

**BEFORE THE  
STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE BOARD OF PUBLIC UTILITIES OFFSHORE WIND SOLICITATION FOR 1,100 MW – EVALUATION OF THE OFFSHORE WIND APPLICATIONS** :  
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: **BPU DOCKET NO.: QO18121289**  
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**SUPPLEMENT TO THE AMENDED PETITION FOR APPROVAL OF A PERMISSIBLE DELAY IN THE COMMERCIAL OPERATION DATES OF THE OCEAN WIND LLC QUALIFIED OFFSHORE WIND PROJECT AND FOR CLARIFICATION OF THE OREC PRICING SCHEDULE AS A RESULT OF THE PERMISSIBLE DELAY**

**I. NATURE OF THIS SUPPLEMENT TO THE AMENDED PETITION**

Ocean Wind LLC (“Ocean Wind” or “Petitioner”) is the owner of a Qualified Offshore Wind Project (the “QOWP” or the “Project”) pursuant to N.J.S.A. 48:3-87.1 et seq. Ocean Wind is a Delaware limited liability company, with offices located at 520 Pacific Avenue, Atlantic City, N.J. 08401.

On June 14, 2021, Ocean Wind filed a petition for approval of a permissible delay in the commercial operation dates (“CODs”) of the Project, and for clarification/update of the Offshore Wind Renewable Energy Certificate (“OREC”) Pricing Schedule (“Original Petition”). After Ocean Wind filed the Original Petition, on July 26, 2021, the Staff of the Board of Public Utilities (“Board Staff”; “Board” or “BPU”) requested additional information about the request. On August 9, 2021, Ocean Wind responded to Board Staff’s questions. Thereafter, Ocean Wind filed an amended petition for approval of a permissible delay in the CODs of the Project on December 7, 2021 (“Amended Petition”). In submitting the Amended Petition, Ocean Wind

withdrew its request for clarification of the OREC pricing schedule and stated that the Amended Petition supersedes and replaces the Original Petition.

Now that 19 months have passed since Ocean Wind filed the Amended Petition, Ocean Wind submits this Supplement to the Amended Petition (“Supplement”) to provide additional explanation for its request for a permissible delay. By this filing, the Supplement does not supersede or replace the Amended Petition, and the circumstances supporting a permissible delay provided in the Amended Petition remain valid. Ocean Wind continues to seek the Board’s approval of [REDACTED]

## **II. CURRENT P50 SCHEDULE AND CAUSES OF DELAY**

Since the pause in federal permitting, described in further detail below, Ocean Wind has worked diligently to minimize the impact of this event. In the Amended Petition filed in December 2021, Ocean Wind provided two plausible development schedules: (i) an accelerated ‘P20’ schedule (the “P20 Schedule”), anticipating Phase III COD (“Final COD”) in [REDACTED], or a delay of [REDACTED] months; and (ii) a ‘P50’ schedule, anticipating Final COD in [REDACTED], or a delay of [REDACTED] months. The P20 Schedule was reflective of a timeline and Final COD that Ocean Wind believed had a 20% probability of being achieved. The P50 schedule was reflective of a timeline and Final COD that Ocean Wind believed had a 50% probability of being achieved.

Despite Ocean Wind’s efforts to develop the Project according to an accelerated schedule, the current P50 schedule continues to reflect a [REDACTED] delay to the CODs (“Current P50 Schedule”). *See* Attachment A. The following sections provide an account of the challenges faced by the Project since the Amended Petition was filed that prevented Ocean Wind from lessening or offsetting the impact of the pause in federal permits. These items include

prolonged real estate negotiations for the project substation, the relocation of the project substation in Peck Bay, concerns about the timing of [REDACTED] supply, and local permitting issues.

### **III. UPDATE ON THE FEDERAL PAUSE ON OFFSHORE WIND PERMITTING**

As Ocean Wind explained in the Amended Petition, the United States Department of the Interior, Bureau of Ocean Energy Management (“BOEM”) is the federal agency charged with, *inter alia*, overseeing the development of offshore wind projects in leased areas of the outer continental shelf waters of the United States. BOEM must complete an environmental impact statement (“EIS”) for the Construction and Operations Plan (“COP”) of the Project pursuant to the National Environmental Policy Act (“NEPA”). The first step in the EIS process is for BOEM to issue a Notice of Intent (“NOI”) to prepare an EIS. The Project cannot commence construction until a Final EIS is issued, a record of decision (“ROD”) is issued, and the COP is approved by BOEM. Under the previous federal presidential administration, the permitting of all new offshore wind projects was paused. This pause significantly delayed the BOEM approval process, as no NOIs were issued during the prior administration’s tenure. The NOI for Ocean Wind was not issued until March 30, 2021, approximately fourteen months later than originally anticipated (“the Fourteen Month Federal Pause”).

Ocean Wind’s accelerated P20 Schedule, which included mitigating actions to reduce the impact of the Fourteen Month Federal Pause, represented what was, at the time of filing, the minimum window required to enable the Project to achieve COD. The Final EIS was projected to be issued in February 2023 with a ROD issued no sooner than thirty (30) days following the Final EIS. In the months since the filing of the Amended Petition, Ocean Wind has continued close coordination with BOEM, the New Jersey Department of Environmental Protection

(“DEP”), and other agencies to keep such agencies apprised of any changes to the Project and to support their review of the COP. During this time, new challenges outside of the Project’s control, described in Section IV, have materialized. These challenges impacted and delayed state and federal permitting processes relative to the timelines set forth in the P20 Schedule.

Despite these setbacks, uncertainty regarding the Project’s schedule have diminished since the filing of the Amended Petition, and the Project is on track to achieve state and federal permitting milestone dates according to the Current P50 Schedule. On April 27, 2023, the Project received its “Federal Consistency Determination” from the DEP, which represents DEP’s determination that the Project is consistent with New Jersey’s Coastal Zone Management Rules at N.J.A.C. 7:7 *et seq.*, and which was necessary for the Project to continue advancing through the federal NEPA process being undertaken by BOEM. On May 22, 2023, [REDACTED] [REDACTED] the Final EIS for the Project was published. Permits continue to move forward according to the FAST-41 schedule<sup>1</sup> and are expected to support the Current P50 Schedule.

#### **IV. REAL ESTATE AND PROPERTY ACQUISITION**

##### **A. Lanoka Substation Easement Delay**

Ocean Wind first made contact with [REDACTED] in November 2018 and initiated commercial discussions focused on obtaining an easement across [REDACTED] property from Barnegat Bay to the Project’s interconnection point at Lanoka substation, located adjacent to the Oyster Creek Nuclear Power Station. Initial discussions appeared to be positive as Ocean Wind requested access on an underdeveloped parcel [REDACTED] [REDACTED]

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<sup>1</sup> Title 41 of the Fixing America’s Surface Transportation (“Fast”) Act established procedures and timelines to standardize and improve interagency consultation and coordination. 42 U.S.C. § 4370m *et seq.*

Ocean Wind intended to submit a permit application to the DEP in [REDACTED]. In order to submit the application, Ocean Wind needed to provide proof that the intended use of the property was approved by the owner ([REDACTED]) in the form of an executed Division of Land Use Regulation (“DLUR”) application form. Without a completed and executed DLUR form, the application would be deemed deficient. Complications arose in negotiations with [REDACTED], and Ocean Wind was unable to secure the necessary DLUR form ahead of the baseline date for DEP permit submission.

In response to these complications, Ocean Wind conducted significant remediation efforts. Ocean Wind identified alternative cable routes that did not require [REDACTED] property, performed site investigations, engaged in real estate negotiations, and entered into option agreements with the owners of alternative properties. Ultimately, the negotiations with [REDACTED] were successful and Ocean Wind secured the requested real estate in July 2022. Permit submission occurred in August 2022, shortly after the DLUR was executed.

This three-month delay prevented Ocean Wind from achieving the BOEM COP milestones according to the Project’s P20 Schedule, as described in Section III. Specifically, the delay to DEP permit submittal delayed the timing of Coastal Zone Management Act compliance (the consistency certification), Final EIS and ROD issuance pursuant to NEPA, and United States Army Core of Engineers (“USACE”) permits. These approvals and permits are contingent upon each other and are on the critical path required to begin onshore construction work.

B. Peck Bay Substation Relocation

The relocation of the Peck Bay substation is another factor that contributed to the permitting delays relative to the P20 Schedule. During the BOEM public comment period in June 2022, Upper Township requested that Ocean Wind move from the original planned location for the substation to better fit with the Township's Master Plan. If Ocean Wind had persisted with its original parcel location, it is unlikely that Upper Township would have granted approval of the substation. In order to accommodate Upper Township and to maximize the success of building a substation in the vicinity, Ocean Wind relocated its substation, executing a DLUR form on June 27, 2022. While the new location for the substation fit within the Township's Master Plan, changing locations for the substation required Ocean Wind to complete new work in order to secure necessary approvals and permits, including acquiring real estate from a private developer, redesigning the substation, carrying out extensive surveys and site investigations, and examining impacts to stormwater and other environmental concerns as part of the Project's applications to BOEM and DEP.

Ocean Wind's work to accommodate the request of Upper Township contributed to measurable delays to its permitting activities. At the time of the Amended Petition submittal, Ocean Wind expected that a consistency determination would be made in five months (the minimum length of time), [REDACTED] but, driven partly by the substation relation, consistency certification was made in eight months (the average length of time), in April 2023.

V. SUPPLY CHAIN

Since the filing of the Amended Petition, the Project delayed the start of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Notably, the US offshore wind industry faces a dearth of foundation and WTG installation vessels. Due to the limited number of vessels, contracts need to be signed well in advance of installation dates, at which point, the window for the start and completion of installation is established and fixed. Theoretically, a delayed component could result in an installation vessel that is unable to complete its scope of work within the booked installation window. If this occurs, the Project could “lose” the installation vessel to another project that has this vessel under contract, which would halt critical path construction work on Ocean Wind. If this were to occur, the Project could face a very significant delay to COD, as much as [REDACTED]. In light of supply-related challenges, which are described in detail below, Ocean Wind has preemptively addressed this vessel supply risk by [REDACTED]

A. EEW Paulsboro

EEW American Offshore Structures (“EEW AOS”) is contracted to develop and build a circular welding manufacturing facility, a paint blast building and to deliver a fixed quantity of finished monopiles which includes welding, blasting, and painting scopes of work. Contractually EEW AOS is required to deliver [REDACTED]

[REDACTED] While these delays do not, in themselves, preclude EEW AOS from meeting its contractual commitments to Ocean Wind, they have eroded float within the contractual schedule. Given the initial delays and complexities associated with building and setting-up production at a new manufacturing facility, the later [REDACTED] [REDACTED] date was deemed a prudent mitigation to protect against additional unforeseen delays.

B. WTG Fabrication and Commissioning

The GE nacelle factory in St. Nazaire, France completed a major upgrade in 2022, but

[REDACTED]

which will be used on several offshore wind projects including Ocean Wind. GE was heavily impacted by the challenges faced broadly by the renewables industry in 2022, [REDACTED]

[REDACTED]

Initially, the Project anticipated that GE would begin production [REDACTED]

[REDACTED] with shipments to the New Jersey Wind Port beginning [REDACTED]

[REDACTED]

GE now anticipates that [REDACTED]

[REDACTED]

[REDACTED] to meet their contractual obligation, to [REDACTED]

[REDACTED]. Notwithstanding the current delays and future

uncertainties with [REDACTED], GE is expected to deliver goods in a timeframe that supports the Project's Current P50 Schedule.

Separately, to commission a turbine, the WTG must operate continuously for ten days without certain faults or issues following a complex process of various steps to prepare for the

test. Relative to the Amended Petition, Ocean Wind has [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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<sup>2</sup> [REDACTED]



## VI. LOCAL PERMITTING

Ocean Wind has been involved in proceedings to secure necessary local permitting approvals and property rights from Ocean City and Cape May County. Following unsuccessful discussions with both the municipality and county, Ocean Wind sought Board approval to avoid further delays and stay as close to on-schedule as possible (BPU Docket No. QO22020041 and BPU Docket No. QO22050347). On February 2, 2022, Ocean Wind filed a petition with the Board, seeking a determination that certain easements across properties owned by Ocean City were reasonably necessary, and on September 28, 2022, the Board issued an Order granting Ocean Wind's petition. On May 20, 2022, Ocean Wind filed a petition with the Board, seeking a determination that certain easements across properties owned by Cape May County were reasonably necessary, and on February 17, 2023, the Board issued an Order granting Ocean Wind's petition. Both of these determinations have been challenged, with Ocean City filing a Notice of Appeal to the Appellate Division on November 11, 2022, and Cape May County doing the same on April 5, 2023. Both matters remain pending an appeal, and it is uncertain how long the appellate process will take. (Appellate Division Docket Nos. A-000789-22T1 and No. A-002318-22T1).

Moreover, the Project continues to face additional risk of delay, as Ocean City and Cape May County have recently refused to process local permit applications, specifically, the applications for road opening permits for site investigations. Site investigation work is necessary for final design of the Project and delays to these pre-construction road opening permits impact the timing of later work, including dewatering permits and construction. Though separate from the ongoing proceedings, Ocean City took the position that it would withhold approval of permit requests until the outcome of its appeal has been determined, despite the BPU's denial of Ocean

City's motion to stay on May 24, 2023. Cape May County appears to be refusing to process road opening permit applications on a similar basis. On June 21, 2023, Judge Michael Blee ordered Ocean City to issue a road opening permit for the pre-construction work (Superior Court of New Jersey Docket No. CPM-L-176-23). The permit has not yet been issued by Ocean City.

To mitigate the impact of these and anticipated future local permitting issues, the Project

[REDACTED]

[REDACTED] While the Project does not anticipate that these proceedings will affect the [REDACTED]

[REDACTED]

[REDACTED]

**VII. PERMISSIBLE DELAY**

As stated in Ocean Wind's Amended Petition and as explained further in this Supplement, Ocean Wind reiterates its request for Board approval of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The P50 Schedule allows for greater time for key activities to occur. Attached hereto as Attachment A to this Supplement is the current P50 Schedule relative to the P20 Schedule shared in 2021, with additional details describing the differences and Ocean Wind's revised schedules.

The Project's request for a [REDACTED] is still largely and primarily a result of the Fourteen Month Federal Pause. Although Ocean Wind pursued every opportunity to mitigate the delay through various means with varying degrees of success, the need for the permissible delay

due to the Fourteenth Month Federal Pause remains. By way of this Supplement, Ocean Wind provides additional support for the permissible delay request, including an update on the Fourteen Month Federal Pause and resulting delays stemming from the pause, delays related to real estate, delays associated with supply risks, and delays from securing municipal permits and property rights. [REDACTED]

[REDACTED] Ocean Wind has taken steps to mitigate the impacts of various delays and to reduce the additional time necessary to complete the Project given these delays. Attached hereto as Attachment B to this Supplement is an updated list of what the Project has done to mitigate delays and ensure that all other development conditions are favorable.

#### **VIII. CONCLUSION**

Ocean Wind looks forward to delivering clean energy to the State of New Jersey and to partner with the State of New Jersey in providing economic development and jobs to the State. With these goals in mind, Ocean Wind respectfully requests that the Board determine that the Project should proceed on a more realistic and achievable schedule and should not be harmed by the delays of various federal agencies and other circumstances largely outside of the Project's control. For all the foregoing reasons and for the reasons stated in the Amended Petition, Ocean Wind respectfully requests that the Board issue an Order: (1) approving a [REDACTED] extension of the COD for the Project and for the specific phases as outlined above; and (2) confirming that the Project will receive ORECs over the full 20-year period as contemplated in the Board's June 21, 2019 Order granting Ocean Wind QOWP status.

Respectfully submitted,

**COZEN O'CONNOR, PC**  
Attorneys for Ocean Wind, LLC

Dated: July 7, 2023

By: \_\_\_\_\_

Gregory Eisenstark  
William Lesser  
1010 Kings Highway South  
Cherry Hill, NJ 08034  
973-200-7411  
geisenstark@cozen.com  
wlesser@cozen.com

**Attachment A**

**Ocean Wind Schedule Progression**

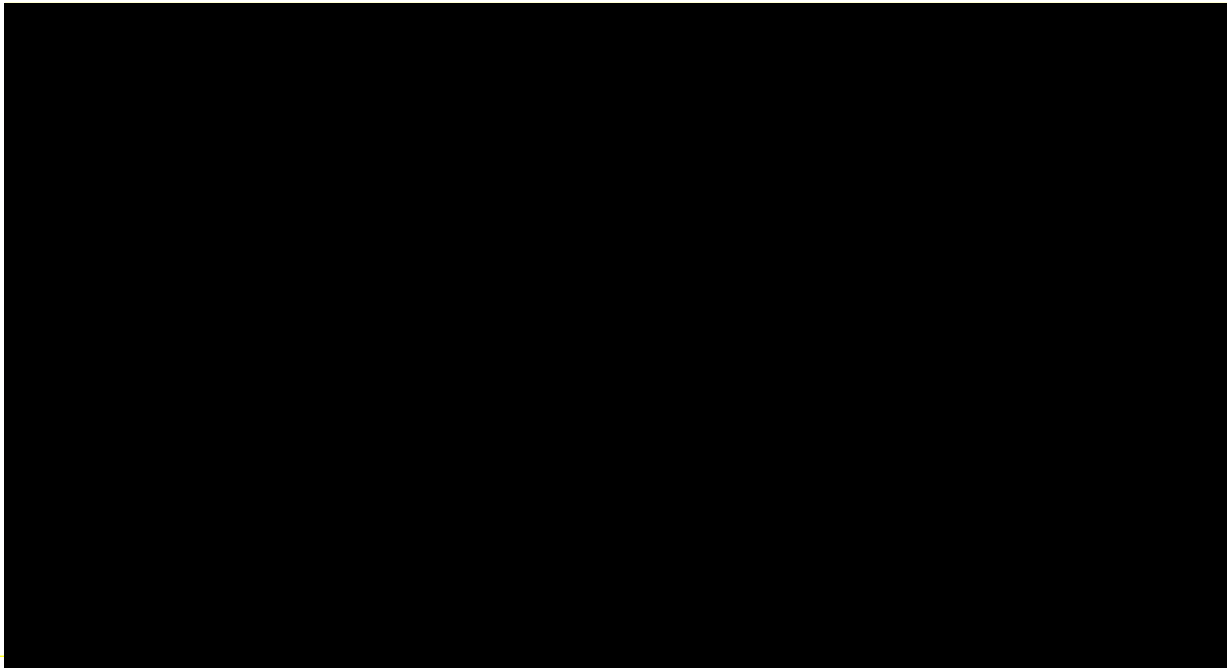
Uncertainty regarding the Project’s schedule has decreased from when the Amended Permissible Delay Petition was filed on December 7, 2021. This is due to project development progress, as described in Attachment B, and the materialization of additional information about certain challenges faced by the Project, as described in the Supplement.

The Project takes a probabilistic approach to represent the range of uncertainty within its schedule. The Current P50 Schedule, as presented, represents that there is a 50% chance the actual schedule outcome will be faster, and a 50% change the actual schedule outcome will be slower. The P20 schedule indicates a 20% chance the actual outcome will be faster and an 80% chance the actual outcome will be slower.

Current P50 Schedule

The schedule requires Ocean Wind to secure permits and complete construction according to a timeline that would ultimately result in [REDACTED] delay to COD.

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



Relative to the P20 Schedule, the Current P50 Schedule includes delays to [REDACTED]

[REDACTED] The challenges that brought about these delays are explained in detail within the Supplement and include:

- Real estate challenges directly impacted permitting timelines, which then affected [REDACTED] dates,
- Supply chain uncertainties that have altered the timing of [REDACTED], and
- Opposition to local permitting in certain municipalities, which have resulted in a slight delay to first power.

Taken together, these challenges have necessitated a [REDACTED] delay to each phase of the Project's COD.

## **Attachment B**

### **Actions Ocean Wind has taken to minimize the delay to Project COD**

As a framework for providing additional detail about Ocean Wind LLC's ("Ocean Wind's") actions to minimize the Bureau of Ocean Energy Management's ("BOEM's") delay in issuing the Notice of Intent ("NOI"), it is important to emphasize that this political/regulatory delay was completely beyond Ocean Wind's control. Similarly, Ocean Wind is not responsible for, nor could it have prevented, the local opposition, real estate, supply chain risks, or permitting delays. Nonetheless, Ocean Wind has made significant efforts to mature the Project and minimize the impact of this delay and the associated challenges. The Project has meaningfully advanced the status of interconnection, permitting, and real estate as well as made significant supply chain investments while accomplishing design, engineering, and procurement activities. These activities are described below:

#### **Permit approvals:**

With respect to the federal permitting process and the issuance of the NOI, Ocean Wind has continued to hold regular meetings with BOEM since the submission of the Construction Operations Plan ("COP") in August 2019. Throughout the National Environmental Policy Act ("NEPA") review, which began with NOI issuance in March 2021 and will conclude with the Record of Decision ("ROD") issuance expected in July 2023, Ocean Wind has acted quickly to provide information in response to inquiries or comments from engaged agencies.

Ocean Wind additionally provided resolutions when updates or amendments to the COP were prudent (for example, the Peck Bay substation relocation). It is through close collaborations and open communication that BOEM issued the Final Environmental Impact Statement ("FEIS") in May 2023; an accomplishment that indicates the meaningful progress of the NEPA review process. This includes multiple agency reviews and consultations under Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and Section 305 Essential Fish Habitat Consultation under the Magnuson-Stevens Fishery Conservation and Management Act. Today, Ocean Wind continues to aid BOEM in the process, to achieve ROD, through ongoing open and transparent communications and fast responses to requests for information initiated by BOEM and/or the cooperating agencies.

Regarding State permits, the Project received State House Commission approval associated with Green Acres diversion in Ocean City and Island Beach State Park in March 2023. Additionally, Ocean Wind received NJDEP Federal consistency on April 27, 2023, which allowed the Project to maintain the FEIS/ROD schedule established with BOEM.

Regarding local permitting approvals, the Project has received substation site plan approvals from both Upper Township and Lacey Township. Ocean Wind continues to perform extensive outreach with the local communities.

**Real estate:**

Since the Amended Petition was filed, Ocean Wind has made tangible progress securing real estate including securing an easement to utilize the property owned by Holtec International, purchasing the Lanoka onshore substation parcel from a private developer, and securing approval by Lacey Township for two onshore easements along the Lanoka cable route.

Ocean Wind additionally secured State House Commission approvals for a lease at Island Beach State Park, Green Acres diversions at Ocean City beach and Crook Horn Creek, and a Department of Transportation easement in Lacey Township.

**Design, engineering and procurement activities:**

Design work has been completed for all major systems [REDACTED]

This work has been in support of Ocean Wind's procurement activities and has enabled the execution of nearly all major contracts.

After contract signing, contractors use the conceptual designs provided by Ocean Wind to perform detailed engineering work in support of fabrication. This work has either been completed or is mature for most scopes of work. Additional engineering in support of installation is also ongoing and will be carried out according to and in support of the Current P50 schedule.

The above ongoing work will enable the project to submit Facility Design Report/Fabrication and Installation Report-certified engineering packages to BOEM/Bureau of Safety and Environmental Enforcement following COP approval. This is a necessary step prior to beginning offshore construction.

**Supply chain investments:**

Ocean Wind has made tangible progress in maturing its supply chain investments, including at the NJ Wind Port and EEW American Offshore Structures ("EEW AOS"), Paulsboro. At the NJ Wind Port, Ocean Wind has provided resources and worked in close collaboration with the Economic Development Authority to successfully implement a series of measures to help ensure the timely delivery of the Port to meet the Project's installation schedule. Regarding EEW AOS, Ocean Wind has continued to make major investments into the Paulsboro monopile facility, including providing significant additional funding [REDACTED]. In support of the Project's schedule, EEW AOS, with Orsted's continued support, is working to complete construction within the summer of 2023.

**Interconnection:**

Ocean Wind meets monthly with PJM and the Transmission Owner to coordinate engineering, procurement and construction of the Interconnection Facilities needed for the Project. Ocean Wind entered into a Necessary Studies Agreement with PJM to conduct the studies necessary to determine whether the Project's planned modifications to the Interconnection Service Agreement ("ISA") will



have a material impact on the provider's transmission system. Among other items, these modifications include [REDACTED] and are representative of the design maturation of the Project's electrical infrastructure.

Lastly, to date, Ocean Wind has remained in compliance with its ISAs.

## VERIFICATION

Matthew Kaplan, of full age, being duly sworn, according to law, deposes and says:

1. I am the Project Development Director of Ocean Wind LLC, and am authorized to make this Verification on behalf of Ocean Wind LLC.
2. I have read the contents of the foregoing Supplement to the Amended Petition and hereby verify that the statements therein in related to Ocean Wind LLC are true and accurate to the best of my knowledge and belief.



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Matthew Kaplan

Sworn to and subscribed before me

this 7th day of July, 2023



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Gregory Eisenstark  
Attorney-at-Law  
State of New Jersey

This Verification is being submitted in electronic form. The undersigned attorney, Gregory Eisenstark, certifies that the affiant acknowledge the genuineness of the signature and that the Verification or a copy with an original signature affixed will be filed if requested by the Board of Public Utilities.



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Gregory Eisenstark, Esq.