

March 20, 2023

VIA E-MAIL (BOARD.SECRETARY@BPU.NJ.GOV)

Gregory Eisenstark

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Honorable Joseph L. Fiordaliso, President
New Jersey Board of Public Utilities
44 South Clinton Street, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625

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 No. QO22050347**

Dear President Fiordaliso:


This firm represents Ocean Wind LLC ("Ocean Wind") in the above-referenced matter.

In accordance with the Board of Public Utilities' Order dated February 17, 2023 in this matter, Ocean Wind is filing a proposed form of order captioned "Order On the Taking of Easements."

Thank you for your consideration in this regard.

This proposed form of order is being filed electronically only, consistent with the Board's Order dated March 19, 2020 (Docket No. EO20030254) directing that all submissions to the Board, of any kind, be submitted electronically.

Sincerely,
Cozen O'Connor



By: Gregory Eisenstark

Enclosure

c: Attached service list

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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**

BPU DOCKET NO.: QO22050347

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STATE OF NEW JERSEY
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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 A)
DETERMINATION THAT 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)
)

**ORDER ON THE TAKING OF
EASEMENTS**

DOCKET NO. QO22050347

Parties of Record:

Gregory Eisenstark, Esq., Cozen O'Connor on behalf of Ocean Wind LLC
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
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
Dorothy F. McCrosson, Esq., Solicitor for the City of Ocean City, McCrosson & Stanton, P.C.
M. James Maley, Jr., Esq., Maley Givens, P.C. for Upper Township

BY PRESIDENT FIORDALISO:

By this Order, I memorialize certain findings and conclusions in the New Jersey Board of Public Utilities ("Board") Order dated February 17, 2023 in this matter ("February 17 Order"). There, the February 17 Order effectuated Ocean Wind LLC's ("Ocean Wind") acquisition of certain easements as set forth in the Petition in this matter. Attached as Exhibit A is a copy of the February 17 Order to assist the appropriate recording office. Once this Order (and the attached February 17 Order) are recorded, Ocean Wind shall be the legal or record owner of these easements in accordance with N.J.S.A. 48:3-87.1(f)(2).

BACKGROUND

On May 20, 2022, Ocean Wind filed a petition ("Petition") with the Board 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, New Jersey ("County"), and that certain County consents needed for particular environmental permits in or with respect to the County, are reasonably necessary for the construction or operation of their Qualified Offshore Wind Project, Ocean Wind I.

On June 29, 2022, the Board retained the Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated me, President Fiordaliso, 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. The remainder of the procedural history of this matter is set forth in the February 17 Order and is incorporated by reference herein.

In the February 17 Order, the Board approved all of the relief Ocean Wind requested in the Petition, including the determination that the requested rights of way and easements upon, across, and under County-owned properties identified on the Official Tax Map of Ocean City as Block 3350.01, Lot 17.01 ("Temporary Easements") and Block 3350.01, Lot 17.01 ("Permanent Easement") (collectively, the "Easements") are reasonably necessary for the construction or operation of the Project.

Pursuant to N.J.S.A. 48:3-87.1(f)(2), a Board Order approving an easement "shall effectuate the [developer's property interests] and shall be recorded by the appropriate county recording officer at the request of the qualified offshore wind project or open access offshore wind transmission facility." This Order is being executed so that Ocean Wind may record it with the County of Cape May recording office.

ORDER

1. The Board, having determined in its February 17 Order, that the Easements are reasonably necessary for the construction or operation of the Project, the Board **approved** the acquisition of the requested Easements for the construction, reconstruction, installation, operation, maintenance, inspection, patrolling, decommissioning, replacement and repair of a certain onshore export cable and associated equipment and facilities upon, across, and under the Properties, totaling 0.614 acres, as follows:
 - a. Block 3350.01, Lot 17.01: Temporary easements totaling 0.257 acres, designated as "Temporary Construction Easement #1 Area" and "Temporary Construction Easement #2 Area" as shown on a drawing dated May 1, 2022 (one page), a copy of which is annexed hereto as Exhibit B.
 - b. Block 3350.01, Lot 17.01: A permanent right of way and easement approximately 30 feet wide and totaling 0.357 acres, designated as "Permanent 30' Wide Easement Area" as shown on a drawing dated May 1, 2022 (one page), a copy of which is annexed hereto as Exhibit B along with a legal description.
2. Ocean Wind, upon recording this executed Order, shall be considered the legal or record owner of the property interest and shall have the right to possess and enter upon the Easements;
3. Pursuant to N.J.S.A. 48:3-87.1(f)(2), Ocean Wind shall be responsible for the restoration and maintenance of the Easements;
4. Pursuant to N.J.S.A. 48:3-87.1(f)(2), Ocean Wind shall pay the County the fair market value for the Easements. If the parties cannot reach an agreement as to the fair market value of the Easements, Ocean Wind shall file an action in the Superior Court of New Jersey pursuant to the procedures set forth in the "Eminent Domain Act of 1971," N.J.S.A. 20:3-1 et seq. for the determination of the fair market value of the Easements; and

5. This Order (with the attached effectuating February 17 Order) shall be recorded in the Cape May County recorder's office as required by N.J.S.A. 46:26A-2q. and N.J.S.A. 48:3-87.1(f)(2).

THEREFORE, IT IS SO ORDERED.

DATED: _____

By:

Joseph L. Fiordaliso,
President

**METES AND BOUNDS DESCRIPTION
PROPOSED 30 FOOT WIDE PERMANENT EASEMENT
ACROSS LANDS OF CAPE MAY COUNTY
BLOCK 3350.01, PORTION OF LOT 17.01
CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY**

BEGINNING at a point in the northerly line of Roosevelt Boulevard (Cape May County Route #623; 130 foot wide Right-of-Way) distant 208.48 feet along the same from the intersection of the same with the dividing line between lands now or formerly of Cape May County (Tax Lot 17.01, Block 3350.01) and lands now or formerly of the City of Ocean City (Tax Lot 17, Block 3550.01 as described in Deed Book 3004, Page 794, said beginning point having New Jersey State Plane Coordinate System Grid Values [NAD 1983 (2011)] of North: 152,756.00 feet, East: 457,020.80 feet, running thence on the ground in NAD 1983 (2011) N.J.S.P.C.S. bearing base the following nine (9) courses:

1. Continuing along said line of Roosevelt Boulevard, South $84^{\circ}40'06''$ West, a distance of 187.42 feet to a point in line of the same, thence;
2. Departing said line through and across said lands of Cape May County along a new line, North $86^{\circ}23'44''$ West, a distance of 193.03 feet to a point of curvature in the same, thence;
3. Through the same on a curve to the right, having a radius of 65.00 feet, an arc length of 13.83 feet, turning a central angle of $12^{\circ}11'04''$, the chord of which bears North $80^{\circ}18'12''$ West, a chord distance of 13.80 feet to a point of tangency in the same, thence;
4. Through the same, North $74^{\circ}12'40''$ West, a distance of 227.83 feet to the intersection of the same with the dividing line between said lands of Cape May County and said lands of the City of Ocean City, thence;
5. Along said dividing line, North $39^{\circ}40'06''$ East, a distance of 32.81 feet to a point in line of the same, thence;
6. Departing said line through and across said lands of Cape May County, South $74^{\circ}12'40''$ East, a distance of 214.54 feet to a point of curvature in the same, thence;
7. Through the same on a curve to the left having a radius of 35.00 feet, an arc length of 7.44 feet, turning a central angle of $12^{\circ}11'04''$, the chord of which bears, South $80^{\circ}18'12''$ East, a chord distance of 7.43 feet to a point of tangency in the same, thence;
8. Through the same, South $86^{\circ}23'44''$ East, a distance of 255.45 feet to a point in the same, thence;

9. Through the same, South 85°58'46" East, a distance of 122.71 feet to the intersection of the same with the aforementioned northerly line of Roosevelt Boulevard and the point and place of **BEGINNING**.

The above-described easement contains 15,549 Square Feet of Land or 0.357 Acre, more or less.

TOGETHER WITH two (2) Temporary Construction Easements, containing a total area of 11,176 Square Feet of Land or 0.257 Acre, more or less.

Subject to any and all easements of record.

This description is prepared in accordance with a map entitled "Exhibit, Easements Across Property of Cape May County, Block 3350.01 - Lot 17.01, Ocean City, Cape May Co., New Jersey", prepared by PSEG Services Corporation, Surveys & Mapping, 80 Park Plaza, T20, Newark, N.J. 07102, dated May 19, 2022.



Date:
2022.05.19
16:50:31
-04'00'

Shehzad C. Khan, P.L.S
NJ Professional Land Surveyor
License No. GS43324