

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

DIVISION OF CLEAN ENERGY

IN THE MATTER OF THE PETITION OF OCEAN)
WIND LLC PURSUANT TO N.J.S.A. 48:3-87.1(F) FOR) ORDER MODIFYING THE
A DETERMINATION THAT CERTAIN EASEMENTS) PROCEDURAL SCHEDULE
AND CONSENTS NEEDED FOR CERTAIN)
ENVIRONMENTAL PERMITS IN, AND WITH)
RESPECT TO, THE COUNTY OF CAPE MAY ARE) DOCKET NO. QO22050347
REASONABLY NECESSARY FOR THE)
CONSTRUCTION OR OPERATION OF THE OCEAN)
WIND 1 QUALIFIED OFFSHORE WIND PROJECT)
)

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., Cozen O'Connor, P.C., on behalf of Ocean Wind LLC
Michael J. Donohue, Esq., Blaney Donohue & Weinberg, P.C., on behalf of Cape May County
Gerald M. Thornton, Commissioner Director Board of County Commissioners, Cape May County
Kevin Lare, Administrator Board of County Commissioners, Cape May County
Rita M. Rothberg, County Clerk, Cape May County
Jeffrey R. Lindsay, Esq., County Counsel, Cape May County

BY PRESIDENT FIORDALISO:

By this Order, I set forth a modified procedural schedule in this proceeding.

BACKGROUND

On May 20, 2022, Ocean Wind LLC ("Ocean Wind" or "Petitioner") filed a petition ("Petition") with the New Jersey Board of Public Utilities ("Board" or "BPU"), pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across properties owned by the County of Cape May ("County") and certain consents needed from the County for certain environmental permits in or with respect to the County are reasonably necessary for the construction or operation of Petitioner's qualified offshore wind project, Ocean Wind I ("Project" or "QOWP").

N.J.S.A. 48:3-87.1(f)(2) grants the Board the authority to make a determination on a petition from a qualified offshore wind project "seeking authority to obtain the easement, right-of way, or other real property interest."

On June 8, 2022, Michael J. Donohue, Esq., on behalf of the County of Cape May, filed a motion with the Board, requesting the Board to decline jurisdiction over the Petition and to dismiss the Petition without prejudice as unripe for disposition and non-justiciable under N.J.S.A. 48:3-87.1(f) and N.J.S.A. 20:3-1 et seq. ("June 8, 2022 Motion"). On June 20, 2022, Ocean Wind filed a reply brief in opposition to the June 8, 2022 Motion ("June 20, 2022 Reply Brief"), and on June 27, 2022 the County filed a reply to Ocean Wind's June 20, 2022 Reply Brief. The June 8, 2022 Motion will be addressed at a later date.

On June 29, 2022, the Board retained the Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated me as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings as well as to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues ("June 29, 2022 Order"). Further, the June 29, 2022 Order directed the County to be included as a necessary party, and further directed any entities seeking to intervene or participate in this matter to file the appropriate motions with the Board on or before July 15, 2022.

On July 5, 2022, I issued an Order setting the procedural schedule in this matter ("July 5, 2022 Order"). That Order set the July 15, 2022 due date for motions to be filed. Since the time of that Order, multiple government entities requested that the deadline to intervene be extended until July 31, 2022. These government entities generally noted that the added time would help them confer with the appropriate decision makers and provide them with time to prepare any filings.

I note that P.L. 2021, c. 178 envisions a transparent and public process for the evaluation of the Petition. In accordance with N.J.S.A. 48:3-87.1(f)(2), the Board is required to hold a public hearing and to provide the opportunity for public comments on the Petition.

The public will have an opportunity to file comments and attend a public hearing. I, President Fiordaliso, will preside over the public hearing. Notice of the public hearing shall be provided to the "news media, the owner of the real property subject to the petition, and the governing body and municipal clerk of the municipality and the clerk of the county in which the lands proposed to be conveyed are located." N.J.S.A. 48:3-87.1(f)(2). Public Comments may be submitted using the Board's Public Document Search tool, located at <https://publicaccess.bpu.state.nj.us/> using DOCKET NO. QO22050347.

MODIFIED PROCEDURAL SCHEDULE

In order to accommodate the parties' ability to meaningfully participate in this proceeding and to provide for more flexibility, I set forth the modified procedural schedule ("Modified Schedule") in Exhibit A herein. Motions to intervene will now be due on July 29, 2022.

DISCUSSION & FINDINGS

I **HEREBY ISSUE** the following Modified Schedule identified as Exhibit A herein. While there is no formal discovery period established for this proceeding, I further **DIRECT** the parties to comply with the Modified Schedule's terms and to work cooperatively with each other to the fullest extent possible

in the interest of reaching a just determination in this proceeding. The Modified Schedule provides the parties with opportunities to present evidence and arguments to aid in the Board's deliberation.

I **HEREBY DIRECT** that this Order be posted on the Board's website. For reference, the June 29, 2022 Order and July 5, 2022 Order are included in Exhibit B herein.

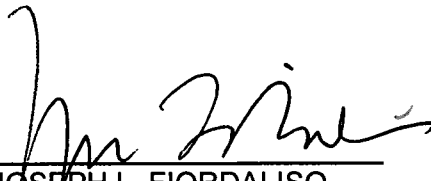
Parties are **HEREBY DIRECTED** to serve all documents electronically.

This provisional ruling is subject to ratification or other alteration by the Board, as it deems appropriate during the proceedings in this matter.

DATED:

BOARD OF PUBLIC UTILITIES
BY:

7/14/22



JOSEPH L. FIORDALISO
PRESIDENT

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 DOCKET NO. QO22050347

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Township of Dennis c/o Kyle D. Weinberg, Esq. Blaney, Donohue & Weinberg, P.C. 2123 Dune Drive, Suite 11 Avalon, NJ 08202 kyle@blaneydonohue.com	City of Ocean City c/o Dorothy F. McCrosson, Esq. City Solicitor, City of Ocean City, NJ 200 Asbury Avenue Ocean City, NJ 08226 DMcCrosson@OCNJ.US
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New Jersey State League of Municipalities c/o Frank Marshall, Esq. 222 West State Street Trenton, NJ 08608 league@njlm.org	

IN THE MATTER OF THE PETITION OF OCEAN WIND, LLC PURSUANT TO N.J.S.A. 48:3-87.1(f) FOR A DETERMINATION THAT EASEMENTS ACROSS GREEN ACRES-RESTRICTED PROPERTIES AND CONSENTS NEEDED FOR CERTAIN ENVIRONMENTAL PERMITS IN, AND WITH RESPECT TO, THE CITY OF OCEAN CITY ARE REASONABLY NECESSARY FOR THE CONSTRUCTION OR OPERATION OF THE OCEAN WIND 1 QUALIFIED OFFSHORE WIND PROJECT

**Exhibit A:
Modified Procedural Schedule**

Item	Date
Motions Due	July 29, 2022
Ocean Wind's Responses to Motions	August 5, 2022
Opposition and Testimony from Parties	August 17, 2022
Ocean Wind Reply	August 26, 2022
Public Hearing	September 8, 2022
Public Written Comments Deadline	September 21, 2022
Settlement Conference	September 28, 29 or 30, 2022
Parties Respond to Public Comment	October 7, 2022
Oral Argument	Week of October 17, 2022

Further details regarding the Public Hearing and Oral Argument will be forthcoming.

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 DOCKET NO. QO22050347

**Exhibit B:
June 29, 2022 Order and July 5, 2022 Order**

DOCKET NO. QO22050347



Agenda Date: 6/29/22
Agenda Item: 8B

STATE OF NEW JERSEY
Board of Public Utilities
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Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE PETITION OF OCEAN WIND)	ORDER DESIGNATING
LLC PURSUANT TO N.J.S.A. 48:3-87.1(F) FOR A)	COMMISSIONER, SETTING
DETERMINATION THAT CERTAIN EASEMENTS AND)	MANNER OF SERVICE AND
CONSENTS NEEDED FOR CERTAIN)	BAR DATE
ENVIRONMENTAL PERMITS IN, AND WITH RESPECT)	
TO, THE COUNTY OF CAPE MAY ARE REASONABLY)	DOCKET NO. QO22050347
NECESSARY FOR THE CONSTRUCTION OR)	
OPERATION OF THE OCEAN WIND 1 QUALIFIED)	
OFFSHORE WIND PROJECT)	

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., Cozen O'Connor, P.C., on behalf of Ocean Wind LLC
Michael J. Donohue, Esq., Blaney Donohue & Weinberg, P.C., on behalf of Cape May County
Gerald M. Thornton, Commissioner Director Board of County Commissioners, Cape May County
Kevin Lare, Administrator Board of County Commissioners, Cape May County
Rita M. Rothberg, County Clerk, Cape May County
Jeffrey R. Lindsay, Esq., County Counsel, Cape May County

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board" or "BPU") considers retention of a petition filed by Ocean Wind LLC's ("Ocean Wind" or "Company"), which requests that the Board determine that certain easements across properties owned by the County of Cape May ("Cape May County" or "County") and certain consents needed from the County for certain environmental permits in, and with respect to the County, are reasonably necessary for the construction or operation of the Ocean Wind 1 Qualified Offshore Wind Project ("Project") ("Cape May Petition").

BACKGROUND

In response to Governor Murphy's Executive Order No. 8, which called upon the Board to fully implement the Offshore Wind Economic Development Act, the Board issued its first offshore wind solicitation in September 2018. Ocean Wind submitted an application and in June 2019, the Board approved the Project as a Qualified Offshore Wind Project ("QOWP"). Since the award,

Ocean Wind has been in the planning, permitting and preconstruction phase of the Project. A significant aspect of the preconstruction activities involves obtaining the necessary easements, permits and consents for the onshore construction of the electricity export cable, which will bring the renewable electricity from the offshore wind turbines to the electric transmission and distribution system in New Jersey.

On February 2, 2022, Ocean Wind filed a petition with the Board, pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across Green Acres-restricted properties owned by the City of Ocean City, New Jersey ("Ocean City"), and that certain municipal consents needed for particular environmental permits in or with respect to Ocean City, are reasonably necessary for the construction or operation of the QOWP, Ocean Wind I ("Ocean City Petition").

On May 20, 2022, Ocean Wind filed the instant petition, pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across properties owned by the Cape May County and certain consents needed from the County for certain environmental permits in, and with respect to the County, are reasonably necessary for the construction or operation of the Project.

The Cape May Petition pertains only to Cape May County and is the subject of this Order. While the Cape May Petition and the Ocean City Petition both concern the same onshore cable for the electricity export cable of Ocean Wind 1's QOWP, each petition covers different easements and consents for different parts of the cable.

N.J.S.A. 48:3-87.1(f) grants the Board the authority to make a determination on a petition from a QOWP "seeking authority to obtain the easement, right-of way, or other real property interest."

DISCUSSION

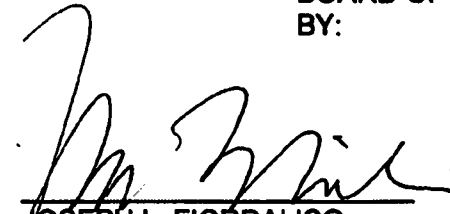
The Board has determined that it should retain the Cape May Petition. Accordingly, pursuant to N.J.S.A. 48:2-32, the Board **HEREBY DESIGNATES** President Joseph L. Fiordaliso as the presiding officer with authority to rule on all motions that arise during the pendency of this proceeding and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the Board **HEREBY DIRECTS** that the County of Cape May be included as a necessary party in this proceeding, and **HEREBY DIRECTS** any entity seeking to intervene or participate in this matter file the appropriate application with the Board on or before July 15, 2022. Any party wishing to file a motion for admission of counsel, pro hac vice, should do so concurrently with any motion to intervene or participate.

In addition, in compliance with the Board's Order in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically. No hard copies shall be filed until the Board lifts the restrictions imposed in that Order. The Board **HEREBY DIRECTS** Board Staff to post this Order to the Board's website.

The effective date of this Order is July 1, 2022.

DATED: June 29, 2022

BOARD OF PUBLIC UTILITIES
BY:


JOSEPH L. FIORDALISO
PRESIDENT

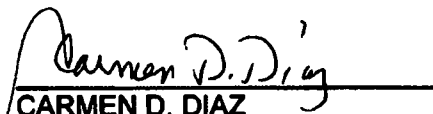

MARY ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER


ROBERT M. GORDON
COMMISSIONER

ATTEST:


CARMEN D. DIAZ
ACTING 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 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. QO22050347

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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)

ORDER SETTING
PROCEDURAL SCHEDULE

DOCKET NO. QO22050347

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., Cozen O'Connor, P.C., on behalf of Ocean Wind LLC
Michael J. Donohue, Esq., Blaney Donohue & Weinberg, P.C., on behalf of Cape May County
Gerald M. Thornton, Commissioner Director Board of County Commissioners, Cape May County
Kevin Lare, Administrator Board of County Commissioners, Cape May County
Rita M. Rothberg, County Clerk, Cape May County
Jeffrey R. Lindsay, Esq., County Counsel, Cape May County

BY PRESIDENT FIORDALISO:

By this Order, I set forth a procedural schedule for this proceeding.

BACKGROUND

On May 20, 2022, Ocean Wind LLC ("Ocean Wind" or "Petitioner") filed a petition ("Petition") with the New Jersey Board of Public Utilities ("Board" or "BPU"), pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across properties owned by the County of Cape May ("County") and certain consents needed from the County for certain environmental permits in or with respect to the County are reasonably necessary for the construction or operation of Petitioner's qualified offshore wind project, Ocean Wind I ("Project" or "QOWP").

N.J.S.A. 48:3-87.1(f)(2) grants the Board the authority to make a determination on a petition from a qualified offshore wind project "seeking authority to obtain the easement, right-of way, or other

real property interest.”

On June 8, 2022, Michael J. Donohue, Esq. on behalf of the County of Cape May, filed a motion with the Board, requesting the Board to decline jurisdiction over the Petition and to dismiss the Petition without prejudice as unripe for disposition and non-justiciable under N.J.S.A. 48:3-87.1(f) and N.J.S.A. 20:3-1 et seq. (“June 8, 2022 Motion”). On June 20, 2022, Ocean Wind filed a reply brief in opposition to the June 8, 2022 Motion, and on June 27, 2022 the County filed a reply to Ocean Wind’s reply. The June 8, 2022 Motion will be addressed at a later date.

On June 29, 2022, the Board retained the Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues (“June 29, 2022 Order”). Further, the June 29, 2022 Order directed the County to be included as a necessary party, and further directed any entities seeking to intervene or participate in this matter to file the appropriate motions with the Board on or before July 15, 2022.

I note that P.L. 2021, c. 178 envisions a transparent and public process for the evaluation. In accordance with N.J.S.A. 48:3-87.1(f)(2), the Board is required to hold a public hearing and to provide the opportunity for public comments on the Petition.

The public will have an opportunity to file comments and attend a public hearing. I, President Fiordaliso, will preside over the public hearing. Notice of the public hearing shall be provided to the “news media, the owner of the real property subject to the petition, and the governing body and municipal clerk of the municipality and the clerk of the county in which the lands proposed to be conveyed are located.” N.J.S.A. 48:3-87.1(f)(2). Public Comments may be submitted using the Board’s Public Document Search tool, located at <https://publicaccess.bpu.state.nj.us/> using DOCKET NO. QO22050347.

DISCUSSION & FINDINGS

I **HEREBY ISSUE** the following procedural schedule (“Schedule”) attached hereto as Exhibit A. I further **HEREBY DIRECT** the parties to comply with the Schedule’s terms and to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding. The Schedule provides the parties with opportunities to present evidence and arguments to aid in the Board’s deliberation.

In compliance with the Board’s Order in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically. No hard copies shall be filed until the Board lifts the restrictions imposed in that Order.

I **HEREBY DIRECT** that this Order be posted on the Board’s website.

This provisional ruling is subject to ratification or other alteration by the Board, as it deems appropriate during the proceedings in this matter.

DATED: 7/5/22

BY:


JOSEPH L. FIORDALISO
PRESIDENT

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

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**Exhibit A:
Procedural Schedule**

Item	Date
Motions Due	July 15, 2022
Opposition and Testimony from Parties	July 29, 2022
Ocean Wind Reply	August 12, 2022
Public Hearing	August 23, 2022
Public Written Comments Deadline	September 6, 2022
Settlement Conference	Week of September 12, 2022
Parties Respond to Public Comments	September 20, 2022
Oral Argument	Week of October 3, 2022

Further details regarding the Public Hearing and Oral Argument will be forthcoming.

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