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File No.: 1861.32

October 11, 2022

Via email only

Hon. Joseph L. Fiordaliso, President
New Jersey Board of Public Utilities
c/o Acting Secretary Carmen Dias
44 South Clinton Avenue, 9th Floor P.O. Box 350
Trenton, NJ 08625-0350
via email to: board.secretary@bpu.nj.gov

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 Docket No. QO22050347

WRITTEN COMMENTS

Dear President Fiordaliso:

The following is the comments of Paul J. Baldini, Esquire which would have been presented to the Board on September 29, 2022 had the Board not limited the due process of the towns represented by Paul J. Baldini to three minutes thereby ensuring a full record of the comments was impossible.

Thank you to the entire Board of the BPU for listening to these comments. I am here on behalf of the 9 Cape May County municipalities that sought intervention status and were denied the opportunity to intervene. I am here on behalf of the City of Sea Isle City, Dennis Township, Lower Township, the Borough of Avalon, Middle Township, the Borough of Wildwood Crest, the Borough of Stone Harbor, the City of Wildwood, and the City of North Wildwood. I will hereinafter refer to the collective 9 municipalities as the municipalities.

It was a disappointment to learn that the BPU just recently decided long pending motions, failed to provide this office with a copy of those decisions and failed to post the decisions on the BPU website. That being said, the municipalities continue to question the authority of the BPU to act in this matter and to grant the petition that Ocean Wind has filed. The municipalities again strongly urge the BPU to refer this matter to the Office of Administrative Law. There are numerous factual discrepancies and disputes between Ocean City, Cape May County, and Ocean Wind over the preferred route and the alternative routes. Collectively, I represent the overwhelming majority of residents who reside in Cape May County and will be affected by the decisions made.

At the outset, the municipalities specifically reserve the right to challenge any and all approvals granted to Ocean Wind pursuant to N.J.S.A. 48:3 – 87.1 (F) Ultra Vires for lack of approval and participation by the stakeholders and parties most greatly affected i.e. the residents of the County of Cape May County. The municipalities further reserve the right to challenge the decision to deny intervenor status to the municipalities.

Turning to a consideration of Ocean Wind's position seeking authority to obtain an easement over both Ocean City and County property there are a number of considerations. First, the route selected by Ocean Wind clearly traverses over fragile beaches, wetlands, and otherwise protected lands. The damage to be done to the beach is perhaps insurmountable.

The County and Ocean City have repeatedly reached out to Ocean Wind to try to resolve the differences. Ocean Wind seems to have spurned these attempts. When one combines the lack of openness and transparency on the part of Ocean Wind with the fact that environmental impact statements have not been finalized, the National Marine Fisheries Service has not adopted an environmental impact statement, and the US Army Corps of Engineers has not adopted an

environmental impact statement it seems wholly improbable that Ocean Wind can sustain the burden of demonstrating that the easements would be reasonably necessary for this project. Ocean City has clearly and concisely made the argument before the Board that the preferred route selected by Ocean Wind is the most economically expedient route. However, that type of decision is exactly the self-serving approach the BPU is here to protect the residents and visitors of Cape May County from. If there is a route that protects natural and pristine beaches, wetlands, and other natural areas and avoids disrupting many people as roads are torn asunder in order to lay cable then the other route is reasonably necessary and not the disruptive route. Aside from the obvious concerns for residents of the County such as horizon pollution, killing of migratory birds and whales and other species by the windmills there are other more concrete considerations to be addressed by the Board. Many issues remain unaddressed with regard to the potential installation of the transmission line through Ocean City and along County property including but not limited to the following:

The proposed installation limits the County's ability to install additional drainage or other underground utilities due to proximity regulations. As testified by the County Engineer "this may have a long-term negative impact on coastal and roadway resiliency if appropriate drainage cannot be installed or other utilities cannot be installed or upgraded due to space limitations mandated by proximity regulations."

The County Engineer and his testimony enunciated the concerns of the County over the latent electricity that will be imparted in the surrounding soil and the impact such will have on existing utilities. The useful life of the conduit/transmission line was not disclosed. The County sought assurances that normal road equipment use, such as vibratory rollers, will not adversely impact the transmission line and that no additional precautions/restrictions would be needed. The

silence on this issue is deafening to the residents and users of the roads and beaches maintained by Ocean City and the County.

Ocean Wind has failed to address the impact of the need for elevated infrastructure in the near future due the global warming. The proposal submitted by Ocean Wind – also known as Orsted ignores sea level rise and the impacts sea level rise will have on the infrastructure. I am referring to testimony of Robert Church dated August 29, 2022.

Ocean Wind has remained silent to a large degree on the issue of decommissioning of the projects and removal of infrastructure placed in the ground to support the proposed ocean wind projects. When asked the question of how can a meaningful review of the reasonableness of easements sought before this Board be conducted when there has been no presentation to the Board or to the stakeholder's on how the infrastructure will be removed at the end of its useful life one must conclude without answers there can be no reasonableness determination on the preferred route.

Finally, the record is devoid of any cost analysis as to the alternate routes considered by Ocean Wind. The failure to be transparent and open regarding reasonable requests for cost analysis is in and of itself a reason to find that the requests for easements is not reasonable since full disclosure has not been made.

The failure of Orsted to involve the stakeholders specifically Ocean City and the County but more broadly the residents of Cape May County is troubling at best and indicative of the lack of reasonableness on the proposed easement.

Let me be clear, the 9 municipalities represented by this firm are not opposed to alternative energy production and fully support the concept espoused by the Governor and the State of New Jersey in moving forward with green energy. However, there remain many reasons

for determination by this Board that Ocean Wind has not met the burden imposed to show an easement whether it be through Ocean City or County property is reasonable. Moving beyond the many unknown issues associated with Ocean Wind and its project including but not limited to the effects on sea life, birds, the fishing industry, and the quality of life in general in the County there simply is no basis at the present time for the Board to conclude that easements are reasonably necessary for the project to move forward. More information is needed by the stakeholders. The parties need to resolve factual disputes, again it is suggested to the Board to send this matter over to the Office of Administrative Law for resolution of those disputes unless they can be resolved amicably by the parties. It is respectfully submitted there is no reason that issues amongst the parties cannot be resolved amicably. The City of Ocean City and the County of Cape May both have repeatedly stated and I am sure will again today there openness to engage with Ocean Wind to ensure that there is a safe and convenient route for the transmission lines for all parties if Ocean Wind/Orsted will engage with the stakeholders including local elected officials.

I thank you for allowing these comments and for your time and attention to this matter.

Respectfully submitted,

/s/**Paul J. Baldini**

Paul J. Baldini, Esquire

PJB/hkb

cc: All Parties on the Service List (via email)

**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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