW projects to be considered eligible to receive ORECs. These requirements are referenced in the Board-approved *Guidelines for Application Submission for Proposed Offshore Wind Facilities* (Solicitation Guidelines) which provides further guidance on the formats, calculations and assumptions to be used in preparing an application. OWEDA also alludes to key factors the Board should consider in addition to the OREC Price, including the economic impacts of projects, environmental benefits including greenhouse gas reductions and mitigation of environmental impacts, ratepayer impacts, economic guarantees, and factors contributing to the likelihood of success of the project. These factors were distilled into six evaluation criteria, which reflect the goals of OWEDA and New Jersey's OSW policy, and are specified in the Solicitation Guidelines.

Ultimately, OWEDA mandates that all qualified OSW projects deliver a net economic and environmental benefit to the State of New Jersey. A cost-benefit analysis of the proposed project must demonstrate that this threshold is met based on both economic and environmental benefits. N.J.S.A. 48:3-87.1 (b)(1)(c)

OWEDA also made clear that no OREC shall be paid until electricity is produced by the project, and when such payment is made, it shall be on the actual electric output of the project that is delivered into the State's transmission system. N.J.S.A. 48:3-87.1 (c)(1). The OSW project must absorb any risk as ratepayers and the State shall be held harmless for any cost overruns associated with a project.

Following the passage of OWEDA, the Board adopted rules that provided an application process and evaluation framework for OSW facilities.<sup>3</sup> The rules included establishing OSW as a Class I resource under the renewable portfolio standards; application requirements; the ability for the Board to designate the application windows; the ability for the Board to impose appropriate conditions upon any OREC grant; and ratepayer protections. The rules also detailed how the Board will review any application and ultimately approve, conditionally approve or deny an application.

#### Executive Order 8

On January 21, 2018, Gov Phil Murphy signed Exec. Order No. 8 which set a goal of 3,500 MW of OSW capacity by 2030 and directed the Board and other implementing State Agencies to "take all necessary action" to fully implement OWEDA. Exec. Order No. 8 set an aggressive OSW energy production goal recognizing that "portions of the OSW supply chain being located

<sup>2</sup> N.J.S.A. 48:3-51; N.J.A.C. 14:8-6.1

<sup>3</sup> N.J.A.C. 14:8-6.1 et seq.



in New Jersey, including manufacturing, assembly and construction of the component parts of the OSW turbines, will contribute to a stronger New Jersey economy.”<sup>4</sup>

Exec. Order No. 8 specifically directed the Board to begin the rulemaking process to establish the OREC Funding Mechanism to provide the necessary regulations to determine how suppliers will meet their RPS obligations and how OSW developers will receive payments for ORECs.<sup>5</sup> Exec. Order No. 8 directed the Board to proceed with a solicitation of 1,100 MW of OSW capacity as a first step in meeting the 3,500 MW goal and further calls upon the Board to implement OWEDA's OREC program.

In response, the Board issued an Order on February 28, 2018<sup>6</sup>, directing Board staff to take specific actions to implement Exec. Order No. 8, including preparing an initial 1,100 MW solicitation of OSW and initiating a rule making proceeding for the OREC Funding Mechanism Rules.

### Clean Energy Act

On May 23, 2018, Governor Murphy signed P.L. 2018 c. 17 into law (the “Clean Energy Act” or “CEA”). Amongst other things, it amended N.J.S.A. 48:3-87 to increase OWEDA's initial 1,100 MW requirement to 3,500 MW of generation from OSW projects.

### OREC Funding Mechanism

After a notice and comment period, the Board adopted new rules and amendments to N.J.A.C. 14:8-6.6, establishing the OREC funding mechanism (the “OREC Funding Mechanism Rules”). The OREC Funding Mechanism Rules set forth the method and processes by which ratepayers will fund an OSW project in accordance with all applicable laws, rules, Executive Orders, and Board Orders, and how all revenues earned from an OSW project will be refunded and delivered to ratepayers. Each Basic Generation Service supplier and Third Party Supplier (“TPS”) that sells electricity to retail customers in the State must ensure that the electricity it sells each reporting year in New Jersey includes at least the minimum percentage of OSW energy required for that energy year, as set by the Board, following the approval of a qualified OSW project.<sup>7</sup> The OREC Funding Mechanism Rules describe the method by which suppliers will meet this obligation and how funds from the sale of ORECs will flow to the qualified OSW projects.

The OREC Funding Mechanism Rules also mandate that the OREC price reflect the total capital and operating costs for that OSW project, offset by any State or Federal tax or production credits and any other subsidies or grants, as approved by the Board.<sup>8</sup> The OREC Funding Mechanism Rules further provide that once the Board has approved a qualified OSW project it shall be funded through an OREC as set forth in the rules and in accordance with the following principles:<sup>9</sup>

<sup>4</sup> EXEC. ORDER NO. 8 at ¶9.

<sup>5</sup> EXEC. ORDER NO. 8 at ¶6.

<sup>6</sup> Docket No. QO18020151 - In the Matter of the Implementation of Executive Order No. 8 on Offshore Wind and the Initiation of a Rulemaking Proceeding on ORECs. February 28, 2018.

<sup>7</sup> N.J.A.C. 14:8-6.2

<sup>8</sup> N.J.A.C. 14:8-6.5(a)12.vii

<sup>9</sup> N.J.A.C. 14:8-6.6 (a) Funding Mechanism



1. A Board Order that approves a qualified OSW project shall be binding and enforceable on all parties referenced therein;
2. The total annual OREC allowance for a qualified OSW project, once approved by the Board, shall not be subject to reduction or modification during the term of each OREC order unless otherwise agreed to by both parties;
3. A developer of a qualified OSW project shall be eligible to receive the project's approved OREC rates and payments for 20 years subject to the terms and conditions of the Board Order;
4. Qualified OSW projects shall only be entitled to OREC revenues for megawatt hours (MWh) actually generated over the 20-year term delineated in the Board Order, and shall have no recourse against the Board, the suppliers, the Electric Distribution Companies ("EDCs"), the OREC Administrator, or the ratepayers for any additional payments;
5. ORECs from a qualified OSW project shall have a qualification life of three years, including the year it was generated and the following two years, thus, allowing ORECs to be banked for future use; and
6. All revenues generated by an OSW project shall be returned to ratepayers.

[N.J.A.C. 14:8-6.6(a).]

#### OSW 1,100 MW Solicitation

On September 17, 2018, the Board issued its first OSW solicitation ("Solicitation"), opening an application window and inviting all interested parties to submit OSW applications by December 28, 2018. In its decision to issue the Solicitation, the Board found that the proposed OREC Funding Mechanism Rules would provide the necessary regulatory framework to enable developers to seek project financing, which lowers the financial risk to the developers, and thus enable a lower price for ratepayers.

Prior to the Board opening the application window, Board staff provided an opportunity for interested stakeholders to comment on the timing and some of the key parameters related to a solicitation of 1,100 MW of OSW capacity. Stakeholders were nearly unanimous in urging the Board to move forward with a solicitation of 1,100 MW in 2018 so that OSW developers would have an opportunity to qualify for the Federal Investment Tax Credit ("ITC"), which will expire on December 31, 2019. The Federal ITC provides a credit equal to 12% of project expenditures, thus saving New Jersey ratepayers significant costs.

In consideration of opening the solicitation, Board staff also researched the parameters, experiences and outcomes of OSW solicitations in other states including Massachusetts, Rhode Island, Connecticut, New York and Maryland. Staff determined that these states moved forward with successful solicitations for OSW within the past 18 months, supporting the Board's decision to do the same.

The Board also approved the use of an Offshore Wind Solicitation Website at NJOffshoreWind.com (the "Solicitation Website") and the Solicitation Guidelines previously referenced in this Order. The Solicitation Guidelines provided direction on the preparation of an OSW application, standards and assumptions to be used in calculating net benefits, the formats to be used for submittal, evaluation criteria stipulated under the rules, the solicitation schedule, and key dates.



The Solicitation Guidelines also outlined that applicants could submit bids ranging in size from 300 MW to 1,100 MW, with a required bid size of 400 MW. Applicants were instructed to include an estimate of the direct transmission and upgrade costs in their OREC price, and the Solicitation Guidelines allowed for applicants to choose to "true up" that portion of their OREC price once the final cost for transmission system upgrades was determined. The Solicitation Guidelines also provided the background and creation of standardized inputs related to the cost-benefit analysis as required under N.J.A.C. 14:8-6.5(a)(11). The goal of the inputs was to provide a common set of methods and assumptions for applicants so that evaluators could review projects on a comparable basis.

On October 10, 2018, the Board held a Technical Conference for all interested parties. Staff reviewed key details of the Solicitation, including application requirements and evaluation standards. Staff also answered questions from attendees regarding the Solicitation. Subsequently, staff created a Questions and Answers page on its website created specifically for this Solicitation. Interested parties were permitted to pose questions and staff would post the answers, available to all parties to view.

On November 26 and 27, 2018, Board staff and representatives from Rate Counsel met with each of the potential applicants to discuss all aspects of the application at least 30 days prior to the submission of the applications, as required by N.J.A.C 14:8-6.3(d).

Prior to the close of the application window, the Board established an evaluation committee (the "Evaluation Committee") to review and evaluate the applications received, and to provide recommendations to the Board.<sup>10</sup>

At the close of the application window on December 28, 2018, the Board received applications from three OSW developers, discussed in subsequent sections of this Order.

Board staff reviewed all applications, deemed them administratively complete and informed the applicant on January 28, 2019.

### DEP

The Evaluation Committee and Board staff engaged with DEP throughout the Solicitation window. Applicants were directed to meet with DEP for a pre-permit meeting prior to submitting their applications; the DEP Office of Permit Coordination participated in the Bidders Technical Conference; and DEP contact information and permitting guidance documents were included on the Solicitation Website to facilitate coordination with DEP. The Evaluation Committee further requested that DEP assist in the evaluation of each applicant's permitting plan, environmental protection plan and interconnection plan in order to ensure consistency with the Solicitation requirements and relevant environmental regulations.

### Rate Counsel

The Evaluation Committee and Board staff engaged Rate Counsel to solicit feedback on the ratepayer impacts associated with an OREC award(s) consistent with OWEDA and the governing rules at N.J.A.C 14:8-6. Rate Counsel provided its feedback on May 31, 2019, which

<sup>10</sup> The Evaluation Committee was comprised of staff from the Office of Clean Energy, the Office of the Economist, and the Office of the General Counsel.



was reviewed and considered in the Board's decision.

## II. EVALUATION OF APPLICATIONS

After the determination of administrative completeness the Evaluation Committee commenced the detailed review of the applications. On March 15, 2019, the Board selected LAI to assist the Evaluation Committee with the evaluation of applications in furtherance of Exec. Order No. 8.

### Information Relied Upon in Review of Applications

Applications were reviewed considering the following information:

- The applications submitted at the close of the solicitation window on December 28, 2018;
- Answers to clarifying questions ("CQs") proposed to each applicant by LAI on March 29, 2019. Responses were received by all applicants on April 5, 2019 as requested. Applicants were notified that their responses would become part of the record and that the Board would rely on them in its further review of the applications;
- Answers to a second round of CQs proposed to each applicant by LAI on April 30, 2019. Responses were received by all applicants on May 3, 2019 as requested. Applicants were notified that their responses would become part of the record and that the Board would rely on them in their further review of the applications;
- Statements made on the record by each applicant at an interview held on May 9, 2019. Each applicant was interviewed separately by Board staff, LAI, and representatives of DEP to review their respective applications and ask any final questions prepared by LAI in consultation with Board staff and DEP. The interviews were documented by a court reporter and applicants were notified that their responses would become part of the record and the Board would rely on them in their further review of the applications;
- A Best and Final Offer ("BAFO") requested from each applicant at their May 9, 2019 interview. BAFOs were received on May 13, 2019. Applicants were notified that their BAFO would become part of the record and the Board would rely on it in their further review of the applications; and
- Information that the applicant considered supplemental to its responses during the interview, which was requested at the May 9, 2019 interview. Supplemental information was submitted by each applicant on May 13, 2019 as requested. Applicants were notified that their supplemental information would become part of the record and the Board would rely on it in its further review of the applications.

DEP reviewed the environmental protection plan and the environmental permit considerations associated with the proposed transmission segment(s) to landfall submitted by each applicant, reviewed CQs and responses, and participated in the applicant interviews. DEP submitted a report to Board staff, *NJDEP Review of Environmental Plans and Interconnection Plans, Final Report*, dated May 17, 2019. Board staff and LAI fully reviewed the DEP report and relied upon information in the report to inform its own opinions and recommendations to the Board.



LAI reviewed the above information and performed quantitative analyses of the applicants' OREC price offers and ratepayer impacts and performed a cost-benefit analysis. LAI also performed a qualitative analysis of economic and environmental impacts, economic guarantees, and the likelihood of success. Levitan summarized its analyses and findings in a final report *Evaluation of New Jersey Solicitation for ORECs for Offshore Wind Capacity* (the confidential "LAI Evaluation Report"), delivered to Board staff on May 21, 2019. Board staff fully reviewed the LAI Evaluation Report and relied upon information in the report to inform its own opinions and recommendations to the Board.

### Application Requirements

OSW applicants were required to comply with the requirements under N.J.A.C. 14:8-6.5(a) in preparing and submitting their applications.

### Evaluation Criteria

The Board must evaluate applications against multiple factors consistent with OWEDA and the rules at N.J.A.C 14:8-6. These factors were distilled into six evaluation criteria defined in the Solicitation Guidelines. The six criteria reflect the goals of New Jersey's OSW policy, including "to promote economic development by jump-starting an OSW supply chain in the State; to combat the threat of global climate change to New Jersey; and to achieve these first two goals at the lowest reasonable cost and lowest risk to New Jersey ratepayers."<sup>11</sup>

The evaluation criteria are:

- OREC Purchase Price - This includes meeting the requirement for a fixed, pay-for-performance price as well as the implied subsidy above market prices.
- Economic impacts - This includes, among other metrics, the number of jobs created by the project, increase in wages, taxes receipts and state gross product for each MW of capacity constructed.
- Ratepayer impacts - This includes the average increase in residential and commercial customer bills. The Board will also consider the timing of any rate impacts.
- Environmental impacts - This includes the net reductions of pollutants for each MWh generated and the feasibility and strength of the applicant's plan to minimize environmental impacts created by project construction and operation.
- The strength of guarantees for economic impacts - This includes all measures proposed to assure that claimed benefits will materialize as well as plans for maximizing revenue from the sales of energy, capacity and ancillary services.
- Likelihood of successful commercial operation - This includes feasibility of project timelines, permitting plans, equipment and labor supply plans, and the current progress displayed in achieving these plans.

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<sup>11</sup> OSW Guidance Document at 17.



Threshold Conditions

To approve, an OSW application pursuant to OWEDA and N.J.A.C. 14:8-6 et seq., the OSW project must meet the following threshold conditions:

- a) the filing is consistent with the New Jersey Energy Master Plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14), in effect at the time the Board is considering the application;
- b) the cost-benefit analysis, submitted pursuant to paragraph (10) of subsection a. of this section, demonstrates positive economic and environmental net benefits to the State;
- c) the financing mechanism is based upon the actual electrical output of the project, fairly balances the risks and rewards of the project between ratepayers and shareholders, and ensures that any costs of non-performance, in either the construction or operational phase of the project, shall be borne by shareholders of the applicant; and
- d) the applicant demonstrates financial integrity and sufficient access to capital to allow for a reasonable expectation of completion of construction of the project.

[N.J.S.A. 48:3-87.1(b)(1)]

Under N.J.S.A. 48:3-87.1(b)(2)(b), the Board shall also consider any other elements it deems appropriate in conjunction with the application. Additional considerations may include, but are not limited to the reasonableness of certain project characteristics, demonstration of site control, proposed COD and schedule, and any other unique attributes that distinguish a project from another.

Based on these criteria and threshold issues the Board may approve, conditionally approve or deny an application within 180 Days of receipt of a complete application. N.J.S.A. 48:3-87.1(d)

### III. DISCUSSION

The solicitation for 1,100 MW of OSW capacity resulted in responses from three developers, or applicants, and a total of fourteen bids. "Application" refers to each of the three submissions and all proposed project alternatives; "Applicant" refers to the proposing entity; "Project" refers to a distinct project size and associated infrastructure combination; and "Bid" refers to the project-specific price. The three Applicants are:

1. **Atlantic Shores Offshore Wind**, a joint venture between EDF Renewables Offshore ("EDFR") and Shell New Energies US, LLC with projects located within BOEM lease OCS-A 0499 off the coast of Atlantic City, NJ.
2. **Boardwalk Wind**, sponsored wholly by Equinor Wind US, LLC (f/k/a Statoil Wind US LLC) with projects located in BOEM lease OCS-A 0512 off the coast of Long Branch, NJ.



3. **Ocean Wind**, backed by a Memorandum of Understanding ("MOU") between Ørsted and PSEG Renewable Generation, LLC with projects located within BOEM lease OCS-A 0498 off the coast of Atlantic City, NJ.

The set of applications reflect a highly competitive response regarding OREC prices, local content, economic benefits, environmental benefits, ratepayer impacts and other factors. Levitan notes that "regarding both price and ratepayer impacts, the applicants' OREC price offers reflect robust competition among rival developers thereby providing New Jersey ratepayers with good value towards meeting carbon reduction and environmental goals, and in sponsoring development of an OSW industry in New Jersey. The price and ratepayer impacts also represent good value relative to leading commercial benchmarks, including recent OREC Awards in Maryland, Long Island, and New England." (LAI confidential evaluation report, page xiv).

### Summary of Responding Applicants

#### *Atlantic Shores Offshore Wind, LLC*

Atlantic Shores Offshore Wind, LLC (Atlantic Shores) is a joint venture partnership between EDFR and Shell New Energies ("Shell"). EDFR is a subsidiary of EDF Renewables, Development, Inc., which is a subsidiary of Électricité de France S.A. ("EDF"). EDF is a global energy company, and its subsidiary, EDFR, asserts it has over 3,000 MW of OSW projects in development, plus 4,350 MW in operation in Europe, as well as more than 30 years of experience in developing and maintaining onshore wind and solar projects in North America. EDFR asserts that it develops of approximately \$1 billion of renewable energy projects annually. EDFR asserts that its asset optimization team is the largest provider of third-party O&M services in North America and services over 5,230 wind turbines, 45+ different equipment types, and almost 1,970 solar inverters, which generate over 10,000 MW.

Shell has decades of experience within the energy sector and is one of the largest power wholesalers in North America. Its experience primarily relates to oil and gas; however, it has been involved in several key wind projects, both in Europe and North America. Shell has interests in one operational OSW farm in Europe and is part of a consortium that will build and operate the Borssele 3 & 4 wind farms in Europe which is about 732 MW. Shell also recently acquired an OSW lease off the coast of Massachusetts in which it has 50% interest.

EDFR acquired the lease OCS-A 0499 off the coast of Atlantic City, NJ from US Wind, Inc. On November 16, 2018 BOEM received an application from U.S. Wind Inc. to assign 100% of commercial lease OCS-A 0499 to EDF Renewables Development, Inc. BOEM approved the assignment on December 4, 2018.

#### *Boardwalk Wind*

Boardwalk Wind is sponsored by Equinor Wind US, LLC ("Equinor"), a subsidiary of Equinor US Holdings, Inc., and Equinor ASA ("Equinor"). Formerly known as Statoil, Equinor is a Norwegian multinational energy company with operations in 36 countries. In 2018, it changed its name from Statoil to Equinor in order to reflect its development as a broad energy company that is inclusive of renewable technologies. Today, Equinor has developed, constructed, and operates three OSW projects: Sheringham Shoal (UK), Dudgeon (UK), and Hywind Scotland (UK), which total 749 MW. Furthermore, Equinor is a partner in a 385 MW project that will be completed in the



next few months, and Equinor is a partner in, and is sharing development responsibilities for Dogger Bank, a 3,600 MW project commencing construction next year.

Equinor asserts that it has extensive experience designing complex offshore structures and facilities that can operate reliably in the offshore environment. Further, Equinor maintains that it has experience in installing, maintaining and retrieving bottom fixed sub-sea installations; coordinating maritime and vessel operations globally; working with and protecting marine life; and constructing interconnection facilities for OSW projects.

Boardwalk Wind executed a lease with BOEM, OCS-A 0512, on March 15, 2017, spanning approximately 123 square miles and located approximately 20 miles east of Long Branch, New Jersey.

#### *Ocean Wind*

Ocean Wind is backed by a Memorandum of Understanding ("MOU") between Ørsted and PSEG Renewable Generation LLC ("PSEG"). The application outlines that Ørsted's role will be primarily focused on the offshore elements of the project while PSEG will coordinate with its affiliates to lead the development, permitting and construction of the onshore portions of the projects' transmission facility.

Ørsted, which was formerly known as Danish Oil and Natural Gas, or DONG Energy, changed its name in 2017 in order to reflect its significant focus on renewable technologies. Ørsted pioneered the first OSW farm in 1991, and is one of the largest developers of OSW today. Also, the company operates the only active OSW farm in North America, the 30 MW Block Island Wind Farm off the coast of Rhode Island. With over 25 years of experience, Ørsted has constructed 5,100 MW of OSW capacity. Ørsted asserts that it has extensive experience with OSW development, construction, operation, and decommissioning.

PSEG is a diversified energy company, with operations primarily in the Northeastern and Mid-Atlantic regions of the United States. PSEG asserts that it has substantial experience in running transmission infrastructure throughout New Jersey.

On April 14, 2016, BOEM received an application to assign 100% of commercial lease OCS-A 0498 off the coast of Atlantic City, NJ.

#### Key Findings

The Evaluation Committee determined that each application met the threshold requirements. The Evaluation Committee then turned its attention to determining which proposed project satisfied the 1,100 MW solicitation requirements in a way that was the most beneficial to the State of New Jersey.

The Evaluation Committee reviewed the projects, or combination of projects, that generally met the 1,100 MW solicitation target, and reviewed them pursuant to the six evaluation criteria. While the Evaluation Committee considered the price of each application, it also considered the other, statutorily-mandated, criteria as well. Therefore, the Evaluation Committee balanced all the criteria as a whole, not solely focusing on price.

After considering the entire record noted above, based on the six factors, the Evaluation Committee determined that four options met the threshold criteria and provided the maximum



benefit to the State. Those four options considered combinations of awards and a single award. The evaluation committee presented these four options to the Board.

These four options included:

1. The Ocean Wind 1,100 MW project;
2. The Ocean Wind 704 MW project and the Atlantic Shores 400MW project;
3. The Ocean Wind 800 MW Project and the Atlantic Shores 400 MW project; and
4. The Ocean Wind 800 MW Project and the 408 MW Project.

#### IV. FINDINGS

Based on the review of the record and the Evaluation Committee's evaluation, the Board **HEREBY FINDS** that the Ocean Wind 1,100 MW Project is the most beneficial to the State of New Jersey.

The Board **HEREBY FINDS** that the Ocean Wind 1,100 MW project meets each of the following threshold conditions:

- The filing is consistent with the New Jersey Energy Master plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14), in effect at the time the Board is considering the application.
- The cost-benefit analysis demonstrates positive economic and environmental net benefits to the State.
- The financing mechanism is based upon the actual electrical output of the project, fairly balances the risks and rewards of the project between ratepayers and shareholders, and ensures that any costs of non-performance, in either the construction or operational phase of the project, will be borne by shareholders of the applicant.
- The application for the Ocean Wind 1,100 MW project demonstrates financial integrity and sufficient access to capital to allow for a reasonable expectation of completion of construction of the project.

The Board **HEREBY FINDS** that the Ocean Wind 1,100 MW project meets or exceeds all the standards for a qualified OSW facility as set for in N.J.S.A. 48:3-87.1 et seq. and N.J.A.C 14:8-6.5 et seq.

The Solicitation Guidelines require consideration of the following six evaluation criteria: 1) OREC purchase price; 2) Economic impacts; 3) Ratepayer impacts; 4) Environmental impacts; 5) Strength of guarantees for economic impacts; and 6) Likelihood of successful commercial operation. The Board has considered these criteria individually and as a whole and based on the Ocean Wind application and the entirety of the record developed during the evaluation process, the Board, **HEREBY FINDS** that the Ocean Wind 1,100 MW project is in the best interest of the State.

#### *Environmental Impacts*

All of the proposed OSW projects will help New Jersey reduce Greenhouse Gas (GHG)



emissions and other pollutants from the electric sector by displacing fossil fuel-fired generation. Emissions benefits for all proposals, on an avoided tons per MWh basis, are comparable. While there may be small differences in each project's stated capacity factor and energy profile, and different interconnection points may produce a small impact on the redispatch of fossil-fired resources, the contribution of each project's emissions benefit is not a differentiator among applicants.

Each applicant's environmental protection plan also addressed mitigation of environmental impacts during construction and operations. However, Ocean Wind's environmental protection plan was the most complete and the most advanced of the applications received. Ocean Wind completed its initial geophysical survey in 2017. It also submitted its Site Assessment Plan ("SAP") to BOEM and received approval in 2018. Ocean Wind also has approval from BOEM to conduct surveys along the preferred export cable routes. In its application, Ocean Wind provided marine mammal and sea turtle discussions, and referenced its draft Environmental Impact Assessment. After evaluation, LAI found the data current and the discussion sufficiently detailed. Ocean Wind also asserted it will work to co-exist with the fishing industry and is working towards a partnership with Rutgers University to improve collaboration with both the commercial and recreational fisheries. Some outreach has begun and fishing grounds mapped for avoidance during cable installation. Ocean Wind also conducted preliminary modeling which shows limited visibility from onshore viewpoints of its project. They have committed to a 15 mile minimum distance to shore as part of a responsible wind energy development, and asserted in their interview that they selected the wind turbine location further offshore to limit visibility and possible avian impacts. Ocean Wind maintains it will conduct a visual impact study and community outreach on the aesthetics of its project. As for navigation, Ocean Wind extensively characterizes possible navigation impacts using 2017 data, along with other commercial and recreational data sources.

In addition, Ocean Wind's developer, Ørsted, has significant experience in development, construction, operation, and decommissioning of OWS projects in Europe, UK and the United States. This distinguished the Ocean Wind application in its attention to identifying potential environmental impacts, engaging stakeholders, and mitigating these potential environmental impacts.

### *Economic Impacts*

Each applicant offered varying degrees of local content and a New Jersey based supply chain that would result in direct and indirect economic benefits to New Jersey. Ocean Wind's economic development plans were the most detailed and offered the most economic benefits to the State. For its Project, Ocean Wind provided a MOU with EEW, a German monopile foundation manufacturer to spur location of an EEW monopile foundation fabrication facility in Paulsboro, New Jersey. Ocean Wind's 1,100 MW OSW facility is estimated to result in net economic benefits of \$1.17 billion on a present value basis. Longer term, the foundation fabrication facility may be enlarged in its scope of activities as the Atlantic coast offshore wind industry grows, which would foster further economic benefits in jobs and related supply chain manufacturing and service activities in New Jersey. Ocean Wind would also provide construction phase and operation phase jobs and make purchases in New Jersey over about 40 years by siting its construction logistics base, foundation and transition piece staging port, and its Operation and Maintenance ("O&M") port in the State.

LAI found that Ocean Wind's Economic Development Plan was strong with respect to management and labor supply. Ocean Wind also executed an MOU with the South Jersey



Building and Construction Trades Council to only hire union labor for construction. Ocean Wind further indicated that it would establish a Pro-NJ Grantor Trust with a \$15 million initial investment to enable MBE/WBE or small business entry to the OSW industry. Ocean Wind has a plan to institute a Competitive Edge program to provide construction training opportunities, educate students, establish an apprenticeship program, and partner with three New Jersey universities on education and research programs.

#### *Strength of Guarantees for Economic Impacts*

Given that no OSW projects sited in the applicants' BOEM lease areas near New Jersey have been awarded, applicants' supply chain plans, logistics plans, and other efforts to develop the OSW industry in New Jersey are fledgling. As a result, the applicants' plans and financial guarantees for certain minimum capital investments, operational and other expenditures, and jobs creation are not uniform.

Overall, Ocean Wind provided the strongest economic guarantees to help ensure local content and that New Jersey realizes the full benefits of the project. Ocean Wind provided four commitments with a financial guarantee for its planned economic development activities in New Jersey. For the Ocean Wind 1,100 MW project, the specific guarantees for planned economic development in New Jersey include the following contingent construction phase spending and operation phase jobs commitments:

Construction phase base (other than foundations fabrication) spending is guaranteed to reach a threshold of at least \$400 million, absent contingent establishment of a foundation fabrication facility by a third-party supplier, or \$695 million if such facility is established. Ocean Wind would contribute additional funds to the Pro-NJ Grantor Trust in order to achieve at least 90% of the guaranteed New Jersey construction phase expenditures.

Direct project in-state annual employment during the operation period has a conditional guarantee, contingent on whether Ocean Wind is able to use its suggested crew transport vessel logistics plan and obtain a waiver of the seasonal 10 knots/hour vessel speed restriction to/from the lease area. Absent the contingent conditions, 46 full-time equivalent (FTE) jobs would be guaranteed for each year of the operation period. If the contingent conditions are met, 69 FTE jobs would be guaranteed for each year. Additional funds would be contributed to the Pro-NJ Grantor Trust in order to achieve 75% of the annual FTEs during the wind turbine generator warranty period and 90% of direct annual FTEs thereafter.

#### *Likelihood of Successful Commercial Operation*

Several factors influence the likelihood of successful commercial operation, including project design, components, materials and supplier agreements, transmission points of interconnection, permitting, financing, and experience.

While all three applicants provided significant information regarding the likelihood of commercial success, Ocean Wind provided the best chance of successful development of 1,100 MW of OSW capacity due to the depth of knowledge base among Ocean Wind's key personnel, and both global and more recent regional experience with large OSW projects using substantially similar technology.



Ocean Wind proposed a design basis using proven technology, materials, and equipment with documented supplier agreements and commitments. In addition, of the three applicants, Ocean Wind is the farthest advanced in identifying its point of interconnection and transmission cable route. Ocean Wind has been engaged with PJM since filing interconnection requests in September of 2018.

In its application, Ocean Wind accurately identified the potential permits and authorizations needed to develop the project and has made significant progress in implementing its permitting plan. Ocean Wind has already obtained permits and authorizations needed to undertake site survey and early project development activities, including from the United States Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and the Environmental Protection Agency. Ocean Wind's Site Survey Plan was submitted to BOEM in July 2017 and its SAP was submitted in September 2017 and approved in May 2018. Ocean Wind expects to submit its Construction and Operations Plan ("COP") in August 2019.

Ørsted's principal business is the development and operation of OSW projects. According to its application, Ørsted has constructed 5,100 MW of OSW capacity, principally in northern Europe, approximately 30% of the global total. According to its application, LAI's count indicates 23 projects (4,424 MW) are in operation, four (3,185 MW) are under construction, ten (5,096+ MW) are under development, and a (5 MW) has been decommissioned. In addition, Ørsted acquired Deepwater Wind in October, 2018, the only company to have developed an OSW project in the US, i.e., the Block Island Wind Farm, a 30 MW demonstration project that began operating in December 2016, which includes a 22-mile subsea cable linking Block Island to the ISO-NE grid.

Ocean Wind is being developed by and is 100% owned by Ørsted North America, an indirect subsidiary of Ørsted, the largest developer of OSW projects internationally. Ocean Wind submitted a reasonable and appropriate financing plan.

#### *OREC Prices and Ratepayer Impacts*

LAI conducted extensive price analysis to inform the Board as to how the applicants' OREC price offers compare to one another as well as the incremental, net, and total costs borne by New Jersey ratepayers if a portfolio of varying sizes is formulated for diversity sake. The Present Value of Net OREC Cost (PVNOC) was determined for each price offer using a seven percent discount rate, and by subtracting the present value of projected credits for energy and capacity revenue, and the avoided cost of New Jersey Class I RECs from the present value of payments at the OREC purchase price.

Ratepayer impacts are based on the PVNOC and divided by the present value of the MWh load that would absorb those costs. From a ratepayer perspective, a smaller project will result in lower total costs and hence a smaller rate impact. However, for a procurement of roughly 1,100 MW, rate impacts were considered for all portfolios that meet this target.

Expressed in 2019 dollars, ratepayer impacts as estimated by LAI on a monthly bill are \$1.46 for residential customers; \$13.05 for commercial customers; and \$110.10 for industrial customers.

Ratepayer impacts are largely based on revenue generated by the project and returned to ratepayers. Applicants were required to submit a plan to maximize revenue. Ocean Wind's project revenue plan identifies a strategy for producing all revenues over the 20-year OREC term. Ocean Wind is required to make a good faith effort to maximize all project revenues.



Revenues include but are not limited to revenue from the sale of energy, capacity, and renewable energy certificates (RECs) above annual allowance, ancillary services (AS), and any other product sales. Per OWEDA and N.J.A.C. 14:8-6 et seq. all revenue other than ORECS must be credited to New Jersey ratepayers. The Board acknowledges that Ocean Wind may sell its products directly through the PJM wholesale energy, capacity, and AS markets as well as bilateral sales, either directly by Ocean Wind or by its outsourcing to an unregulated marketing affiliate to effectuate bilateral sales.

The Board acknowledges Ocean Wind's submission of supplemental information regarding the treatment of transmission system upgrade costs, in particular, a revision to Ocean Wind's proposed transmission system upgrade cost pass-through mechanism covering its 1,100 MW project. Ocean Wind noted in its supplemental information that the goal for the amendment is to (i) align the interest between Ocean Wind and ratepayers regarding the cost of upgrades by sharing cost responsibility; (ii) demonstrate Ocean Wind's confidence in the ability to interconnect the project for a low cost; (iii) maintain a low OREC price by avoiding an unnecessary contingency; and, (iv) reduce the likelihood and impact of a potential cost to ratepayers of transmission system upgrades associated with the project.

For Ocean Wind's 1,100 MW project, the Applicant's revised transmission system upgrade cost sharing proposal is as follows:

- The Expected Case for transmission system upgrade costs is between \$36 million and \$130 million. Ocean Wind's Downside Case is up to \$174 million. Hence, Ocean Wind's revised transmission system upgrade cost sharing proposal is as follows:
  - First \$10 million - 100% paid by Ocean Wind
  - Between \$10 million and \$130 million – Ocean Wind pays 70% of costs incurred, with the remaining 30% recovered from ratepayers via the Upgrade True-Up
  - Between \$130 million and \$174 million – Ocean Wind pays 50% of costs incurred, with the remaining 50% recovered from ratepayers via the Upgrade True-Up
  - Costs above \$174 million – 100% recovered from ratepayers via the Upgrade True-Up

The Board acknowledges Ocean Wind's proposal to mitigate the costs of transmission system upgrade costs through the use of Capacity Interconnection Rights (CIRs). At the time of this Board decision, the availability and price of CIRs are unknown. The Board recognizes that Ocean Wind's ability to obtain CIRs at good value has the potential to yield significant economic benefits for New Jersey ratepayers through lower transmission system upgrade costs. The Board is generally supportive of Ocean Wind's plan to mitigate transmission system upgrade cost risk through the procurement of CIRs, provided such procurement is prudent and therefore protective of New Jersey ratepayer interests. Upon price discovery Ocean Wind is required to seek Board authorization to procure CIRs. The Board will review Ocean Wind's request on an expedited basis and will not unreasonably withhold its consent so long as the resultant cost of transmission system upgrades may be reasonably expected to be lower than would otherwise be the case absent the procurement of CIRs.

Of the possible projects or combination of projects that meet the 1,100 MW solicitation target,



the Ocean Wind 1,100 MW project offers a first year OREC price at \$98.10/MWh and a levelized OREC price of \$116.82/MWh. The levelized Net OREC Cost ("LNOC") is \$46.46/MWh. LAI estimated that the ratepayer impacts on a monthly bill are \$1.46 for residential customers; \$13.05 for commercial customers; and \$110.10 for industrial customers once the project is operational. LAI utilized Energy Information Administration (EIA) data covering the 2018 calendar year to estimate monthly usages. Although other projects presented a lower PVNOC, given the Ocean Wind 1,100 MW project's strength in all of the other evaluation criteria, an award to Ocean Wind is in the best interest of the State of New Jersey and its ratepayers.

## V. CONCLUSION

As permitted by N.J.S.A. 48:3-87(b)(2)(b) and for the above reasons, the Board **HEREBY FINDS** that the Ocean Wind 1,100 MW project also demonstrates substantial additional considerations such as earliest COD, site control, and interconnection plans.

The Board further **HEREBY FINDS** that the Ocean Wind 1,100 MW project satisfies the stated goals of the Solicitation in that it 1) contributes the most out of all bids to a stronger New Jersey economy by anchoring an OSW supply chain in the State; 2) combats global climate change to protect the State and its natural resources; 3) provides the most added reliability for the transmission network and transmission rate relief for ratepayers; and 4) achieves all of this at the lowest reasonable cost and risk to ratepayers.

The Board **HEREBY FINDS** Ocean Wind's revised transmission system upgrade cost sharing proposal to be reasonable and therefore provides cost effective OREC prices to the State of New Jersey.

The Board **HEREBY FINDS** Ocean Wind's plan to mitigate transmission system upgrade costs through the procurement of CIRs to be reasonable provided Ocean Wind demonstrates that the cost of such CIRs protects New Jersey ratepayer interests.

Thus, the Board **HEREBY APPROVES** Ocean Wind's 1,100 MW project as a qualified OSW facility and is thus deemed eligible to receive ORECs subject to the terms and conditions of this Board Order.

The Board **HEREBY APPROVES** the Ocean Wind 1,100 MW project's Annual OREC Price Schedule shown in Attachment A, subject to the Terms and Conditions herein [Attachment B]. The Ocean Wind Annual OREC Price Schedule sets the fixed OREC price per MWh that they may receive for ORECs in compliance with the rules. Ocean Wind's annual OREC Allowance is 4,851,489 MWh per year at a levelized OREC price of \$116.82 per MWh (nominal dollars). This levelized OREC price is based on a first year OREC Payment of \$98.10(EY 2024) and a 2% Annual Rate of escalation which results in a fixed annual OREC price each year thereafter as shown in the Annual OREC Price Schedule attached. The OREC payment schedule shall begin on the Commercial Operation Date (COD) in calendar year 2024 as shown in the Annual OREC Price Schedule, and shall continue for a period of 20 years (240 months) ending no later than May 31, 2045, subject to all Terms & Conditions (Attachment A) and regulatory requirements. The total Annual OREC Allowance for Ocean Wind, as here approved by the Board, shall not be subject to reduction or modification during the term of this OREC order unless otherwise agreed to by the Board and Ocean Wind.

The Board acknowledges that the OREC Price as bid by Ocean Wind reflects total project costs



including the interconnection costs and transmission system upgrade cost estimates in accordance with the requirements established under OWEDA and at N.J.A.C 14:8-6. However, according to the Solicitation Guidelines, the OREC price may be trued up based on the difference between the estimated and actual transmission system upgrade costs as represented by Ocean Wind in its supplemental information submittal.

The Board **HEREBY DIRECTS** Ocean Wind to submit its trued-up OREC price to the Board upon receipt of the final cost of transmission system upgrades from PJM, including the PJM final cost study and Ocean Wind's full and complete calculation of the trued-up OREC price for the Board's review and approval.

The Board **HEREBY DECLARES** that as a Qualified OSW facility, Ocean Wind shall only be entitled to OREC payments for megawatt hours (MWh) actually generated over the 20-year term from COD as delineated in this Board Order, and shall have no recourse against the Board, the suppliers, the EDCs, the OREC Administrator, or the ratepayers for any additional payments. Ocean Wind may not exceed the Annual OREC Allowance of 4,851,489 MWh. As detailed in N.J.A.C. 14:8-6.6, any unmet OREC allowances in a given year may be carried forward to the next year to provide a reasonable opportunity to meet the project's total production.

The Board **HEREBY DIRECTS** that all revenues generated by the Ocean Wind 1,100 MW project, including but not limited to the Market Revenues estimated in the application shall be collected, managed, and returned to ratepayers in compliance with OWEDA and the rules at N.J.A.C.14:8-6.6. As required under these rules, Ocean Wind shall take all reasonable efforts and due diligence to maximize revenues from the qualified OSW project, as required by N.J.A.C. 14:8-6.6(e). Ocean Wind shall also be responsible for the collection and transfer of all project revenues on behalf of ratepayers and shall be bound by all additional requirements under N.J.A.C. 14:8-6.6(f).

The Board **HEREBY DIRECTS** that Ocean Wind's market revenue settlement procedure must maximize ratepayer interests subject to the floor mechanism linked to PJM's Real Time Market, annual BRA governing capacity prices, any applicable as revenues, as well as the sale of RECs to third parties enabled by Ocean Wind's generation output.

The Board **HEREBY DIRECTS** the EDCs to serve as payment agents, on behalf of all suppliers obligated under the Renewable Portfolio Standard rules, to facilitate the collection and transfer of monthly OREC payments from ratepayers to Ocean Wind in compliance with the rules at N.J.A.C. 14:8-6.6(c).

The Board **HEREBY DIRECTS** the EDCs to implement a monthly OSW surcharge on ratepayers as required by N.J.A.C. 14:8-6.6(c). The EDCs shall file a tariff with the Board no later than 180 days prior to the Ocean Wind COD to collect a non-bypassable OREC surcharge to be assessed as a distribution charge that will be sufficient to meet each supplier's OREC obligation. The EDCs shall implement the ratepayer surcharge based on the Board-approved total Annual OREC allowance for Ocean Wind multiplied by the OREC price, and expressed as a per kilowatt hour (kWh) charge to be collected from all ratepayers on behalf of the suppliers. The EDCs shall begin collecting the OREC surcharge four months in advance of the Ocean Wind project COD to ensure that adequate funds will be available to complete the initial OREC payment to the Ocean Wind. The surcharge shall be implemented in compliance with N.J.A.C. 14:8-6.6 (c).

The Board **HEREBY DIRECTS** the EDCs to file with the Board annually for recoverable charges



for the administrative fees incurred as payment agent and for the OREC Administrator fees.

The Board **HEREBY DIRECTS** the EDCs to enter into a joint contract to retain an OREC Administrator to facilitate all transactions between ratepayers, suppliers, EDCs, and OSW developers, who will be responsible for tracking and verifying all payments and obligations as described under N.J.A.C. 14:8-6.6. The OREC Administrator will establish a standard Participation Agreement for the EDCs and Ocean Wind as a Qualified OSW Project. Based on the participation of all parties, the OREC Administrator shall conduct a true-up twice per year to ensure compliance with the Renewable Portfolio Standards and as stipulated under N.J.A.C. 14:8-6.6. The contract for the OREC Administrator shall be competitively bid by the EDCs to ensure the most efficient and cost competitive price for ratepayers. In furtherance of this directive, the EDCs shall draft and submit to the Board for approval, a Request for Proposal to jointly solicit an OREC Administrator. The OREC Administrator shall be retained no later than one year prior to the Ocean Wind 1,100 MW project COD.

The Board **HEREBY DIRECTS** Ocean Wind and the EDCs to enter into and comply with the Standard Participation Agreement to be established by the OREC Administrator. The Standard Participation Agreement and any subsequent modifications shall be developed by the OREC Administrator and approved by the Board.

The Board **HEREBY DIRECTS** staff to establish an OSW carve-out to the Class I Renewable Portfolio Standards based on the approved Ocean Wind 1,100 MW project annual OREC allowance of 4,851,497 MWh within eighteen months of the date of this Order.

With the approval of the Ocean Wind 1,100 MW project, the OSW capacity for the September 20, 2018 Solicitation is fulfilled, and thus, all other responses submitted under this Solicitation are **HEREBY DENIED**.

#### **I. TERMS AND CONDITIONS**


As required by OWEDA and the Board's regulations, the specific terms and conditions of award made in this Board Order are provided in Attachment B to this Order.




The effective date of this Order is June 21, 2019.


DATED: 6/21/19

BOARD OF PUBLIC UTILITIES  
BY:

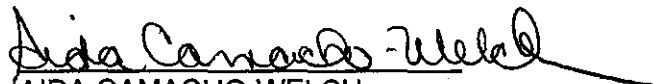
  
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ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities.



IN THE MATTER OF THE OPENING OF OREC APPLICATION WINDOW FOR 1,100  
MEGAWATTS OF OFFSHORE WIND CAPACITY EXECUTIVE ORDER NO. 8  
BPU Docket No. QO18080851

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**ATTACHMENT A – ANNUAL OREC PRICING SCHEDULES****Annual OREC Price Schedule and Planned Output Schedule  
1,100 MW Ocean Wind Project**

		<b><u>Phase 1</u></b>	<b><u>Phase 2</u></b>	<b><u>Phase 3</u></b>
Nameplate Capacity (MW)		368	368	368
COD (month/year)		May-24	Sep-24	Dec-24
Energy Year, ending May 31 of	All-in OREC Price (\$/OREC)	Phase 1 Output (months)	Phase 2 Output (months)	Phase 3 Output (months)
2024	\$ 98.10	1	-	-
2025	\$ 100.06	12	9	6
2026	\$ 102.06	12	12	12
2027	\$ 104.10	12	12	12
2028	\$ 106.18	12	12	12
2029	\$ 108.30	12	12	12
2030	\$ 110.47	12	12	12
2031	\$ 112.68	12	12	12
2032	\$ 114.93	12	12	12
2033	\$ 117.23	12	12	12
2034	\$ 119.57	12	12	12
2035	\$ 121.96	12	12	12
2036	\$ 124.40	12	12	12
2037	\$ 126.89	12	12	12
2038	\$ 129.43	12	12	12
2039	\$ 132.02	12	12	12
2040	\$ 134.66	12	12	12
2041	\$ 137.35	12	12	12
2042	\$ 140.10	12	12	12
2043	\$ 142.90	12	12	12
2044	\$ 145.76	11	12	12
2045	\$ 148.68	-	3	6

Note: The "All-in" OREC Price is prior to the requested true-up of system upgrade costs.



## **ATTACHMENT B – ADDITIONAL TERMS AND CONDITIONS**

This Board Order approving the Ocean Wind 1,100 MW project is subject to the following additional terms and conditions and all applicable federal, state and local laws and regulations, including, but not limited to, OWEDA, Executive Order No. 8, the Board's OSW 1,100 MW Solicitation, the Board's Guidelines for Application Submission for Propose Offshore Wind Facilities and the Board's implementing regulations at N.J.A.C. 14:8-6 et seq.

The following terms and conditions shall also apply:

- 1) Ørsted North America, Inc., ("Ørsted") as the sole owner of Ocean Wind shall also be subject to these terms and conditions;
- 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;
- 3) The total Annual OREC Allowance of 4,851,489 MWhs per year, as approved by the Board, shall not be subject to reduction or modification during the term of this OREC Order unless otherwise agreed to by the Board and Ørsted or its successor;
- 4) Ocean Wind may not exceed the annual OREC allowance of 4,851,489 MWh per year in any given year. Any unmet OREC allowances in a given year may be carried forward to the next year, as required by N.J.A.C. 14:8-6.6(b);
- 5) In addition to the requirements of N.J.A.C. 14:8-6.6(f) Ocean Wind shall follow the Settlement Procedure detailed below relative to returning project revenue to ratepayers. If Ocean Wind's revenue management program incorporates bilateral sales of energy, capacity, and/or AS, a monthly revenue index calculation of energy and capacity revenues based on PJM market prices for real-time energy prices at the injection nodes and BRA prices for the applicable zone and the actual quantities of energy and capacity sold shall be calculated by the OREC Administrator. The settlement procedure for this monthly calculation will serve as a floor governing the crediting of market revenues to New Jersey ratepayers. In addition, project revenues from all other sources shall also be credited in the calculation of Net OREC cost.
- 6) After month twelve (12) of the OREC term, the preceding twelve months of market index total energy plus capacity revenues shall be compared with actual project revenues from these two sources. The greater of actual and index market revenues for energy plus capacity sales will be credited in the calculation of net OREC cost for the settlement month. This same settlement method shall be used for each of the remaining nineteen years of the OREC price schedule.
- 7) Ocean Wind shall maintain and update the Ocean Wind Environmental Protection Plan, submitted under its application to the Board, to ensure that natural resources are protected throughout the development, operation, maintenance and decommissioning stages of the project and to ensure mitigation of potential impacts and information sharing with interested parties:
  - a) Ocean Wind shall maintain and update the Ocean Wind Environmental Protection Plan at key project milestones, including commencement of construction, completion of construction, and every two years thereafter, through decommissioning, or at other times as requested by NJDEP. Ocean Wind's Environmental Protection Plan shall be updated to ensure New Jersey's natural resources, including fin fish and shellfish, sea turtles, marine mammals, avian species, bats and benthic populations are protected throughout the life of the project from pre-construction through decommissioning and that any impacts are being actively monitored and mitigated as required by law;



- b) Ocean Wind shall report annually to the Board and NJDEP on actions taken by the developer to ensure environmental protection, mitigation of environmental impacts as well as efforts to advance our understanding of the marine environment;
  - c) Ocean Wind shall report annually to the Board and NJDEP and shall make public through appropriate data portals, existing or developed, any data collected in the pursuit of the development of this project from pre-construction activities through decommissioning activities. All collected information and scientific data not deemed confidential by statute or regulation shall be shared. Specifically, data with particular emphasis on natural resources including, but not limited to, fin fish and shellfish, sea turtles, marine mammals, avian species, bat and benthic populations, as well as data regarding vessel strikes, avoidance, observations on habitat, and routine data collection on ocean conditions shall be shared. The Board is particularly interested in fostering a transparent and collaborative information-sharing partnership with academia, stakeholders and state agencies or programs, including the WIND Institute; and
  - d) Ocean Wind shall report annually on the policies and programs that may be adopted by the Board to help reduce future environmental impacts or enhance the protection of natural resources.
- 8) Any grant program established under this award to provide bill payment assistance to electric and gas utility customers in need of immediate assistance must be competitively bid, unless the public interest mandates otherwise.
  - 9) Ocean Wind shall provide documentation to the Board of construction phase in-state expenditures within 90 days after the COD of the final phase for the purpose of determining the amount of any additional contribution to the Pro-NJ Trust in order to reach at least 90% of the guaranteed expenditure levels of \$411 million absent establishment of a third-party foundation fabrication facility or of \$695 million if such facility is established.
  - 10) Ocean Wind shall provide documentation to the Board of operation phase in-state FTE jobs within 90 days after each operation year, starting with the final phase COD, for the purpose of determining the amount of any additional contribution to the Pro-NJ Trust. Absent the contingent crew transport vessel logistics plan and waiver of the 10 knots/hour speed restriction, Ocean Wind shall guarantee 46 FTE jobs each operation year, or 69 FTE jobs with the conditions met. Ocean Wind shall provide documentation to the Board of worker compensation for the purpose of calculating any required contribution to the Pro-NJ Trust in order to reach at least the employee compensation equivalent of 75% of the guaranteed level during the wind turbine generator warranty period and 90% of direct annual FTEs thereafter.
  - 11) Per N.J.A.C.14:8-6.5(a)(12)(vii), the OREC pricing method shall represent the calculation of the price based on the total revenue requirements of the project over a 20-year period. As detailed further in Attachment A, Ocean Wind's 1,100 MW project's first phase COD is May 1, 2024, second phase is September 7, 2024, and the third phase December 1, 2014. The project will be built and commence operations in distinct phases. The phased approach allows the project to bring clean energy to New Jersey in the most efficient way possible. Ocean Wind has committed to deliver on the COD dates listed in Attachment A. 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.