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STATE OF 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 ARE REASONABLY NECESSARY FOR THE CONSTRUCTION OR OPERATION OF THE OCEAN WIND 1 QUALIFIED OFFSHORE WIND PROJECT	MOTION TO INTERVENE BY UPPER TOWNSHP, NEW JERSEY DOCKET NO. QO22050347
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To New Jersey Board of Public Utilities and all Parties on the Attached Service List:

Upper Township hereby moves for an order of the Board of Public Utilities (“Board”) granting leave to intervene in the within matter in accordance with the Order of the Board of June 29, 2022 and pursuant to N.J.A.C. 1:1-16.1(a), which provides that any person or entity not initially a party who will be “substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.” Under N.J.A.C. 1:1-16.3(a), “[i]n ruling upon a motion to intervene, the judge shall take into consideration the nature and extent of the movant's interest in the outcome of the case, whether or not the movant's interest is sufficiently

different from that of any party so as to add measurably and constructively to the scope of the case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters.” Alternatively, Upper Township moves to participate in accordance with N.J.A.C. 1:1-16.6. For the reasons set forth below, Upper Township respectfully requests the Board to (1) grant it full rights as an intervenor in this matter pursuant to N.J.A.C. 1:1-16.1, and (2) order such further relief in connection therewith as the Board deems reasonable and just.

In support of this motion, Upper Township states:

1. Upper Township is a Municipal corporate body politic of the State of New Jersey, the territory of which fronts on the Atlantic Ocean in Cape May County, New Jersey.
2. Ocean Wind has publicly announced that it plans to install upwards of 200 wind turbines on towers as high as 900' or more off the shore of Cape May County for the generation of electricity.
3. Ocean Wind's current Petition adverse to the County of Cape May seeks to gain Board approval of a route for transmission cables to deliver wind-generated electricity ultimately to the electrical grid.
4. Upper Township will be substantially, specifically and directly effected by the outcome of this Petition as follows:
 - a. In May 2022, Upper Township entered into a Memorandum of Understanding with Petitioner, Ocean Wind to undertake redevelopment of property located within Upper Township known as a portion of Block 479, Lot 76 on the official tax maps of Upper Township (“Upper Township Property”) and is in the process of negotiating a redevelopment agreement; and
 - b. The redevelopment project proposed to be undertaken is an electrical substation (“Upper Township Project”) which will be utilized as part of Ocean

Wind's qualified Offshore Wind Project ("Project"); and

- c. The Petition pending before the Board relates to easements sought in Cape May County relating to the Project in order to install approximately 100 windmills off the coast of Cape May County in varying distances to the shoreline; and
- d. The location of the easements will affect the design, construction and operation of the Upper Township Project; and
- e. The Petition covers different easements and consents for different parts of the cable and Upper Township has an interest in the location of the easements and the cable as they relate to Project, and in particular the Upper Township Project; and
- f. The decision of the Board in determining the placement of cables and transmission lines reasonably necessary for the Project will substantially, specifically and directly affect the important interests and obligations of Upper Township, including Upper Township's interests and obligations relating to the Upper Township Project.
- g. Upper Township's interest is sufficiently different from Offshore Wind because Upper Township's interest is related to its redevelopment and land use regulatory activities; and
- h. Upper Township's interest is sufficiently different from Ocean City's and Cape May County's interest because it is related to its land use regulatory activities and its interest as a redevelopment entity overseeing a redevelopment project; and
- i. Granting Upper Township's intervention at this stage of the proceeding will

not cause undue delay or confusion, nor impose an undue burden on any party to this proceeding, as this Motion is being timely filed in accordance with the Order of the Board of June 29, 2022; and

- j. Allowing Upper Township to intervene and/or participate in this matter will add judicial economy and bring efficiency to this and future proceedings inasmuch as Upper Township will be bound by the ultimate outcomes and issues of first impression related to N.J.S.A. 48:3-87.1(f), and such issues can potentially be resolved in a single proceeding instead of multiple proceedings; and
 - k. Granting intervention to Upper Township will allow the development of a full and complete record and allow consideration of a diversity of interests.
- 5. This is only the second Petition to be considered by the Board under N.J.S.A. 48:3-87.1(f).
 - 6. A portion of Upper Township runs along the Atlantic Ocean where offshore wind projects, such as the one proposed by Ocean Wind, will be located and Upper Township has an interest generally in the siting of offshore wind projects located offshore of those portions of Upper Township abutting the Atlantic Ocean.
 - 7. Each decision made by the Board in interpreting and applying N.J.S.A. 48:3-87.1(f) will directly impact Upper Township inasmuch as those decisions will be applicable to Upper Township, especially in relation to its tourism and land use activities, should such a Petition be filed in connection with a Qualified Offshore Wind Project in the future.
 - 8. Upper Township has an obligation to the residents and businesses, of and visitors to, Upper Township to represent their interests in any matter that will have a lasting impact on Upper Township and its community, such as the permanent placement of related

wind facilities that may dramatically affect redevelopment and land use decisions and/or activities within Upper Township.

9. The decision of the Board in determining the location and placement of transmission lines, cables and turbines in future Qualified Offshore Wind Projects within Cape May County will substantially, specifically and directly affect important interests and obligations of Upper Township.
10. Allowing Upper Township to intervene and/or participate in such matters will add judicial economy and bring efficiency to this and future proceedings inasmuch as Upper Township will be bound by the ultimate outcomes and issues of first impression related to N.J.S.A. 48:3-87.1(f), and such issues can potentially be resolved in a single proceeding instead of multiple proceedings.
11. Additionally, the Petitioner seeks to have the Board determine that the due process provisions of the New Jersey Eminent Domain Act, N.J.S.A. 20:3-1 *et seq.*, including but not limited to the requirement that an appraisal be completed of specific property proposed to be taken by the Board through the application of N.J.S.A. 48:3-87.1(f), do not apply. Such a decision will have a direct impact on residents and governmental entities since it will potentially deprive due process in future proceedings.
12. Upper Township will work with the parties to establish a procedural schedule in this case.
13. The Verification of Mayor Curtis T. Corson is attached hereto stating that the facts stated in this motion are true and accurate to the best of his knowledge and belief.
14. Correspondence concerning this Motion and this proceeding should be sent to:

M. James Maley, Jr., Esq.
Maley Givens, P.C.
1150 Haddon Avenue, Suite 210

Collingswood, New Jersey 08108
jmaley@maleygivens.com

A Certificate of Service and proposed form of Order granting intervention are attached hereto.

WHEREFORE, Upper Township respectfully requests the Board to (1) grant it full rights as an intervenor in this matter pursuant to N.J.A.C. 1:1-16.1, and (2) order such further relief in connection therewith as the Board deems reasonable and just.

Respectfully submitted,

MALEY GIVENS, P.C.

By: _____


M. James Maley, Jr.

Dated: July 12, 2022

VERIFICATION

STATE OF NEW JERSEY

SS:

COUNTY OF CAPE MAY

I, CURTIS T. CORSON, hereby state that I am the Mayor of Upper Township, the proposed Intervenor in the above captioned Petition; that I am authorized to make this Verification on behalf of Upper Township, that the foregoing Motion to Intervene was prepared under the direction of the governing body of Upper Township; and that the statements in the foregoing Motion to Intervene are true and correct to the best of my knowledge, information, and belief.



CURTIS T. CORSON, MAYOR