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August 29, 2023

VIA ELECTRONIC MAIL

Secretary of the Board
New Jersey Board of Public Utilities
board.secretary@bpu.nj.gov
Attention: Hon. Sherri L. Golden

**Re: Motion to Dismiss
In Re: Petition of Save LBI, Inc. Requesting a Hearing and Reduction of
OREC Price In the Matter of the Board of Public Utilities Offshore Wind
Solicitation 2 for 1,200 to 2,400 MW – Atlantic Shores Offshore Wind Project
1, LLC
BPU Docket No.: QO21050824**

Dear Secretary Golden:

This firm represents Atlantic Shores Offshore Wind Project 1, LLC (“Atlantic Shores”) in the above-captioned matter.

Please find enclosed for filing, on behalf of Atlantic Shores, a Letter Brief in Support of Motion to Dismiss and accompanying papers to dismiss the petition of Save LBI, Inc., docketed in the above referenced docket on August 17, 2023 (the “Motion”).

I hereby certify that copies of the within Motion have this day been transmitted to all persons on the attached Service List via electronic mail. No paper copies will follow. We would appreciate if the Board Secretary’s office would please acknowledge receipt of this Motion.

Thank you for your consideration.

Very truly yours,

/s/ Adam L. Peterson

Adam L. Peterson, Esq.

Enclosure
Ecc: Service List

SERVICE LIST

<p><u>Law Office of Thomas Stavola, Jr., LLC</u> 209 County Road 537 Colts Neck, New Jersey 07722</p> <p>Thomas Stavola, Jr., Esq. tstavolajr@stavolalaw.com</p> <p><u>Board of Public Utilities</u> Board of Public Utilities 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Sherry Golden, Secretary board.secretary@bpu.nj.gov</p> <p>Taryn Boland Chief of Staff taryn.boland@bpu.nj.gov</p> <p>Robert Brabston, Esq. Executive Director robert.brabston@bpu.nj.gov</p> <p>Michael Beck, Esq. General Counsel michael.beck@bpu.nj.gov</p> <p>Ben Witherell, PhD. Chief Economist Benjamin.Witherell@bpu.nj.gov</p> <p>Kelly Mooij, Esq. Director, Division of Clean Energy Kelly.Mooij@bpu.nj.gov</p> <p>James Ferris, P.E., CEM Bureau Chief of New Technology, Division of Clean Energy Jim.ferris@bpu.nj.gov</p> <p><u>Division of Rate Counsel</u> Division of Rate Counsel 140 East Front Street, 4th Floor P.O. Box 003 Trenton, NJ 08625-0003</p> <p>Brian O. Lipman, Esq., Director blipman@rpa.nj.gov</p> <p>Henry Ogden, Esq. hogden@rpa.nj.gov</p> <p><u>Atlantic Shores Offshore Wind Project 1, LLC</u> Atlantic Shores Offshore Wind Project 1, LLC Brooklyn Navy Yard, Dock 72 Brooklyn, NY 11205</p> <p>Julia Pettit Julia.Pettit@atlanticshoreswind.com</p> <p>Joris Veldhoven Joris.Veldhoven@AtlanticShoresWind.com</p> <p>Nathalie Jouanneau Nathalie.Jouanneau@AtlanticShoresWind.com</p>	<p><u>Pearlman & Miranda, LLC</u> Pearlman & Miranda, LLC 110 Edison Place, Suite 301 Newark, New Jersey 07102-4908</p> <p>Stephen B. Pearlman, Esq. spearlman@pearlmanmiranda.com</p> <p>Adam L. Peterson, Esq. apeterson@pearlmanmiranda.com</p> <p>Grace Chun, Esq. gchun@pearlmanmiranda.com</p> <p><u>Levitan & Associates, Inc.</u> Levitan Associates, Inc. 20 Custom House Street, Suite 830 Boston, MA 02110</p> <p>Richard L. Levitan, President & Principal rll@levitan.com</p> <p>Ellen G. Cool, Ph.D., Vice President & Principal egc@levitan.com</p> <p><u>Division of Law</u> Division of Law Public Utilities Section R.J. Hughes Justice Complex, 7th Floor West 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p> <p>David Apy, Assistant Attorney General david.apy@law.njoag.gov</p> <p>Daren Eppley, Deputy Attorney General Section Chief daren.eppley@law.njoag.gov</p> <p>Pamela Owen, Deputy Attorney General Assistant Section Chief pamela.owen@law.njoag.gov</p> <p>Paul Youchak, Deputy Attorney General Paul.youchak@law.njoag.gov</p>
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August 29, 2023

Hon. Sherri L. Golden
Secretary of the Board
New Jersey Board of Public Utilities
Docket No. QO21050824
Submitted electronically to: Board.Secretary@bpu.nj.gov

**Re: Brief in Support of Motion to Dismiss Petition of Save LBI, Inc. Requesting a Hearing and Reduction of OREC Price In the Matter of the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Atlantic Shores Offshore Wind Project 1, LLC
BPU Docket No.: QO21050824**

Dear Secretary Golden,

This firm represents Atlantic Shores Offshore Wind Project 1, LLC (“*Atlantic Shores*”) in the above captioned proceeding. Please accept this letter brief and accompanying papers (collectively, the “*Motion*”) as a Motion to Dismiss with prejudice the petition filed by Save LBI, Inc. (“*Petitioner*”), dated August 7, 2023 and docketed by the New Jersey Board of Public Utilities (the “*Board*” or “*BPU*”) on August 17, 2023 (the “*Petition*”), wherein Petitioner requests a hearing seeking a “reduction in the OREC pricing” applicable to Atlantic Shores’ 1,509.6 mega-watt (“*MW*”) approved offshore wind (“*OSW*”) project to be located within Bureau of Ocean Energy Management lease OCS-A 0499 off the coast of Atlantic City, New Jersey (“*Project 1*”), as approved by the Board by order dated June 30, 2021, in Docket Nos.QO20080555 and QO21050824 (the “*OREC Order*”). Atlantic Shores respectfully requests that the Board dismiss

the Petition with prejudice pursuant to N.J.A.C. 14:1-5.4(b)¹, or any such other authority that the Board may deem appropriate, on the basis that: (i) the Board's process for awarding offshore wind renewable energy certificates ("**ORECs**") is a unique, specifically authorized application process, not contested or uncontested case hearings, and therefore hearings are inapplicable to such proceedings; and (ii) pursuant to N.J.S.A. 48:3-87.1(3)(c),² the Board may not amend the OREC Order without the consent of Atlantic Shores, which consent Atlantic Shores has not and will not provide, and therefore it is beyond the Board's authority to grant the ultimate relief sought by Petitioner; namely, a "reduction in the OREC pricing" applicable to Project 1.

BACKGROUND

On August 19, 2010, the Offshore Wind Economic Development Act ("**OWEDA**") was signed into law, amending and supplementing the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. OWEDA established, among other things, offshore wind as a class I resource under the renewable energy portfolio standards and directed the Board to establish an OREC program requiring a percentage of the State of New Jersey's (the "**State**") electric load to be supplied by offshore wind from qualified OSW projects.³

A qualified OSW project (or qualified offshore wind project) is defined as "a wind turbine electric generation facility in the Atlantic Ocean and connected to the electrical transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the Board pursuant to section 3 of P.L. 1999, c. 23 (N.J.S.A. 48:3-

¹ N.J.A.C. 14:1-5.4(b) provides: "If after review the Board determines that a petition is deficient, the Board may refuse to consider and may issue an order dismissing said petition."

² N.J.S.A. 48:3-87.1(3)(c) provides: "An order issued by the board pursuant to this subsection shall not be modified by subsequent board orders, unless the modifications are jointly agreed to by the parties."

³ N.J.S.A. 48:3-51.

51).”⁴ An OREC is defined in OWEDA as representing the environmental attributes of one megawatt hour (“*MWh*”) of electric generation from a qualified OSW project and a qualified OSW project will be credited one (1) OREC for each MWh delivered to the transmission grid for a term of twenty (20) years.⁵ A developer of a qualified OSW project is eligible to sell those ORECs at the rate set forth in the Board order approving same.⁶

OWEDA established the initial application requirements to be followed for OSW projects to be considered eligible to receive ORECs.⁷ Included in those requirements is a litany of information that must be included in an applicable application, including, without limitation, a detailed description of the project, a completed financial analysis of the project, the proposed financing method, documentation that the entity has applied for eligible federal funds, the projected electrical output of the project, operations and maintenance plan, anticipated carbon dioxide emissions from the project, a decommissioning plan, a list of all state and federal regulatory approvals required for the project, a cost benefit analysis for the project, an OREC pricing method, a timeline for permitting for the project, and a plan for interconnection.⁸ Procedurally, OWEDA requires that the Board approve, conditionally approve, or deny an application within one hundred eighty (180) days after a complete application has been submitted to the Board.⁹

⁴ N.J.A.C. 14:8-6.1 et seq.

⁵ N.J.S.A. 48:3-51; N.J.A.C. 14:8-6.1.

⁶ N.J.A.C. 14:8-6.6(a)(3).

⁷ N.J.S.A. 48:3-87.1.

⁸ N.J.S.A. 48:3-87.1(a).

⁹ N.J.S.A. 48:3-87.1(d).

Following the passage of OWEDA, the Board adopted rules building upon the application requirements set forth in OWEDA and setting forth an application process and evaluation framework for OSW projects, found at N.J.A.C. 14:8-6.1 *et seq.* (the “**OWEDA Regulations**”). In general terms and without limitation, the OWEDA Regulations refine application requirements, building upon the requirements set forth in OWEDA and provide the Board the authority to establish application windows during which offshore wind developers may file applications to qualify their projects for ORECs.¹⁰

Consistent with OWEDA, the OWEDA Regulations provide that an entity seeking to receive ORECs in connection with its offshore wind project must “submit an application to the Board for approval as a qualified offshore wind project” and “[t]he application must meet the requirements set forth”¹¹ in the OWEDA Regulations. Such applications may only be submitted once the Board has opened an application period, which period shall be set at the Board’s discretion. Ultimately, the Board is required to “approve, conditionally approve, or deny the application within 180 days of the receipt of a completed application,”¹² consistent with OWEDA.

When originally signed into law, OWEDA called for the State OREC program to support “at least” 1,100 MW of offshore wind.¹³ On January 31, 2018, Governor Murphy issued Executive Order No. 8, directing the Board, the New Jersey Department of Environmental Protection, and any other applicable State agencies to implement OWEDA in a manner to realize the development

¹⁰ I/M/O the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,400 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 92, BPU Docket No. QO20080555; I/M/O the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Atlantic Shores Offshore Wind Project 1, LLC, BPU Docket No. QO21050824, Order dated June 30, 2021, at 5.

¹¹ N.J.A.C. 14:8-6.3(a).

¹² N.J.A.C. 14:8-6.3(c).

¹³ P.L. 2010, Chapter 57, 12.

of 3,500 MW of offshore wind by 2030.¹⁴ The State Legislature followed suit and passed an amendment to OWEDA on April 12, 2018, which was signed into law by Governor Murphy on May 23, 2018 and increased the statutory goal of the OREC program to 3,500 MW.¹⁵

In furtherance of OWEDA and Executive Order No. 8, on September 17, 2018, the Board released its “Guidelines for Application Submission for Proposed Offshore Wind Facilities,” opening its first application window for OREC proposals for utility scale OSW projects (the “*First Solicitation Guidance Document*” and all proceedings associated therewith, “*Round 1*”).¹⁶ As explained by Board Staff in the Round 1 proceedings, the Board’s application processes for ORECs will “not be treated as a contested case with intervenors” and “interested parties and stakeholders . . . will not therefor have standing to intervene or participate in [qualified offshore wind project] proceedings of other applicants.”¹⁷ Indeed, as previously described, the application process for awarding ORECs, including the Board’s required timeframe to render a decision in such proceedings, is governed by OWEDA and the OWEDA Regulations, and expanded upon through applicable guidance documents, none of which implicates hearing type proceedings.

On November 19, 2019, Governor Murphy rescinded the 3,500 MW goal set forth in Executive Order No. 8 via issuance of Executive Order No. 92 and directed State agencies to implement OWEDA in a manner to achieve 7,500 MW of offshore wind by 2035.¹⁸ In furtherance

¹⁴ NJ Exec. Order No. 8 at 2 (Jan. 31, 2018), <https://nj.gov/infobank/eo/056murphy/pdf/EO-8.pdf>.

¹⁵ P.L. 2018, Chapter 17.

¹⁶ I/M/O the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,400 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 92, BPU Docket No. QO20080555, Order dated September 9, 2020, at 4.

¹⁷ See Board Staff Response to Question 22: “[T]his matter [] will not be treated as a contested case with intervenors. Interested parties and stakeholders, including other applicants or potential applicants for QOWP status, will not therefore have standing to intervene or participate in QOWP application proceedings of other applicants.”

¹⁸ NJ Exec. Order No. 92 at 3 (Nov. 19, 2019), <https://nj.gov/infobank/eo/056murphy/pdf/EO-92.pdf>.

of OWEDA and Executive Order 92, on September 10, 2020, the Board released its “New Jersey Offshore Wind Solicitation #2, Solicitation Guidance Document, Application Submission for Proposed Offshore Wind Facilities,” opening its second application window for OREC proposals for utility scale OSW projects (the “*Second Solicitation Guidance Document*” and all proceedings associated therewith, “*Round 2*”).¹⁹ The application process associated with Round 2 was implemented in a very similar manner to the process established in Round 1 and was likewise not a contested or uncontested case hearing.²⁰

The Second Solicitation Guidance Document required applications for designation as a qualified OSW project to be filed by December 10, 2020, and as required thereby, Atlantic Shores filed an application with the Board seeking approval of its Project 1 for ORECs. On June 30, 2021, the Board issued the OREC Order, granting Project 1 ORECs (the “*OREC Order*”), to which the “Annual OREC Pricing Schedule” for Project 1 is attached as Attachment A. A true and accurate copy of the OREC Order is attached hereto as **Exhibit A**.

Petitioner submitted the Petition, dated August 7, 2023, to the Board Secretary, requesting a formal hearing with respect to the OREC Order. In the Petition, Petitioner states, among other things, that it is seeking a “reduction in the OREC pricing”²¹ applicable to Project 1. Atlantic Shores now submits this Motion seeking the dismissal of the Petition with prejudice pursuant to N.J.A.C. 14:1-5.4(b).

I. Petitioner Is Not Entitled to a Hearing, and the Board Lacks Authority to Grant the Substantive Relief Sought.

¹⁹ I/M/O the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,400 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 92, BPU Docket No. QO20080555, Order dated September 9, 2020, at 4.

²⁰ Not relevant to the present Motion, but Atlantic Shores notes that on September 21, 2022, via Executive Order 307, Governor Murphy further increased the State’s OSW generation goal to 11,000 MW by 2040.

²¹ Petition, paragraph 8.

Petitioner ostensibly filed the Petition pursuant to N.J.A.C. 14:1-1.1 *et seq.* requesting a “formal hearing to address the issues raised regarding the approved OREC pricing schedule pursuant to the [OREC Order].”²² Through the requested hearing Petitioner “seeks a reduction in the OREC pricing”²³ applicable to Project 1 and authorized by the OREC Order. Because hearings are inapplicable to the Board’s OREC application processes and further because, in the absence of Atlantic Shores’ consent, the Board has no authority to grant the substantive relief sought by Petitioner (namely, a modification to the OREC Order reducing the OREC pricing applicable to Project 1), the Petition should be dismissed with prejudice.

a. Hearings are Inapplicable to the Board’s OREC Application Processes.

The legal framework for the application process leading to the award of ORECs in Round 2 and the requirements for same were established in (1) OWEDA, (2) the OWEDA Regulations, (3) Executive Order No. 8 (2018), and (4) Executive Order No. 92 (2019) and it was from these that the Board developed the Second Solicitation Guidance Document. None of these guiding laws, regulations, or authorities authorize Petitioner to protest an award made by the Board in connection with Round 2 by way of a formal hearing.

Pursuant to the Board’s Rules of Practice, the Board may determine to hold hearings in matters that it has determined to constitute contested cases²⁴ or uncontested cases.²⁵ The Board’s OREC application processes are neither. None of OWEDA, the OWEDA Regulations, the Board Rules of Practice, or the Second Solicitation Guidance Document provide for administrative hearings in connection with OREC applications; rather the sole venue for any non-party to challenge a Board order culminating an OREC application process (such as the OREC Order) is appeal to the Appellate Division of the Superior Court of New Jersey.

²² Petition, paragraph 8.

²³ Petition, paragraph 8.

²⁴ N.J.A.C. 14:1-8.1 *et seq.*

²⁵ N.J.A.C. 14:1-9.1 *et seq.*

The Board statutes specifically provide that “[a]ny order made by the Board may be reviewed by appeal to the appellate division of the Superior Court.”²⁶ The statute further provides that the notice of appeal “shall be within the time provided by the rules of court.”²⁷ N.J. Court R. 2:4-1(b) provides that “[a]ppeals from final decisions or actions of state administrative agencies or officers...shall be filed within 45 days from the date of service of the decision or notice of the action taken.” There are no other avenues of internal administrative review provided by OWEDA, the OWEDA Regulations, executive orders, or Board guidance documents (including the Second Solicitation Guidance Document) that give Petitioner the authority to now challenge the OREC Order by way of a hearing to the Board.

Since Petitioner is seeking a review of the OREC Order, the only proper way to do so would have been to file an appeal to the Appellate Division, filed within forty-five (45) days from the notice of the OREC Order.²⁸ The effective date of the OREC Order was June 30, 2021 and the OREC Order was published/noticed on the same date, making the deadline to file an appeal to the Appellate Division August 14, 2021. Thus, the proper venue for reviewing Petitioner’s claim and request for relief is the Appellate Division, and Petitioner is out of time.

Further, Petitioner’s challenge of the OREC Order more than two (2) years after its effective date must be barred for being brought out of time. The general purpose of limitation statutes is to stimulate prompt action and to penalize negligence and to protect against the litigation

²⁶ N.J.S.A. 48:2-43.

²⁷ Id.

²⁸ Through this Motion Atlantic Shores neither admits nor denies whether Petitioner would have standing to prosecute an appeal before the Appellate Division.

of stale claims.²⁹ It would be fundamentally unfair to allow Petitioner to raise claims to challenge the OREC Order almost two (2) years after its effective date when the statute makes clear that such a claim must be brought to the Appellate Division within forty-five (45) days from the notice of the Board Order. Thus, because the Petition was filed in the wrong venue and grossly out of time for consideration, the Motion to Dismiss the Petition with prejudice should be granted.

b. The Board has No Authority to Amend the OREC Order as Requested by Petitioner Without Atlantic Shores' Consent.

Even if, *arguendo*, a hearing is a viable procedural option in this instance (which it is not), because Atlantic Shores does not consent to any modification of the OREC Order as proposed by Petitioner, the Board does not have authority to grant the relief being sought in the Petition and the Petition should be dismissed.

Through the Petition, Petitioner seeks a “reduction in the OREC pricing” applicable to Project 1.”³⁰ Any such reduction to the OREC pricing for Project 1 would require a modification to the Board’s previously issued OREC Order. OWEDA provides that the OREC Order cannot be modified without Atlantic Shores’ consent. OWEDA, in pertinent part, expressly states: “An order issued by the board pursuant to this subsection shall not be modified by subsequent board orders, unless the modifications are jointly agreed to by the parties.”³¹ Accordingly, the Board simply has no authority to grant the relief that Petitioner is seeking through the Petition.

²⁹ See *Lafage v. Jani*, 166 N.J. 412 (2001); see also *Hein v. GM Constr. Co.*, 330 N.J. Super. 282, 286 (App. Div. 2000) (reciting the purposes of a statute of limitations as stimulating diligent prosecution of claims, protecting against the litigation of stale claims by penalizing dilatoriness, and serving as a measure of finality).

³⁰ Petition, paragraph 8.

³¹ N.J.S.A. 48:3-87.1(3)(c).

The above referenced provision in OWEDA, providing certainty to selected applicants that the approved OREC price cannot be unilaterally changed by future Board action, serves as critical underpinning to the New Jersey offshore wind industry. The OREC pricing schedule approved by the Board in connection with an OSW project provides visibility to the selected offshore wind developer, its shareholders, and its financing partners that if the significant capital required to undertake an OSW project is invested, the project will in fact benefit from a defined stream of payments for ORECs on a pay for performance basis. It is this certainty that has already stimulated billions of dollars of investment toward development of OSW projects off the coast of New Jersey. Unlike certain other states, the OREC procurement process in New Jersey does result in a binding bilateral agreement for the purchase and sale of ORECs. Absent any such contractual obligation binding a counterparty to purchase ORECs at a specific price for a specific term, the ability to finance OSW projects interconnecting in New Jersey relies on the enforceability of the Board order awarding ORECs. If that Board order (such as the OREC Order) could be unilaterally amended by the Board, resulting in a reduction of the relied upon OREC pricing, the impacts to the New Jersey offshore wind industry would be devastating. All to say that the prohibition in OWEDA against modifications of the applicable Board orders is not simply a technical matter – it is an inviolate principle which Atlantic Shores implores the Board to uphold.

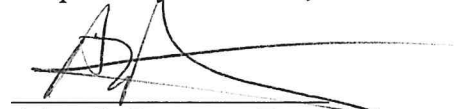
Pursuant to N.J.S.A. 48:3-87.1(3)(c), the Board is precluded from granting the relief sought by Petitioner (namely, a reduction to the OREC pricing applicable to Project 1) unless Atlantic Shores provides consent to same. Because Atlantic Shores has not and will not provide such consent, the Petition should be denied with prejudice. To avoid any doubt regarding Atlantic Shores' position, attached hereto as **Exhibit B** please find the Certification of Counsel to Atlantic

Shores unequivocally stating that Atlantic Shores does not consent to the modifications to the OREC Order sought by Petitioner.

CONCLUSION

For the reasons stated above, the Board should dismiss the Petition with prejudice.

Respectfully submitted,



Adam L. Peterson, Esq.

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Attorneys for Atlantic Shores Offshore Wind Project 1, LLC

IN RE: PETITION OF SAVE LBI, INC.
REQUESTING A HEARING AND
REDUCTION OF OREC PRICE IN THE
MATTER OF THE BOARD OF PUBLIC
UTILITIES OFFSHORE WIND
SOLICITATION 2 FOR 1,200 TO 2,400 MW
– ATLANTIC SHORES OFFSHORE WIND
PROJECT 1, LLC

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

BPU Docket No.: QO21050824

**CERTIFICATION OF
COUNSEL**

I, Adam L. Peterson, of full age, hereby certify:

1. I am an attorney at law in the State of New Jersey and a partner at the law firm Pearlman & Miranda, LLC, attorneys for Atlantic Shores Offshore Wind Project 1, LLC (“*Atlantic Shores*”). In this capacity, I have personal knowledge of the facts set forth in this certification and make this certification in support of Atlantic Shores’ Motion to Dismiss.

2. In this matter, Petitioner, Save LBI, Inc. (“*Petitioner*”), requests a hearing seeking a “reduction in the OREC pricing” applicable to Atlantic Shores’ 1,509.6 mega-watt (“*MW*”) approved offshore wind (“*OSW*”) project to be located within Bureau of Ocean Energy Management lease OCS-A 0499 off the coast of Atlantic City, New Jersey (the “*Project*”), as approved by the Board by order dated June 30, 2021, in Docket Nos. QO20080555 and QO21050824 (the “*OREC Order*”).

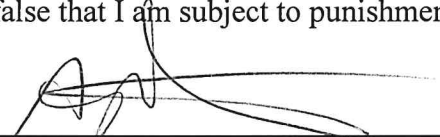
3. The OREC Order was issued pursuant to the Offshore Wind Economic Development Act (“*OWEDA*”), which amended N.J.S.A. 48:3-49 *et seq.*

4. Pursuant to OWEDA, “[a]n order issued by the board pursuant to this subsection shall not be modified by subsequent board orders, unless the modifications are jointly agreed to by the parties.” N.J.S.A. 48:3-87.1(3)(c).

5. As a party to the OREC Order, Atlantic Shores has not previously provided, and hereby confirms that it does not provide, its consent to amend the OREC Order as requested by the Petitioner.

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 that I am subject to punishment.

Dated: August 29, 2023



Adam L. Peterson, Esq.