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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 OF THE  
BOROUGH OF AVALON, STATE OF  
NEW JERSEY.

BPU Docket No.: QO22050347

The Borough of Avalon ("Borough") hereby moves for an order of the Board of Public Utilities ("Board") granting it intervention in the above referenced 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), "In 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, the Borough moves

to participate in accordance with N.J.A.C. 1:1-16.6. The Borough 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, the Borough states:

1. The Borough of Avalon 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 tall as close as 10 to 15 miles to the beaches 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. The Borough will be substantially, specifically and directly effected by the outcome of this Petition as follows:

a) At present, the Borough has been provided with no information as to how this project will impact its local tourism and fishing industries as no impact report has been provided to the Borough, and the Borough has not had an opportunity to conduct any review of the project's potential impacts.

b) At present, the Borough has been provided no information as how this project will impact the Borough's infrastructure regarding the potential placement of cables and transmission lines reasonably necessary for this project.

c) At present, the Borough has been provided no information as how this project will potentially alter property values.

d) At present, the Borough has been provided no information as how this project will impact the wildlife in the area, particularly with respect to the various species of birds.

5. This is only the second Petition to be considered by the Board under N.J.S.A. 48:3-87.1(f).

6. Each decision made by the Board in interpreting and applying N.J.S.A. 48:3-87.1(f) will directly impact the Borough inasmuch as those decisions will be applicable to the Borough should such a Petition be filed in connection with the Borough in the future.

7. The Borough has an obligation to the residents and businesses of and visitors to the Borough to represent their interests in any matter that will have a lasting, potentially negative impact on the Borough, such as the permanent placement of wind facilities that will dramatically alter the viewshed of the Atlantic Ocean from the beaches of the Borough of Avalon.

8. The viewshed constitutes an important element of the natural environment of the Borough which, in turn, is a critical component of the second-homeowner and tourism driven economy of the Borough.

9. The decision of the Board in determining if and where the placement of transmission lines are reasonably necessary for the project will substantially, specifically and directly effect the important interests and obligations of the Borough as detailed above.

10. 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 the Borough inasmuch as it will potentially deprive the Borough of such due process in future proceedings.

11. Allowing the Borough to intervene and/or participate in this matter will add judicial economy and bring efficiency to this and future proceedings inasmuch as the Borough 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.

12. The Borough will work with the parties to establish a procedural schedule in this case.

13. Granting the Borough 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.

14. The Verification of Borough Administrator, Scott Wahl, is attached hereto stating that the facts stated in this motion are true and accurate to the best of his knowledge and belief.

15. Correspondence concerning this Motion and this proceeding should be sent to:

Nicole J. Curio, Esq.  
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2321 Dune Drive, Suite 11  
Avalon, New Jersey 08202  
[nicole@blaneydonohue.com](mailto:nicole@blaneydonohue.com)

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

**WHEREFORE**, the Borough 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,

/s/ Nicole J. Curio  
Nicole J. Curio, Esq.  
Blaney Donohue & Weinberg, P.C.

## VERIFICATION

STATE OF NEW JERSEY

COUNTY OF CAPE MAY

I, Scott Wahl, hereby state that I am the Borough Administrator of the Borough of Avalon, the Petitioner in the foregoing Petition; that I am authorized to make this Verification on behalf of the Borough of Avalon, that the foregoing Petition was prepared under my direction and supervision, and with the support of Borough Council, as outlined in Resolution No156-2022; and that the statements in the foregoing Petition are true and correct to the best of my knowledge, information, and belief.



\_\_\_\_\_  
Scott Wahl, Borough Administrator  
Borough of Avalon

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N.J.S.A. 48:3-87.1(f) FOR A  
DETERMINATION THAT CERTAIN  
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NECESSARY FOR THE  
CONSTRUCTION OR OPERATION OF  
THE OCEAN WIND 1 QUALIFIED  
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BOROUGH OF AVALON, STATE OF  
NEW JERSEY

BPU Docket No.: QO22050347

### ORDER

On \_\_\_\_\_, 2022, the Borough of Avalon filed a Motion to Intervene in this matter. I find that the Borough is a Municipal Corporation of the State of New Jersey that will be directly and substantially affected by the outcome of this proceeding and that no other party to this proceeding can adequately represent the Borough's interests. Granting intervention to the Borough of Avalon will not cause undue confusion or delay, nor impose an undue burden on any party to this proceeding. I therefore GRANT the Borough of Avalon intervention in this proceeding pursuant to N.J.A.C. 1:1-16.1 and 1:1-16.3.

Date:

***BLANEY, DONOHUE & WEINBERG, P.C.***

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STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

Docket No.: QO22050347

**PROOF OF FILING/PROOF OF  
SERVICE**

**PROOF OF FILING**

On July 28, 2022, the within Motion to Intervene on behalf of the Borough of Avalon, proposed Order, and this Proof of Filing/Proof of Service were electronically filed to the Honorable Joseph L. Fiordaliso, Present, New Jersey Board of Public Utilities, c/o Acting Secretary Carmen Dias, 44 South Clinton Avenue, 9<sup>th</sup> Floor, P.O. Box 350, Trenton, New Jersey 08625-0350 via email at:

board.secretary@bpu.nj.gov

Dated: July 28, 2022

*/s/ Nicole J. Curio*  
Nicole J. Curio, Esquire



CERTIFICATION OF SERVICE

On July 28, 2022, the within Motion to Intervene on behalf of the Borough of Avalon, proposed Order, and this Proof of Filing/Proof of Service were electronically filed to the Honorable Joseph L. Fiordaliso, Present, New Jersey Board of Public Utilities, c/o Acting Secretary Carmen Dias, 44 South Clinton Avenue, 9<sup>th</sup> Floor, P.O. Box 350, Trenton, New Jersey 08625-0350 via email at:

board.secretary@bpu.nj.gov

I further certify that, on July 28, 2022, a copy of the above-referenced documents were forwarded via electronic mail to the members of the Service List associated with 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. The Service List utilized is the one included in President Fiordaliso's July 14, 2022 Order Modifying the Procedural Schedule in this matter and is attached hereto to this Proof of Filing/Proof of Service as attachment "A".

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: July 28, 2022

/s/ Nicole J. Curio  
Nicole J. Curio, Esquire

**In the Matter of the Petition of Ocean Wind LLC Pursuant to N.J.S.A. 48:37.1(f) for a Determination that 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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