



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF THE PETITION OF FISHERMEN'S)
ATLANTIC CITY WIND FARM, LLC FOR THE)
APPROVAL OF THE STATE WATERS PROJECT AND)
AUTHORIZING OFFSHORE WIND RENEWABLE)
ENERGY CERTIFICATES)

CLEAN ENERGY
FIRST AMENDED
PREHEARING ORDER

DOCKET NO. EO11050314V

Parties of Record:

Stefanie Brand, Director, Division of Rate Counsel
Stephen B. Pearlman, Esq., Inglesino, Pearlman, Wyciskala & Taylor LLC, on behalf of
Fishermen's Atlantic City Windfarm, LLC
Phillip J. Passanante, Esq., on behalf of Atlantic City Electric Company
Marc B. Lasky, Esq., on behalf of Jersey Central Power & Light Company
Alexander C. Stern, Esq., on behalf of Public Service Electric & Gas Company
Susan J. Vercheak, Esq., on behalf of Rockland Electric Company

BY PRESIDENT ROBERT M. HANNA:

Petitioner, Fishermen's Atlantic City Wind Farm, LLC ("FACW") submitted an application with the Board in this matter on May 19, 2011. By Order dated January 18, 2012, the New Jersey Board of Public Utilities ("Board" or "BPU") retained this matter for review and hearing, and as authorized by N.J.S.A. 48:2-32, designated the President of the Board as the presiding officer to rule on all motions that arise during the proceedings and modify any schedules that may be set as necessary to secure just and expeditious determination of the issues.

An initial prehearing Order was issued on February 15, 2012. On or about February 3, 2012, the Acadian Consulting Group filed an expert report on behalf of the Division of Rate Counsel ("Rate Counsel"). The Board's consultant, Boston Pacific Company, Inc., filed its expert report on February 23, 2012. Subsequently, in a letter dated March 2, 2012, FACW requested an extension of time to consider and respond to the issues raised in both expert reports. FACW anticipated that it could respond to all of the points raised in the reports by April 20, 2012. FACW also requested that the Board extend the application review period until October 31, 2012, which would require the Board to approve, conditionally approve, or deny the application by October 31st.

By Order dated March 12, 2012, the Board granted FACW's request to submit an amended

application by April 20th. On April 2, 2012, however, FACW informed the Board that it could not meet the April 20th deadline and requested an extension until June 1, 2012, to submit an amendment. By Order dated April 12, 2012, the Board granted the request of FACW for additional time to submit an amended application, and also extended the review period for the application as amended to December 31, 2012. FACW submitted an amended application on June 1, 2012 ("Amended Application").

After notice to the parties, a prehearing teleconference was held on June 27, 2012 at 11 a.m. Representatives of FACW, Rate Counsel, the Electric Distribution Companies ("Intervenors"), and Board Staff participated. At the prehearing conference, the issues outlined in N.J.A.C. 1:1-13.2 were discussed, and all parties subsequently agreed to the following proposed schedule:

Submission of all Expert Testimony	August 31, 2012
Discovery Due on Expert Testimony	September 7, 2012
Expert Responses to Discovery	September 14, 2012
FACW Rebuttal Testimony	September 28, 2012
Hearing Dates (if necessary)	October 9 – 12, 2012
Post Hearing Briefs	October 26, 2012
Rebuttal Briefs	November 2, 2012

On August 9, 2012, Rate Counsel requested a status conference, which was held with all of the parties and the advising Deputy Attorney General on August 14, 2012. On August 13th, FACW had submitted a letter addressed to BPU Staff that requested that the parties "temporarily discontinue" their review of FACW's Amended Application. During the status conference, the parties discussed FACW's August 13th letter, and FACW was advised to submit a detailed justification for its request.

On August 17th, FACW submitted a supplemental letter addressed to the presiding officer that requested a thirty (30) day suspension of BPU's review of the Amended Application. FACW indicated in its August 17th correspondence that Board Staff's July 13, 2012 letter requires FACW to reassess "whether to continue with the Amended Application in its current, limited form, without the benefit of comparison to the Siemens Reference Project, or whether modifications to the Amended Application need to be made." FACW also indicated that it may need until September 17, 2012 to complete its "reassessment" and produce any necessary modifications by.

Rate Counsel and BPU Staff submitted responsive comments dated August 20, 2012, and August 23, 2012, respectively. Rate counsel consented to suspending review of the Amended Application through September 17th in order to avoid spending ratepayer resources reviewing an application that may change. Rate Counsel also requested "that the entire procedural schedule for this [Amended] Application be modified commensurate with the delays incurred by this suspension." Board Staff consented to a thirty-day suspension of their review and disputed certain representations contained in FACW's August 17th letter.

Within this context, I must consider the reasonableness of FACW's request for suspension of the review because the Board seeks to proceed with this matter without unreasonable delay or waste of resources. BPU Staff's review has been ongoing since May 19, 2011, and has included multiple requests for extensions beyond the 180-day statutory review period. FACW's August 13th request was submitted approximately two and one-half months after the Amended Application, one month after Board Staff's correspondence dated July 13, 2012, and just two weeks prior to the deadline for filing expert reports. The timing of FACW's request, and the possibility of additional material modifications to the Amended Application, therefore, arrives

after the State and the parties have invested significant financial and expert resources in this matter. FACW, BPU Staff, and Rate Counsel acknowledge that further modifications to the Amended Application may necessitate additional financial and expert resources and an additional extension of time for the Board to render a final determination.

Based on these facts and circumstances, and in the interest of preserving resources, I **FIND** that FACW's request for an extension is reasonable. I accept FACW's representation that a suspension of the procedural schedule through September 17, 2012, will provide sufficient time for the petitioner to reassess its Amended Application and submit modifications, if necessary. Therefore, the procedural schedule is hereby **SUSPENDED** and FACW is **DIRECTED** to file a written statement of its assessment and the content of any proposed revisions to its Amended Application, on or before September 17, 2012. Any requests for modifications to the Amended Application, regardless of their nature, shall be accompanied by a written commitment from FACW to reimburse the State for costs associated with reviewing the application pursuant to N.J.S.A. 48:3-87.1(c), and N.J.A.C. 14:8-6.5(a)(15).

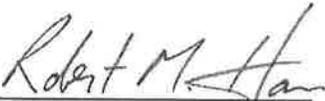
To the extent possible, and notwithstanding the suspension of the procedural schedule, the parties should undertake efforts that are likely to assist with expeditious resolution of this matter. Accordingly, the parties are **HEREBY DIRECTED** to confer with and provide the advising Deputy Attorney General with a proposed amended procedural schedule no later than September 21, 2012.

I **HEREBY ISSUE** this first amended prehearing Order and **DIRECT** staff to post it on the Board's website and distribute it to the service list. This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED:

8/28/2012

BY:


ROBERT M. HANNA
PRESIDENT

IN THE MATTER OF THE PETITION OF FISHERMEN'S ATLANTIC CITY WIND FARM, LLC
FOR THE APPROVAL OF THE STATE WATERS PROJECT AND AUTHORIZING OFFSHORE
WIND RENEWABLE ENERGY CERTIFICATES
DOCKET NO. EO11050314V

SERVICE LIST

BOARD OF PUBLIC UTILITIES

44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-3300

Kristi Izzo, Secretary
Kristi.Izzo@bpu.state.nj.us

Mark Beyer, Chief Economist
Office of the Economist
mark.beyer@bpu.state.nj.us

Jerome May, Director
Division of Energy
Jerome.May@bpu.state.nj.us

Kenneth Sheehan, Esq., Chief Counsel
Counsel's Office
Kenneth.Sheehan@bpu.state.nj.us

Jacob Gertsman, Esq., Legal Specialist
Counsel's Office
Jake.Gertsman@bpu.state.nj.us

Michael Winka, Director
Office of Clean Energy
m.winka@bpu.state.nj.us

Anne Marie McShea
Office of Clean Energy
a.mcshea@bpu.state.nj.us

RATE ADVOCATE

31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07102

Stefanie Brand, Esq., Director
Division of the Rate Counsel
sbrand@rpa.state.nj.us

Paul E. Flanagan, Esq.
pflanagan@rpa.state.nj.us

Felicia Thomas-Friel, Esq.
ftthomas@rpa.state.nj.us

Henry M. Ogden, Esq.
hogden@rpa.state.nj.us

Acadian Consulting Group
5800 One Perkins Place Drive
Building 5, Suite F
Baton Rouge, LA 70808

David Dismukes, Consulting Economist
dismukes@lsu.edu

CITY OF ATLANTIC CITY

1301 Bacharach Blvd.
Suite 704
Atlantic City, NJ 08401

Rhonda Williams
City Clerk

**DEPARTMENT OF LAW & PUBLIC SAFETY,
DIVISION OF LAW, PUBLIC UTILITIES**

124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, NJ 07101

Marisa Slaten
Deputy Attorney General
marisa.slaten@dol.lps.state.nj.us

Alex Moreau
Deputy Attorney General
Alex.Moreau@lps.state.nj.us

Veronica Beke
Deputy Attorney General
veronica.beke@dol.lps.state.nj.us

PETITIONER

Fishermen's Atlantic City Windfarm, LLC
985 Ocean Drive
Cape May, New Jersey 08204

Daniel Cohen
President
(609) 425-1044
(609) 884-3261 Fax
daniel.cohen@fishermensenergy.com

Paul Gallagher, Esq.
General Counsel
(609) 226-7206
(609) 884-3261 Fax
gallagherlaw@hotmail.com

PETITIONER OREC COUNSEL

Inglesino, Pearlman, Wyciskala, & Taylor, LLC
600 Parsippany Road, Suite 204
Parsippany, New Jersey 07054-3715
(973) 947-7111
(973) 887-2700 (fax)

Stephen B. Pearlman, Esq.
(973) 947-7133
spearlman@iandplaw.com

Justin A. Marchetta, Esq.
(973) 947-7163
jmarchetta@iandplaw.com

PETITIONER OREC ADVISOR

Gabel Associates
417 Denison St.
Highland Park, New Jersey 08904
(732) 296-0770
(732) 296-0799 (fax)

Steven Gabel, President
(732) 296-0770
steven.gabel@gabelassociates.com

Damase Hebert
(732) 296-0770
damase.hebert@gabelassociates.com

FOR ATLANTIC CITY ELECTRIC COMPANY

Philip J. Passanante, Esq.
Associate General Counsel
Atlantic City electric Company
500 North Wakefield Drive – 92DC42
PO Box 6066
Newark, Delaware 19714-6066

FOR JERSEY CENTRAL POWER AND LIGHT COMPANY

Marc B. Lasky, Esq.
Gregory Eisenstark, Esq.
Morgan, Lewis & Bockius, LLP
89 Headquarters Plaza North, Suite 1419
Morristown, NJ 07960

Lawrence E. Sweeny
Kevin Connelly
Tom Donadio
Jersey Central Power and Light Company
300 Madison Ave
Morristown, NJ 07962

Arthur E. Kotkosz, Esq.
FirstEnergy Corp.
76 S. Main Street
Akron, OH 44308

FOR PUBLIC SERVICE ELECTRIC & GAS COMPANY

Alexander C. Stern, Esq.
Assistant General Regulatory Counsel
PSEG Services Corporation
80 Park Plaza T5G
Newark, NJ 07102
Alexander.Stern@pseg.com

FOR ROCKLAND ELECTRIC COMPANY

Susan J. Vercheak, Esq.
Assistant General Counsel
c/o Consolidated Edison Company of New York, Inc.
Law Department, Room 1815-S
4 Irving Place
New York, NY 10003