



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

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 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 ) ORDER MODIFYING THE ) PROCEDURAL SCHEDULE ) AND UPDATING THE PARTIES ) OF RECORD ) DOCKET NO. QO22020041

**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  
**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

**BY PRESIDENT FIORDALISO:**

By this Order, I set forth a modified procedural schedule and include Ocean City, New Jersey, as a party of record in this proceeding.

**BACKGROUND**

On February 2, 2022, Ocean Wind LLC ("Ocean Wind" or "Petitioner") filed a petition ("Petition") with the New Jersey Board of Public Utilities ("Board" or "BPU"), pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across Green Acres-restricted properties owned by the City of Ocean City, New Jersey ("Ocean City"), and that certain municipal consents needed for particular environmental permits in or with respect to Ocean City, are reasonably necessary for the construction or operation of their Qualified Offshore Wind Project, Ocean Wind I.

On February 23, 2022, the Board retained the Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself 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 (“February 23 Order”). Further, the February 23 Order directed any entities seeking to intervene or participate in this matter file the appropriate motions with the Board by March 9, 2022. The Board did not receive any motions by the deadline.

I note that P.L. 2021, c. 178 envisions a transparent and public process for the evaluation. The Board is required to hold a public hearing and receive public comments on the petition. N.J.S.A. 48:3-87.1(f)(2).

On March 1, 2022, I issued a procedural schedule which directed all parties to comply with its terms and set a bar date for all motions of March 9, 2022 (“March 1 Order”). I further note that on March 18, 2022, the Division of Rate Counsel (“Rate Counsel”) sent a letter to the Petitioner, serving purported discovery on Ocean Wind LLC.

### **MODIFIED PROCEDURAL SCHEDULE**

In order to accommodate the parties’ ability to meaningfully participate in this proceeding and to provide for more flexibility, I set forth the modified procedural schedule (“Modified Schedule”) in Exhibit A.

### **DISCUSSION AND FINDINGS**

Ocean City did not submit a motion to intervene by March 9, 2022. New Jersey eminent domain proceedings consider property owners to be necessary parties. State by Adams v. New Jersey Zinc Co., 40 N.J. 560, 574 (1963); R. 4:73-2. By statute, the New Jersey Legislature tasked the Board with conducting a proceeding to determine whether it is reasonably necessary for a Qualified Offshore Wind Project to obtain real property interests owned by a municipality. N.J.S.A. 48:3-87.1(f)(2). As the municipal owner of the property in question, I **HEREBY DIRECT** Ocean City to be added as a necessary party to this proceeding so that it has the opportunity to participate under the procedural schedule set forth in Exhibit A.

To ensure Ocean City has the opportunity to prepare testimony and respond, as envisioned by my scheduling order issued on March 1, 2022, I **HEREBY ISSUE** the following Modified Schedule identified as Exhibit A. I further **DIRECT** the parties to comply with the Modified Schedule’s terms and to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding, including the exchange of information that is relevant to the Board’s inquiry. However, there is no formal discovery period established for this proceeding. The parties will have an opportunity to present evidence and arguments to satisfy due process and aid in the Board’s deliberation.

I **HEREBY DIRECT** that this Order be posted on the Board’s website. For reference, the February 23 Order and March 1 Order are included in Exhibit B.

Parties are **HEREBY DIRECTED** to serve all documents electronically.

This provisional ruling is subject to ratification or other alteration by the Board, as it deems appropriate during the proceedings in this matter.

DATED: March 22, 2022

BY:

A handwritten signature in black ink, appearing to read "Joe Fiordaliso", written over a horizontal line.

JOSEPH L. FIORDALISO  
PRESIDENT

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

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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 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

**Exhibit A:  
Procedural Schedule**

<b>Item</b>	<b>Date</b>
Motions Due	March 9, 2022
Ocean Wind's Responses to Supplemental Questions	March 14, 2022
Opposition and Testimony from Parties	April 27, 2022
Ocean Wind Reply	May 11, 2022
Public Hearing	May 19, 2022
Public Written Comments Deadline	June 2, 2022
Settlement Conference	Week of June 6 2022
Ocean Wind, Property Owner and Associated Governing Bodies Respond to Public Comment	June 16, 2022
Oral Argument	June 24, 2022

Further details regarding the Public Hearing and Oral Argument will be forthcoming.

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

**Exhibit B:**  
**February 23 Order and March 1 Order**





Agenda Date: 2/23/22  
Agenda Item: 8B

**STATE OF NEW JERSEY**  
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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 )  
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

**Parties of Record:**

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel  
**Gregory Eisenstark, Esq.**, Cozen O'Connor, P.C., on behalf of Ocean Wind LLC

**BY THE BOARD:**

By this Order, the New Jersey Board of Public Utilities ("Board" or "BPU") retains Ocean Wind LLC's ("Ocean Wind" or "Company") petition which requests that the Board determine: 1) certain easements owned by City of Ocean City, New Jersey ("Ocean City") are reasonably necessary for the construction and operation of Ocean Wind's qualified offshore wind project ("QOWP"); and 2) municipal consents needed from Ocean City for the issuance of permits from the New Jersey Department of Environmental Protection ("NJDEP") are reasonably necessary for the construction of the QOWP ("Petition").

**BACKGROUND**

In response to Governor Murphy's Executive Order No. 8, which called upon the Board to fully implement the Offshore Wind Economic Development Act, the Board issued its first offshore wind solicitation. Ocean Wind submitted an application and in June 2019, the Board approved Ocean Wind's 1,100 MW offshore wind project, Ocean Wind 1, as a QOWP ("Project"). Since the award, Ocean Wind has been in the planning, permitting and preconstruction phase of the Project. A

significant aspect of the preconstruction activities involves obtaining the necessary easements and municipal consents for the onshore cable route, which will bring the renewable electricity from the offshore wind turbines to the electric transmission and distribution system in New Jersey.

On February 2, 2022, Ocean Wind filed the Petition with the Board, pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across Green Acres-restricted properties owned by Ocean City, and that certain municipal consents needed for particular environmental permits in or with respect to Ocean City, are reasonably necessary for the construction or operation of the QOWP, Ocean Wind I.

N.J.S.A. 48:3-87.1(f) grants the Board the authority to make a determination on a petition from a QOWP "seeking authority to obtain the easement, right-of way, or other real property interest."

### **DISCUSSION**

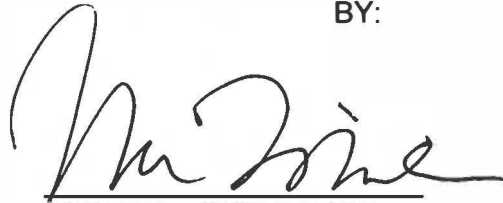
The Board has determined that it should retain the Petition for hearing. Accordingly, pursuant to N.J.S.A. 48:2-32, the Board **HEREBY DESIGNATES** President Joseph L. Fiordaliso as the presiding officer with authority to rule on all motions that arise during the pendency of this proceeding and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the Board **HEREBY DIRECTS** that any entity seeking to intervene or participate in this matter file the appropriate application with the Board on or before March 9, 2022. Any party wishing to file a motion for admission of counsel, pro hac vice, should do so concurrently with any motion to intervene or participate.

In addition, in compliance with the Board's Order in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically. No hard copies shall be filed until the Board lifts the restrictions imposed in that Order. The Board **HEREBY DIRECTS** Staff to post this Order to the Board's website.

The effective date of this Order is February 25, 2022.

DATED: February 23, 2022

BOARD OF PUBLIC UTILITIES  
BY:


  
\_\_\_\_\_  
JOSEPH L. FIORDALISO  
PRESIDENT

  
\_\_\_\_\_  
MARYANNA HOLDEN  
COMMISSIONER

  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER

  
\_\_\_\_\_  
UPENDRA J. CHIVUKULA  
COMMISSIONER

  
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ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
\_\_\_\_\_  
AIDA CAMACHO-WELCH  
SECRETARY

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

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**DIVISION OF CLEAN ENERGY**

IN THE MATTER OF THE PETITION OF OCEAN ) ORDER WITH PROCEDURAL  
WIND, LLC PURSUANT TO N.J.S.A. 48:3-87.1(f) FOR ) SCHEDULE AND REQUEST  
A DETERMINATION THAT EASEMENTS ACROSS ) FOR SUPPLEMENTAL  
GREEN ACRES-RESTRICTED PROPERTIES AND ) INFORMATION  
CONSENTS NEEDED FOR CERTAIN )  
ENVIRONMENTAL PERMITS IN, AND WITH )  
RESPECT TO, THE CITY OF OCEAN CITY ARE )  
REASONABLY NECESSARY FOR THE ) DOCKET NO. QO22020041  
CONSTRUCTION OR OPERATION OF THE OCEAN )  
WIND 1 QUALIFIED OFFSHORE WIND PROJECT )

**Parties of Record:**

**Brian O. Lipman, Esq., Acting Director, New Jersey Division of Rate Counsel**

**BY PRESIDENT FIORDALISO:**

By this Order, I set forth the procedural schedule and request the filing of supplemental information.

**BACKGROUND**

On February 2, 2022, Ocean Wind LLC ("Ocean Wind" or "Petitioner") filed a petition ("Petition") with the New Jersey Board of Public Utilities ("Board" or "BPU"), pursuant to N.J.S.A. 48:3-87.1(f), seeking the Board's determination that certain easements across Green Acres-restricted properties owned by the City of Ocean City, New Jersey ("Ocean City"), and that certain municipal consents needed for particular environmental permits in or with respect to Ocean City, are reasonably necessary for the construction or operation of their qualified offshore wind project ("QOWP"), Ocean Wind I.

On February 23, 2022, the Board retained the Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself 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 ("February 23 Order"). Further, the February 23 Order directed any entities seeking to intervene or participate in this matter file the appropriate motions with the Board by March 9, 2022.

I note that P.L. 2021, c. 178 envisions a transparent and public process for the evaluation. The Board is required to hold a public hearing and receive public comments on the petition. N.J.S.A. 48:3-87.1(f)(2).

### **SUPPLEMENTAL QUESTIONS**

In order to create a more robust record for this proceeding on which to base any decision and to provide all parties and the public with the information needed to provide input, Ocean Wind shall supplement its Petition by submitted responses to questions, set forth in Exhibit B.

### **DISCUSSION & FINDINGS**

I **HEREBY ISSUE** the following procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms and to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding. The parties will have an opportunity to present evidence and arguments to satisfy due process and aid in the Board's deliberation.

The public will have an opportunity to file comments and attend a public hearing. I, President Fiordaliso, will preside over the public hearing. Notice of the public hearing shall be provided to the "news media, the owner of the real property subject to the petition, and the governing body and municipal clerk of the municipality and the clerk of the county in which the lands proposed to be conveyed are located." N.J.S.A. 48:3-87.1(f)(2). Public Comments may be submitted using the Board's Public Document Search tool, located at <https://publicaccess.bpu.state.nj.us/> using DOCKET NO. QO22020041

Comments are considered "public documents" for purposes of the State's Open Public Records Act and any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3.

I **HEREBY DIRECT** that, in addition to motions to intervene or participate set forth in the February 23 Order, all other motions be submitted by March 9, 2022. Following that date, motions will only be accepted if they are shown to be in the interest of justice.

I have reviewed the supplemental questions set forth in Exhibit B, and **HEREBY DIRECT** the Petitioner to submit responses to these questions by 5 pm EST March 11, 2022

I **HEREBY DIRECT** that this Order be posted on the Board's website.

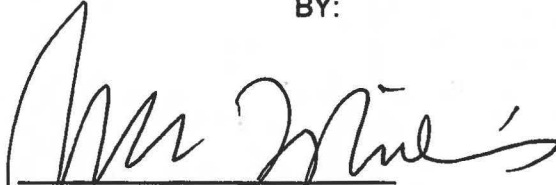
Parties are **HEREBY DIRECTED** to serve all documents electronically.

This provisional ruling is subject to ratification or other alteration by the Board, as it deems appropriate during the proceedings in this matter.



DATED: 3/1/2022

BY:



JOSEPH L. FIORDALISO  
PRESIDENT

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

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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 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**

**Exhibit A:  
Procedural Schedule**

<b>Item</b>	<b>Date</b>
Motions Filed	March 9, 2022
Ocean Wind's Responses to Supplemental Questions	March 14, 2022
Opposition and Testimony from Parties	April 13, 2022
Ocean Wind Reply	April 27, 2022
Public Hearing	May 5, 2022
Public Written Comments Deadline	May 20, 2022
Settlement Conference	Week of May 23, 2022
Ocean Wind, Property Owner and Associated Governing Bodies Respond to Public Comment	June 3, 2022
Oral Argument	June 24, 2022

Further details regarding the Public Hearing and Oral Argument will be forthcoming.

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

**Exhibit B:  
Supplemental Questions**

**General:**

1. Please list the criteria that were used to evaluate the different cable routes, and describe how the criteria were weighed in the selection process.
2. Please describe the qualifications of the individuals involved in the cable route selection process.

Please provide documents to support the answers to the questions below:

Jason Kalwa testimony, Page 11, lines 10-21:

3. Please provide an assessment as to whether construction methods as well as impact from construction would differ substantially between different cable routes. Note any differences in impact on traffic as well as public access, especially as it relates to tourism. How did these impacts weigh in the cable route selection process?

Pilar Patterson testimony, page 4, lines 21 through page 5, lines 9:

4. Please provide more detail on the factors that would affect the identified impacts, upgrade costs, and timeline associated with the choice of Higbee and Ontario as POI.

Pilar Patterson testimony, page 7, lines 1-8:

5. Please provide supporting information, including data sources, on how "inlets, wildlife refuges, and wildlife management areas" were defined. For any GIS data used in the resource maps, please clarify whether temporal accuracy considerations were made regarding updates to these data sources and how these may have influenced the resulting information.

Pilar Patterson testimony, page 7, lines 9-12:

6. Please list the design and construction criteria that were used to remove potential alternative landfall sites from further consideration.

Pilar Patterson testimony, page 7, lines 12-17:

7. Please elaborate on the methodology for the additional screening (i.e. based on real estate availability, windshield surveys, and meeting with local municipalities) that was conducted to narrow the number of landfall options.

Pilar Patterson testimony, page 8, lines 6-9:

8. Please explain why the existing, previously disturbed Right of Way on and around the Roosevelt Bridge could not be used, and a Green Acres diversion is needed.

Pilar Patterson testimony, page 8, line 20 through page 11, line 9:

9. Please compare the easements and permits that would be required for the alternative routes, to the easements and permits required for the "Preferred Route." Note any differences in Green Acres diversions needed.

Pilar Patterson testimony, page 10, lines 10-13:

10. Are there any potential use conflicts associated with the offshore cable route of the "Preferred Route" (e.g. prime fish grounds, borrow areas, environmental preserves, historic sites)? If yes, please describe and explain how they compare to similar issues cited in association with other cable routes considered by Ocean Wind.

Pilar Patterson testimony, page 11, lines 17 through page 12, line 2:

11. Please provide an assessment as to whether easements upon, across, and under Green-Acres restricted properties for cable beach crossings would differ substantially between different cable landfall locations.

Pilar Patterson testimony, Appendix C:

12. What is the linear distance of road disturbed from the beach crossing to POI for the considered routes?

Pilar Patterson testimony, Appendix C:

13. Please describe the "abandoned railroad option" (purple line on map in Appendix C) and what concerns or limitations are associated with this route.

Madeline Urbish testimony, pages 3-5:

14. Can a person present at meetings prior to Ms Urbish employment by Ocean Wind, provide a recount of these meetings?

Madeline Urbish testimony, Appendices:

15. Please provide copies of the correspondence between Ocean Wind and Ocean City Prior to May 13, 2021.