



Agenda Date: 8/13/25

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/

CLEAN ENERGY

IN THE MATTER OF THE OPENING OF OFFSHORE)	ORDER VACATING OFFSHORE
WIND RENEWABLE ENERGY CERTIFICATE (OREC))	WIND RENEWABLE ENERGY
APPLICATION WINDOW FOR 1,200 TO 2,400)	CERTIFICATE ORDER
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 – ATLANTIC SHORES OFFSHORE)	
WIND PROJECT 1, LLC)	DOCKET NO. QO21050824

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Julia Pettit, Esq., Atlantic Shores Offshore Wind Project 1, LLC

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board" or "BPU") considers a petition submitted by Atlantic Shores Offshore Wind Project 1, LLC ("Atlantic Shores" or "ASOW") on June 4, 2025 asking the Board to terminate the June 30, 2021 OREC Order that approved Atlantic Shores as a Qualified Offshore Wind Project ("QOWP") ("Petition" or "ASOW Petition").¹

¹ In re the Board of Public Utilities Offshore Wind Solicitation 2 for 1,200 to 2,400 MW – Atlantic Shores Offshore Wind Project 1, LLC and In re 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 QO21050824 , Order dated June 30, 2021 ("OREC Order" or "ASOW OREC Order").

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. (“EDECA”).² OWEDA directed the Board to establish a program for Offshore Wind Renewable Energy Certificates (“ORECs”) to support at least 1,100 megawatts (“MW”) of offshore wind (“OSW”) generation from QOWPs.³

On September 9, 2020, the Board opened its second offshore wind solicitation seeking to secure ORECs targeting 1,200 MW to 2,400 MW of OSW capacity (“Second Solicitation”).⁴ On June 30, 2021, the Board issued Orders designating Atlantic Shores’s 1,509.6 MW project (“Project”), as well as the Ocean Wind 2 Project, as a QOWP eligible to receive ORECs.⁵

On March 25, 2021, Atlantic Shores submitted its Construction and Operations Plan (“COP”) with the Bureau of Ocean Management (“BOEM”), beginning a multi-year federal permitting process.⁶ BOEM issued final approval of Atlantic Shores’s COP on October 1, 2024.⁷

On April 30, 2024, the Board opened its fourth solicitation to secure ORECs targeting 1,200 – 4,000 MW of OSW capacity (“Fourth Solicitation”).⁸ The Fourth Solicitation allowed projects that were previously selected as a QOWP in the first or second OSW solicitation to submit an application (“re-bid”) for a new OREC award. Re-bids were included in the Fourth Solicitation to account for substantial changes to the OSW market since the respective awards of the QOWPs in the Board’s first two OSW solicitations. On July 10, 2024, Atlantic Shores submitted a re-bid.

On January 20, 2025, President Donald Trump issued a Presidential Memorandum titled “Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government’s Leasing and Permitting Practices for Wind Projects” (“Wind Memorandum”).⁹ The Wind Memorandum directed agencies not to “issue new or renewed approvals, rights of way, permits, leases, or loans for onshore or offshore wind projects pending the completion of a comprehensive assessment and review of Federal wind leasing and permitting

² OWEDA, 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.

³ See OWEDA.

⁴ In re 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.

⁵ ASOW OREC Order; In re 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.

⁶ Bureau of Ocean Energy Management, Atlantic Shores South Construction and Operations Plan Scoping Report (March, 2022), <https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-south-scoping-report-summary-appendix>.

⁷ Bureau of Ocean Energy Management, BOEM Approves Construction and Operations Plan for Atlantic Shores South Offshore Wind Projects (October 1, 2024), <https://www.boem.gov/newsroom/press-releases/boem-approves-construction-and-operations-plan-atlantic-shores-south>.

⁸ In re the Opening New Jersey’s Fourth Solicitation for Offshore Wind Renewable Energy Certificates (ORECs), BPU Docket No. QO24020109, Order dated April 30, 2024.

⁹ 90 Fed. Reg. 8363 (Jan. 29, 2025).

practices.” The Wind Memorandum did not establish a timeframe for completion of the review and the scope of the review was not clearly defined.¹⁰

On February 3, 2025, the Board announced that it would not issue an award in the Fourth Solicitation, citing uncertainty driven by federal actions and permitting.¹¹ However, Atlantic Shores remains a QOWP under the terms of the ASOW OREC Order.

On February 28, 2025, the United States Environmental Protection Agency (“EPA”) requested that the EPA’s Environmental Appeals Board (“EAB”) remand to the agency Air Permit Number OCA-EPA-R2 NJ 02 (“Air Permit”), which had been issued to Atlantic Shores on September 30, 2024. The EPA had previously defended the Air Permit in response to an appeal. The EPA’s request to the EAB cited the need for a comprehensive review pursuant to the Wind Memorandum. The EAB granted the remand on March 14, 2025, over the objection of Atlantic Shores, and denied Atlantic Shores’s motion for reconsideration.

PETITION

On June 4, 2025, Atlantic Shores filed the Petition, citing “N.J.S.A. 48:3-87.1(3)(c)(4)” and asking the Board to terminate the OREC Order.¹² The Petition detailed the achievement of major project milestones, including BOEM COP approval, completion of all geotechnical and geophysical surveys, a comprehensive request for proposal process for all major equipment and components, the securing of parcels for a planned Operation and Maintenance center in Atlantic City, the execution of an Interconnection Service Agreement with self-build of the Atlantic City Electric Company Cardiff Substation, and the execution of a Letter of Intent with the New Jersey Economic Development Authority for a lease for turbine marshalling at the New Jersey Wind Port.¹³

Atlantic Shores also emphasized its efforts and expenditures on workforce development in the State, including supporting the Wind Institute, supporting training over 500 students through the New Jersey Pathways program, and supporting OSW workforce development programs at multiple New Jersey colleges and universities, including Rutgers University, Atlantic Cape Community College, Rowan College, Stockton University, and Kean Ocean.¹⁴

Despite this progress, Atlantic Shores argued that well documented industry wide challenges from 2020-2022 impacted the entire OSW industry and created significant financial difficulties for the Project.¹⁵ These challenges, which included inflationary pressures, increased interest rates, Russia’s invasion of Ukraine, and a global surge in OSW demand that strained the supply chain and significantly drove up costs, led Atlantic Shores to submit a re-bid in the Fourth Solicitation.¹⁶

¹⁰ Id.

¹¹ NJBPU, New Jersey Board of Public Utilities Statement on New Jersey’s Fourth Offshore Wind Solicitation (February 3, 2025), <https://www.nj.gov/bpu/newsroom/2024/approved/20250203.html>.

¹² ASOW Petition at 1.

¹³ Id. at 6-8.

¹⁴ Id. at 8-10.

¹⁵ Id. at 10.

¹⁶ Id. at 11-12.

Atlantic Shores also asserted that the Federal government's actions since January 2025 have disrupted the progress of the Project and the broader OSW industry. These actions include the issuance of the Wind Memorandum and the remand of the Air Permit.¹⁷ Atlantic Shores stated that the remand of the fully-approved Air Permit has introduced great uncertainty because the Air Permit is legally required for construction on the Project to proceed. Additionally, the Wind Memorandum does not establish a timeframe for the Federal government to complete its assessment, and the scope of the assessment is not clearly defined.¹⁸ Atlantic Shores asserted that, because of this uncertainty, its parent company has been forced to reduce personnel, terminate contracts, and cancel planned investments in the Project.¹⁹ Atlantic Shores also stated that it has paused its construction schedule, including canceling its interconnection service agreement with PJM Interconnection, LLC and pausing transmission upgrades, due to uncertainty regarding when or if the Air Permit will be reinstated.²⁰

Atlantic Shores stated that, for the reasons outlined in the Petition, the Project is no longer viable under the terms and conditions of the OREC Order. Atlantic Shores stated that it has made good faith efforts to advance the Project in light of these issues, including submitting a re-bid in the Fourth Solicitation and contesting the remand of the Air Permit, but continuing to advance the Project is impracticable at this time. Accordingly, Atlantic Shores requested that the Board enter an order terminating the OREC Order.²¹

COMMENTS FILED IN RESPONSE TO THE PETITION

On July 11, 2025, the New Jersey Division of Rate Counsel ("Rate Counsel") filed written comments in response to the Petition.²² Rate Counsel concurred with Atlantic Shores that recent changes to the OSW market and federal regulatory landscape have impeded OSW development and rendered the Project unviable.²³ Rate Counsel acknowledged that the Board has authority to "extend, revoke or modify any decision or order made by it" at any time.²⁴ Rate Counsel stated that it does not oppose the termination of the OREC Order, but noted that the Board does not have the authority to waive any claims on behalf of Rate Counsel or any other state entity.²⁵ As an independent entity, Rate Counsel reserved all rights to bring any action in law or equity it deems appropriate.²⁶

¹⁷ ASOW Petition at 12-14.

¹⁸ Id. at 12.

¹⁹ Id. at 14.

²⁰ Id. at 15.

²¹ Id. at 16.

²² In re 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, Rate Counsel Comments dated July 11, 2025 ("Rate Counsel's Comments").

²³ Id. at 2.

²⁴ Id. at 4 [quoting N.J.A.C. 14:1-8.6(b)].

²⁵ Id. at 1.

²⁶ Id. at 4.

DISCUSSION AND FINDINGS

It is well-settled that an administrative agency has the inherent power, absent statutory restriction, to reopen or to modify and rehear previously-entered orders.²⁷ 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.²⁸ The Board's authority is understood to include the authority to vacate its own orders.²⁹ The Board may exercise its broad authority to vacate previous orders in order to "protect the public interest" and "to serve the ends of essential justice and the policy of the law."³⁰ The Board must exercise this power reasonably.³¹ This standard governs the Board's consideration of the Petition.³²

The Board finds that the record demonstrates that the Project is no longer viable under the terms of the OREC Order. Despite Atlantic Shores's substantial efforts and investments to advance the Project and support the development of the OSW industry in New Jersey, external factors ultimately prevent Atlantic Shores from completing the Project at this time. Global inflation and increased demand for OSW materials have made the Project much more costly than it was when the OREC Order was first approved in 2021. Additionally, Project construction cannot move forward without the Air Permit, which has been remanded by the EAB. The Wind Memorandum has also introduced significant uncertainty about whether or when the Air Permit may be reinstated and what other actions the federal government may take with respect to the Project.

The Board finds that, due to the significant federal uncertainty in the offshore wind market, and Atlantic Shores inability to complete Project under the terms of the OREC Order, it is in the public interest to vacate the OREC Order and the Project's status as a QOWP. The Board also finds that Atlantic Shores is in substantial compliance with the OREC Order and has no outstanding obligations to the Board requiring resolution prior to vacation.

²⁷ See In re Trantino Parole Application, 89 N.J. 347,364 (1982). See also 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).

²⁸ N.J.S.A. 48:2-40(e); see also N.J.A.C. 14:1-8.6(b) (giving the Board similar authority to vacate orders in the context of contested cases).

²⁹ See In re the Board of Public Utilities Offshore Wind Solicitation for 1,100 MW - Evaluation of the Offshore Wind Applications, BPU Docket No. QO18121289, et al., Order dated August 14, 2024 (citing 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)).

³⁰ 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).

³¹ 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).

³² The Board notes that Atlantic Shores cites "N.J.S.A. 48:3-87.1(3)(c)(4)" as an authority relevant to the Petition. ASOW Petition at 1-3. There is no N.J.S.A. 48:3-87.1(3)(c)(4), but in context, the Board understands this to be a reference to the following language in N.J.S.A. 48:3-87.1(c): "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." However, N.J.S.A. 48:3-87.1(c) does not apply to the Petition because, among other reasons, the requested relief is termination or vacation, not modification.

Following careful review of the Petition, as well as Rate Counsel's comments, the Board **HEREBY VACATES** the ASOW OREC Order.

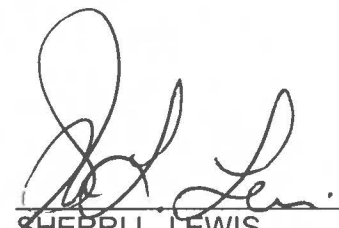
DATED: August 13, 2025

BOARD OF PUBLIC UTILITIES
BY:


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PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST: 
SHERRI L. LEWIS
BOARD SECRETARY

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 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 – ATLANTIC SHORES OFFSHORE WIND PROJECT 1, LLC - DOCKET NO. QO21050824

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