



Agenda Date: 8/14/24
Agenda Item: 8D

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

DIVISION/OFFICE

IN THE MATTER OF THE BOARD OF PUBLIC UTILITIES OFFSHORE WIND SOLICITATION FOR 1,100 MW - EVALUATION OF THE OFFSHORE WIND APPLICATIONS)	ORDER GRANTING MOTIONS TO VACATE
)	
)	DOCKET NO. QO18121289
)	
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 ACROSS GREEN ACRES-RESTRICTED PROPERTIES AND CONSENTS NEEDED FOR CERTAIN ENVIRONMENTAL PERMITS IN, AND WITH RESPECT TO, THE CITY OF OCEAN CITY ARE REASONABLY NECESSARY FOR THE CONSTRUCTION OR OPERATION OF THE OCEAN WIND 1 QUALIFIED OFFSHORE WIND PROJECT)	
)	DOCKET NO. QO22020041
)	
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)	
)	DOCKET NO. QO22050347
)	
IN THE MATTER OF 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)	
)	DOCKET NO. QO20080555
)	
)	
)	

IN THE MATTER OF THE BOARD OF PUBLIC)
UTILITIES OFFSHORE WIND SOLICITATION 2 FOR)
1,200 TO 2,400 MW – OCEAN WIND II, LLC) DOCKET NO. QO21050825

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., on behalf of Ocean Wind LLC and Ocean Wind II, LLC
Jay A. Gillian, Mayor of Ocean City, New Jersey
Dorothy F. McCrosson, Esq., McCrosson & Stanton, P.C. as Ocean City Solicitor
Melissa Rasner, Municipal Clerk of Ocean City
Michael J. Donohue, Esq., on behalf of County of Cape May
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 THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers two Motions to Vacate submitted on July 1, 2024 (collectively, the “Motions” and each a “Motion”):

- 1) Ocean Wind LLC’s Motion (“Ocean Wind LLC Motion”) asking the Board to vacate five Board orders with respect to Ocean Wind LLC’s Ocean Wind 1 1,100 MW Project (“Ocean Wind 1 Project”).¹ The Ocean Wind LLC Motion includes the Board order approving the Ocean Wind 1 Project² as Qualified Offshore Wind Project (“QOWP”)³ and four Board orders granting the Ocean Wind 1 Project property

¹ In the Matter of the Board of Public Utilities Offshore Wind Solicitation for 1,100 MW – Evaluation of the Offshore Wind Applications, BPU Docket No. QO18121289; 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 Across Green Acres-Restricted Properties and Consents Needed for Certain Environmental Permits in, and with Respect to, the City of Ocean City are Reasonably Necessary for Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project, BPU Docket NO. QO22020041; 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, Motion to Vacate, dated July 1, 2024.

² In the Matter of The Board of Public Utilities Offshore Wind Solicitation for 1,100 MW - Evaluation of the Offshore Wind Applications, BPU Docket No. QO18121289, Order dated June 21, 2019 (“June 21, 2019 Ocean Wind 1 Award Order”).

³ A “Qualified Offshore Wind Project” is a wind turbine electricity generation facility in the Atlantic Ocean that is connected to the electric transmission system in New Jersey, includes the associated transmission related interconnection facilities and equipment, and is approved by the Board pursuant to section 3 of P.L. 2010, c. 57 (N.J.S.A. 48:3-87.1) and N.J.S.A. 48:3-51. N.J.A.C. 14:8-6.1.

easements on property owned, separately, by the City of Ocean City and the County of Cape May (“Cape May County” or “County”) (the five Board orders at issue in the Ocean Wind LLC Motion are referred to hereafter collectively as the “Ocean Wind 1 Orders”);⁴

- 2) Ocean Wind II, LLC’s Motion (“Ocean Wind II, LLC Motion”) asking the Board to vacate the Board order approving Ocean Wind II, LLC’s Ocean Wind 2 1,148 MW Project B project (“Ocean Wind 2 Project”) as a QOWP.⁵

Ocean Wind LLC and Ocean Wind II, LLC share Ørsted A/S as their parent company (Ørsted A/S, together with Orsted North America Inc., Orsted Wind Power North America LLC, Ocean Wind LLC, and Ocean Wind II, LLC are collectively referred to hereafter as “Orsted”).

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.⁶ OWEDA established, among other things, offshore wind (“OSW”) as a Class I renewable energy resource under the Renewable Portfolio Standards (“RPS”), and directed the

⁴ In addition to the June 21, 2019 Ocean Wind 1 Award Order, the “Ocean Wind 1 Orders” refers to the following four orders: 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 Across Green Acres-Restricted Properties and Consents Needed for Certain Environmental Permits in, and With Respect to, the City of Ocean City are Reasonably Necessary for the Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project, BPU Docket No. QO22020041, Order dated September 28, 2022 (“September 28, 2022 Order”); 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 Across Green Acres-Restricted Properties and Consents Needed for Certain Environmental Permits in, and With Respect to, the City of Ocean City are Reasonably Necessary for the Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project, BPU Docket No. QO22020041, Order dated November 2, 2022 (“November 2, 2022 Order”); 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, Order dated February 17, 2023 (“February 17, 2023 Order”); 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, Order dated March 24, 2023 (“March 24, 2023 Order”).

⁵ In the Matter of the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Ocean Wind II, LLC, BPU Docket No. QO21050825, Order dated June 30, 2021 (“June 30, 2021 Ocean Wind 2 Award Order” and together with the June 21, 2019 Ocean Wind 1 Award Order, the “Ocean Wind Orders”); In the Matter of 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 Nos. QO20080555 and QO21050825, Motion to Vacate, dated July 1, 2024.

⁶ OWEDA, N.J.S.A. 48:3-87.1 to 87.2, L. 2010, c. 57, eff. Aug. 19, 2010; amended by 2019 c. 440, §2, effective Jan. 21, 2020; 2021, c.178, §1, effective July 22, 2021; EDECA, P.L. 1999, c. 23, N.J.S.A. 48:3-49 et seq.

Board to establish a program for Offshore Wind Renewable Energy Certificates (“ORECs”) to support at least 1,100 megawatts (“MW”) of OSW generation from QOWPs, which program would require that a percentage of the state’s electric load be supplied by OSW from QOWPs. OWEDA also set forth specific eligibility criteria in order for an OSW project to receive ORECs, as well as specific criteria upon which the Board must base its decisions to accept or reject applications from OSW developers regarding their respective OSW projects so that the Board may evaluate such projects to determine whether to approve them as a QOWPs that may receive ORECs.⁷ Following the passage of OWEDA, the Board adopted rules that provide an application process and evaluation framework for OSW facilities.⁸

On January 31, 2018, Governor Phil Murphy signed Executive Order No. 8 (“EO 8”), which directed the Board to fully implement OWEDA and begin the process of moving the State toward a goal of 3,500 MW of OSW by 2030.⁹ To achieve these goals, EO 8 also directed the Board to develop and implement a strategic plan to examine the critical components of OSW development.¹⁰

On September 17, 2018, the Board issued its first offshore wind solicitation (“First Solicitation”).¹¹ On June 21, 2019, the Board designated the Ocean Wind 1 Project as a QOWP eligible to receive ORECs, and awarded the project ORECs for 1,100 MW of OSW capacity.¹²

On November 19, 2019, Governor Phil Murphy signed Executive Order No. 92 (“EO 92”), which directed the Board to take “all necessary actions to implement OWEDA in order to promote and realize the development of wind energy off the coast of New Jersey to meet a goal of 7,500 megawatts of offshore wind energy generation by the year 2035.”¹³

On September 9, 2020, the Board opened the second solicitation seeking to secure ORECs targeting 1,200 MW to 2,400 MW of OSW capacity (“Second Solicitation”).¹⁴ On June 30, 2021, the Board awarded two projects, the Ocean Wind 2 Project and the ASOW 1 1,509.6 MW project, designating each as QOWPs eligible to receive ORECs (the Ocean Wind 2 Project, together with the Ocean Wind 1 Project, collectively, the “Projects” and each a “Project”).¹⁵

⁷ See OWEDA.

⁸ N.J.A.C. 14:8-6.1 et seq.

⁹ Exec. Order No. 8 (Jan. 31, 2018), 50 N.J.R. 887(a) (Feb. 20, 2018).

¹⁰ Id.

¹¹ In the Matter of the Opening of OREC Application Window for 1,100 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8, BPU Docket No. QO18080851, Order dated September 18, 2018 (“September 18, 2018 Solicitation 1 Opening Order”).

¹² June 21, 2019 Ocean Wind 1 Award Order.

¹³ Exec. Order No. 92 (Nov. 19, 2019), 51 N.J.R. 1817(b) (Dec. 16, 2019).

¹⁴ In the Matter of the Opening of the 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 (“September 9, 2020 Solicitation 2 Opening Order”).

¹⁵ June 30, 2021 Ocean Wind 2 Award Order; 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.

On February 2, 2022, Ocean Wind LLC filed a petition with the Board, seeking the Board's determination that certain easements across Green Acres-designated properties and local government approvals with respect to the City of Ocean City are reasonably necessary for the construction or operation of the Ocean Wind 1 Project.¹⁶ On September 28, 2022, the Board granted the February 2, 2022 Petition.¹⁷ On November 2, 2022, Board President Joseph Fiordaliso issued an Order on the Taking of Easements that authorized Ocean Wind LLC to record two easements over properties owned by the City of Ocean City with the Cape May County Clerk's recording office, based on the Board's determination in its September 28, 2022 Order that such easements are reasonably necessary.¹⁸

On May 20, 2022 Ocean Wind LLC filed a petition with the Board, seeking the Board's determination that certain easements across properties owned by Cape May County and certain consents needed from Cape May County for certain environmental permits in, and with respect to, such County are reasonably necessary for the construction or operation of the Ocean Wind 1 Project.¹⁹ On February 17, 2023, the Board granted the May 20, 2022 Petition.²⁰ On March 24, 2023, based on the Board's determination in its February 17, 2023 Order, Board President Joseph Fiordaliso issued an Order on the Taking of Easements that, among other things, authorized Ocean Wind LLC to record with the Cape May County Clerk's office two easements over properties owned by the County of Cape May recording office.²¹

On or about October 31, 2023, Ørsted A/S announced that it was ceasing the development of the Ocean Wind 1 Project and the Ocean Wind 2 Project.²²

On May 25, 2024, the State and Orsted entered into a Settlement Agreement ("Settlement

QO21050824, Order dated June 30, 2021.

¹⁶ See N.J.S.A. 48:3-87.1(f); see also 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 Across Green Acres-Restricted Properties and Consents Needed for Certain Environmental Permits in, and With Respect to, the City of Ocean City are Reasonably Necessary for the Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project, BPU Docket No. QO22020041, Petition dated February 2, 2022 ("February 2, 2022 Petition").

¹⁷ September 28, 2022 Order.

¹⁸ Id.; November 2, 2022 Order.

¹⁹ See N.J.S.A. 48:3-87.1(f); see also 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, Petition dated May 20, 2022 ("May 20, 2022 Petition").

²⁰ February 17, 2023 Order.

²¹ March 24, 2023 Order.

²² Orsted Ceases Development of Ocean Wind 1 and Ocean Wind 2 and Takes Final Investment Decision on Revolution Wind – Ocean Wind 1 and 2 (1100 MW Project and 1148 MW Projects) (October 31, 2023), <https://us.ored.com/news-archive/2023/10/orsted-ceases-development-of-ocean-wind-1-and-ocean-wind-2#:~:text=%C3%98rsted%20has%20decided%20to%20cease,that%20considerably%20impacted%20proj%20timing>; Ocean Wind LLC Motion at 2; Ocean Wind II, LLC Motion at 1.

Agreement”) to resolve their respective claims concerning the cessation of the Ocean Wind 1 Project and Ocean Wind 2 Project.²³ In particular, numbered paragraph 4 of the Settlement Agreement provides, in relevant part, the following:

For the avoidance of doubt, Orsted will move to vacate [each of the two] Ocean Wind Orders [approving the Projects as QOWPs] and the [four Ocean Wind 1 Orders] granting easements to certain real property owned by Ocean City and Cape May County to construct and operate [the Ocean Wind 1 Project], and the State consents to such vacation and agrees to take all action reasonably necessary to effectuate such vacation.²⁴

THE MOTIONS

On July 1, 2024, Ocean Wind LLC filed the Ocean Wind LLC Motion, referencing Ørsted A/S’s October 31, 2023 announcement that it was ceasing development of the Ocean Wind 1 Project and referencing the Settlement Agreement, and asking the Board to vacate the Ocean Wind 1 Orders.²⁵ On July 1, 2024, Ocean Wind II, LLC filed the Ocean Wind II, LLC Motion, referencing Ørsted A/S’s October 31, 2023 announcement that it was ceasing development of the Ocean Wind 2 Project and referencing the Settlement Agreement, and asking the Board to vacate the June 30, 2021 Ocean Wind 2 Award Order.²⁶

COMMENTS FILED IN RESPONSE TO THE MOTIONS

On July 11, 2024, the New Jersey Division of Rate Counsel (“Rate Counsel”) filed written comments with respect to the Ocean Wind LLC Motion.²⁷ Rate Counsel asserted it was not bound by the Settlement Agreement, and raised various concerns about the Settlement Agreement and the appropriate procedural mechanism for the Board’s consideration of the Ocean Wind LLC

²³ Ocean Wind LLC Motion at 2; Ocean Wind II, LLC Motion at 1-2. The Settlement Agreement identifies the parties thereto as “the State of New Jersey and the New Jersey Board of Public Utilities (the ‘Board’ and, together with the State of New Jersey, the ‘State’), and Ørsted A/S, Orsted North America Inc., Orsted Wind Power North America LLC, Ocean Wind LLC, and Ocean Wind II, LLC (collectively, ‘Orsted’),” Given Rate Counsel’s statutory role pursuant to N.J.S.A. 52:27EE-46 et seq., it is excluded from the scope of the term “State.”

²⁴ Id.

²⁵ Ocean Wind LLC Motion at 2.

²⁶ Ocean Wind II, LLC Motion at 2.

²⁷ In the Matter of The Board of Public Utilities Offshore Wind Solicitation for 1,100 MW - Evaluation of the Offshore Wind Applications, BPU Docket No. QO18121289; 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 Across Green Acres-Restricted Properties and Consents Needed for Certain Environmental Permits in, and With Respect to, the City of Ocean City are Reasonably Necessary for the Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project, BPU Docket No. QO22020041; 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, Rate Counsel Comments dated July 11, 2024 (“Rate Counsel’s OW1 Comments”).

Motion.²⁸ However, Rate Counsel did not “object to the relief sought” and indicated it would “consent” to waiver of asserted procedural requirements, including strict application of N.J.A.C. 14:1-8.6.²⁹ Rate Counsel also suggested that the Board direct Ocean Wind LLC to advise the Appellate Division and any other Court considering enforcement of the Ocean Wind 1 Orders that those pending matters are now moot.³⁰ Rate Counsel concluded that, with respect to the Ocean Wind LLC Motion, “and the public record that [Ocean Wind LLC] is unable or unwilling to comply with the terms of [the Ocean Wind 1 Orders], the Board should grant the motions and reverse its decision in all [of the Ocean Wind 1 Orders].”³¹

On July 22, 2024, Rate Counsel filed written comments in response to the Ocean Wind II, LLC Motion, which echoed the same concerns as those identified in Rate Counsel’s comments in response to the Ocean Wind LLC Motion.³² Rate Counsel again did not object to the granting of the requested relief, consented to waiver of asserted procedural issues and concluded that “[b]ased upon that [Ocean Wind II, LLC Motion], and the public record that [Ocean Wind II, LLC] is unable or unwilling to comply with the terms of the Board’s prior [June 30, 2021 Ocean Wind 2 Award Order], the Board should grant the motion and reverse its decision in this matter.”³³

On July 23, 2024, the County of Cape May (“County”) filed correspondence with the Board indicating that the County joins in the arguments contained in Rate Counsel’s OW1 Comments.³⁴

DISCUSSION AND FINDINGS

It is well-settled that an administrative agency has the inherent power, absent statutory restriction,

²⁸ Rate Counsel’s OW1 Comments at 2 - 5.

²⁹ Rate Counsel’s OW1 Comments at 4.

³⁰ Id. at 5.

³¹ The passage quoted here refers to “four” orders instead of the five identified in the Ocean Wind LLC Motion. Rate Counsel’s reference to four orders appears to be an error, as the same issue appears on the first page of the comments, where it is followed by a numbered list specifically identifying each of the five orders at issue in the Ocean Wind LLC Motion. See Rate Counsel OW1 Comments at 1 and 5.

³² In the Matter of The Board of the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,200 to 2,300 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8 and Executive Order No. 91, BPU Docket No. QO20080555; In the Matter of the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Ocean Wind II, LLC, BPU Docket No. QO210508257, Rate Counsel Comments dated July 22, 2024 (“Rate Counsel’s OW2 Comments”).

³³ Rate Counsel’s OW2 Comments at 5.

³⁴ In the Matter of The Board of Public Utilities Offshore Wind Solicitation for 1,100 MW - Evaluation of the Offshore Wind Applications, BPU Docket No. QO18121289; 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 Across Green Acres-Restricted Properties and Consents Needed for Certain Environmental Permits in, and With Respect to, the City of Ocean City are Reasonably Necessary for the Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project, BPU Docket No. QO22020041; 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, Cape May County correspondence dated July 23, 2024 (“Cape May County Comments”).

to reopen or to modify and rehear previously-entered orders.³⁵ Pursuant to N.J.S.A. 48:2-40(e), the Board may, at any time, order a rehearing and extend, revoke, or modify an order made by it.³⁶ The Board's authority is understood to include the authority to vacate its own orders.³⁷ The Board must exercise this power reasonably.³⁸ This standard governs the Board's consideration of the Motions.

While useful as a procedural analogy, in deciding the Motions, the Board is not bound to follow N.J.A.C. 14:1-8.6, which is applicable to contested cases. None of the orders at issue in the Motions arises from a contested case. To the extent Rate Counsel and the County disagree, they have consented to waive strict application of N.J.A.C. 14:1-8.6. Moreover, even if N.J.A.C. 14:1-8.6 were applicable, the Board's rules are to be "liberally construed...to secure just and expeditious determination of issues properly presented to the Board[.]" and the Board is required to, "in accordance with the general purposes and intent of its rules, waive section(s) of its rules if full compliance with the rule(s) would adversely affect ... the interests of the general public[.]" N.J.A.C. 14:1-1.2(a) and (b)(1). The common law similarly recognizes that administrative agencies may invoke their inherent power to rehear a matter to "protect the public interest" and "to serve the ends of essential justice and the policy of the law."³⁹ In sum, no rule waiver is necessary here, and the Board's consideration of the Motions now is consistent with the law and provides a just and expeditious determination of the issues presented in the public interest.

Ultimately, the undisputed record reflects that (1) development of the Projects ceased no later than October 31, 2023, and (2) pursuant to the Settlement Agreement, Orsted, the State of New Jersey, and the Board, through counsel, have agreed that the Ocean Wind 1 Orders and the June 30, 2021 Ocean Wind 2 Award Order should be vacated, consistent with the cessation of development of the Projects. The Motions seek this precise relief, and the only other responding parties, Rate Counsel and the County, both agree that the Board should grant the requested relief "[b]ased upon...the public record[.]" Confronted with this undisputed record and unanimity that the six subject orders should be vacated, the Board reasonably concludes that granting the Motions is in the public interest and appropriate under the circumstances.

Accordingly, following careful review of the Motions, as well as Rate Counsel and the County's comments, and having thoroughly considered Board staff's recommendations, the Board **HEREBY GRANTS** the Ocean Wind LLC Motion and **HEREBY VACATES** each of the five Ocean Wind 1 Orders.

³⁵ See In re Trantino Parole Application, 89 N.J. 347,364 (1982). See also In re Tenure Hearing of Cemran Bircik, 2014 N.J. Super, Unpub. LEXIS 2640, at 2 (citing In re Van Orden, 383 N.J. Super. 410, 419 (App. Div. 2006); In re Adamar of N.J., 222 N.J. Super. 464, 474 (App. Div. 1988); see also Lee v. W.S. Steel Warehousing, 205 N.J. Super. 153, 157-58 (1985).

³⁶ N.J.S.A. 48:2-40(e).

³⁷ See N.J.A.C. 14:1-8.6(a)(including "vacation" of a Board order as amongst various distinct types of relief that may be requested from the Board, also including reversal, modification or suspension).

³⁸ Dep't of Pub. Advocate, Div. of Rate Counsel v. N.J. Bd. of Pub. Utils., 206 N.J. Super. 523, 531 (App. Div. 1985).

³⁹ Trap Rock Industries, Inc. v. Sagner, 133 N.J. Super. 99, 109 (App. Div. 1975); Handlon v. Town of Belleville, 4 N.J. 99, 109 (1950).


The Board **HEREBY DIRECTS** Board staff to file the Settlement Agreement referred above in each of the relevant dockets. The Board **HEREBY DIRECTS** Ocean Wind LLC to advise the Appellate Division and any other Court considering enforcement of such orders of the Board's decision today and that those pending matters are now moot. With respect to the Ocean Wind 1 Orders previously recorded with the Cape May County Clerk, the Board **HEREBY DIRECTS** Ocean Wind LLC to promptly take such action and/or record such documents with the Cape May County Clerk as necessary to reflect that the Ocean Wind 1 Orders have been vacated as set forth herein.

Further, the Board **HEREBY GRANTS** the Ocean Wind II, LLC Motion and **HEREBY VACATES** the June 30, 2021 Ocean Wind 2 Award Order.

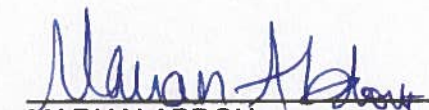
The effective date of this Order is August 14, 2024

DATED: August 14, 2024

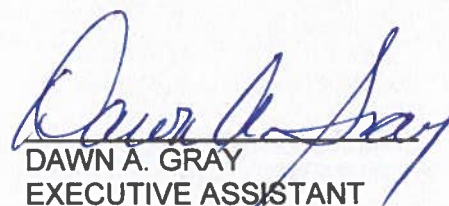
BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOLOU
COMMISSIONER


MARIAN ABDU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST: 
DAWN A. GRAY
EXECUTIVE ASSISTANT

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the 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

DOCKET NO. QO18121289

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 ACROSS GREEN ACRES-RESTRICTED PROPERTIES AND CONSENTS NEEDED FOR CERTAIN ENVIRONMENTAL PERMITS IN, AND WITH RESPECT TO, THE CITY OF OCEAN CITY ARE REASONABLY NECESSARY FOR THE CONSTRUCTION OR OPERATION OF THE OCEAN WIND 1 QUALIFIED OFFSHORE WIND PROJECT

DOCKET NO. QO22020041

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DOCKET NO. QO22050347

IN THE MATTER OF THE OPENING OF OFFSHORE WIND RENEWABLE ENERGY CERTIFICATE (OREC) APPLICATION WINDOW FOR 1,200 TO 2,400 MEGAWATTS OF OFFSHORE WIND CAPACITY INFURTHERANCE OF EXECUTIVE ORDER NO. 8 AND EXECUTIVE ORDER NO. 92

DOCKET NO. QO20080555

IN THE MATTER OF THE BOARD OF PUBLIC UTILITIES OFFSHORE WIND SOLICITATION
2 FOR 1,200 TO 2,400 MW – OCEAN WIND II, LLC

DOCKET NO. QO21050825

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