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Acting Board Secretary Carmen Diaz
NJ Board of Public Utilities
44 South Clinton Street, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625

July 8, 2022
Via email only

Re: 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 - BPU Dkt. No. Q022050347

Dear Ms. Diaz:

Please accept for filing this letter on behalf of the County of Cape May objecting to the July 5, 2022, Order Setting Procedural Schedule ("July 5th Order") issued by President Fiordaliso in the above-referenced matter and joining in the objections offered by Rate Counsel by letter dated July 7, 2022. The objection of Rate Counsel are incorporate here by reference. In keeping with current Board directives, this letter is being filed and served only by email. We would be most appreciative if you would file and acknowledge receipt of this letter. Thank you for your assistance in this regard.

Cape May County, New Jersey includes sixteen distinct municipalities. Each of them is a stakeholder in the outcome of this matter. None of them was served with the July 5th Order nor the original 8B Order issued June 29, 2022, effective July 1, 2022. There are also other New Jersey counties and other stakeholders who have a legitimate interest in the development of this novel process as well as the outcome. The earliest any of these governmental stakeholder would have had to consider intervening would have been July 5, 2022. That leaves just ten days for action by local and county governments that must act as bodies and have public meetings before they can take the steps necessary to file a motion to intervene. The arbitrary deadline of July 15, 2022, for motions to intervene is unreasonable. Due process would allow governmental and other entities sufficient time to contemplate the issues and make a reasoned decision on intervening. The County of Cape May urges the Board of Public Utilities to extend this deadline to at least July 31, 2022.

As Rate Counsel points out, the County of Cape May timely filed a Motion to Decline Jurisdiction and Dismiss without Prejudice on June 8, 2022. The motion was the subject of written opposition from Ocean Wind 1, to which the County replied. All documents related to the County's motion were before the Board as of June 27, 2022. The Board retained the within Petition at its regular meeting of June 29, 2022, with no comment on the County's pending motion. The only response from the Board to this motion raising jurisdictional questions was a single, short sentence in the July 5th Order, stating, "The June 8, 2022

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Motion will be addressed at a later date.” The Board’s decision to ignore the County’s motion and take jurisdiction of the within Petition and issue Orders related to scheduling is extraordinarily prejudicial to the County of Cape May. Clearly, Rate Counsel finds this approach prejudicial as well, as indicated in the aforementioned letter from Rate Counsel to the Board. As Rate Counsel points out, the County raised issues related to jurisdiction, the threshold question in any quasi-judicial proceed such as this. The County’s motion includes substantial and legitimate jurisdictional questions that are important not only to the County, but to the development of this new and untested Administrative process under N.J.S.A. 48:3-87.1(f). There are critical questions of law that may be in some respects dispositive on the question of what pre-Petition actions a Qualified Offshore Wind Project must take before it may seek to have BPU supplant the authority of County and local elected officials. The County of Cape May respectfully requests and urges the Board of Public Utilities to render decisions on the questions raised in the County’s motion of June 8, 2022, before proceeding further in this matter.

The County joins in the objections of Rate Counsel, as indicate above, but most especially, after the matter of the County’s motion, in the objection to the decision to allow zero discovery in this complex and important matter of first impression. The County should be entitled to engage in discovery including by not limited to propounding questions related to the Petitioner’s analyses leading to the within Petition. The County should be entitled to request and receive the data underlying Ocean Wind 1’s expert opinions and its decisions reaching the conclusion that the route it prefers for transmission lines is reasonably necessary.

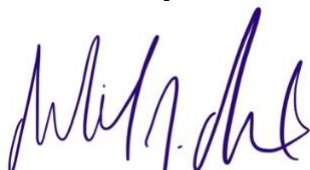
Clearly this is a “contested case” under N.J.S.A. 52:14B-1 and the County should be entitled to all due process required under the Administrative Procedures Act and the provisions of the Administrative Code related to same.

As pointed out by Ocean Wind in its submissions thus far, Ocean Wind has had years to prepare for the filing of this Petition. The July 5th Order gives the County 24 days to prepare and file its opposition. In fact, the July 5th Order requires that this complex matter of first impression that will determine if the authority of duly elected local and County officials may be superseded by the Board of Public Utilities be entirely completed in little more than 90 days.

Again, the County respectfully urges the Board of Public Utilities to decide the questions raised in the County’s Motion of June 8, 2022, and thereafter, if the Board retains jurisdiction, enter a Scheduling Order that affords the County and other stakeholders at least the minimal procedural due process to which they are entitled as a matter of law.

Thank you for your kind attention to the above.

Most Sincerely,



Michael J. Donohue

cc: Service List via email