



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

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 )

SIXTH 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  
**Gregory Eisenstark, 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:

By Order dated July 29, 2013, in Docket No. EO11050290V, the Board considered two stipulations submitted by the parties: 1) a stipulation on the joint record; and 2) a stipulation on the wind project. The Board approved the stipulation on the joint record and set August 9, 2013, as the date the record would close. The Board rejected the project stipulation. In rejecting the project stipulation, the Board directed me to set hearing dates, unless Fishermen's Atlantic City Windfarm ("FACW") waived the opportunity for a hearing.

On July 31, 2013, FACW requested a thirty-day extension of time to supplement the record, and consented to an extension of the procedural schedule of "no less than thirty days." By Order dated August 5, 2013, I denied the request for an extension of time to supplement the record. The August 5th Order also informed the parties that a hearing in this matter would be held on August 26, 27, 28 and September 3, 2013, unless the parties waived such right and decided to proceed on the papers.

**Motion to Supplement the Record**

On August 9, 2013, FACW filed Updated Testimony of Chris Wissemann and Steve Gabel in support of its application. On August 15, 2013, Rate Counsel filed a motion to supplement the record with Supplemental Testimony of David E. Dismukes. In support of the motion Rate Counsel indicates that the testimony compares the economic differences between the offshore renewable energy certificate ("OREC") proposal contained in FACW's August 9, 2013, filing; the June 28, 2013, project stipulation; and FACW's March 25, 2013, rebuttal testimony. Rate Counsel further indicates that the information was not available prior to FACW's August 9th filing and the information "may affect the decision of the Board in this matter." (Rate Counsel Letter Brief at 2, In re Petition of FACW, Docket No. EO11050314V (August 15, 2013)).

Upon review of Rate Counsel's motion and supporting documents, the motion is **HEREBY GRANTED**. The supplemental testimony relates to FACW's OREC proposals and may be material to the Board's decision in this matter. In addition, Rate Counsel did not delay in presenting the testimony as it is based on FACW's August 9th filing and could not have been proffered prior to that date. For the foregoing reasons, the Supplemental Testimony of David E. Dismukes dated August 15, 2013 shall be considered part of the record in this matter.

**Procedural Schedule**

On August 12, 2013, the parties held a status conference during which the parties agreed to a post-hearing briefing schedule.

Hearing Dates:	August 26, 27, and 28, 2013 Office of Administrative Law 9 Quakerbridge Plaza Hamilton Twp., NJ 08619 10:00 a.m.
	September 3, 2013 Office of Administrative Law 9 Quakerbridge Plaza Hamilton Twp., NJ 08619 10:00 a.m.
Post Hearing Briefs	within 15 days <sup>1</sup>
Reply Briefs	within 15 days
Board Action	TBD

Upon due consideration, I **HEREBY ADOPT** the revised schedule. The parties did not recommend a date for final Board action, however, N.J.A.C. 1:1-18.1 and N.J.A.C. 1:1-18.6 provide guidance on the time frame for issuing final agency decisions in contested matters.

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<sup>1</sup> Pursuant to N.J.A.C. 1:1-14.7 the submission time frame shall commence upon receipt of the hearing transcript. The transcript shall be ordered immediately following the hearing.

## **1. STIPULATIONS**

Stipulations as to facts and issues among the parties are encouraged.

## **2. SETTLEMENT**

Settlement conferences among the parties are encouraged.

## **3. ORDER OF PROOFS**

FACW has the burden to prove why its petition should be granted. Live rebuttal testimony at the hearing may be permitted as determined by the hearing officer.

## **4. EXHIBITS**

The Board's July 29, 2013, Order approved the Joint Record of Exhibits in this matter. On August 9, 2013, FACW supplemented the record with additional testimony. As set forth in this Prehearing Order, Rate Counsel's August 15, 2013, supplemental testimony shall also be part of the record.

To date, the parties have not filed the exhibits referenced in the Joint Record. Therefore, with the assistance of Rate Counsel and Staff, FACW shall provide the undersigned hearing officer with three (3) copies of all documents referenced in the Joint Record. Unless otherwise agreed, one copy shall also be provided to each party. The exhibits shall be pre-marked JR 1(a) – JR 34(z), consistent with the numbering in the Joint Record.

During the hearing, no exhibit will be marked for identification or introduced into evidence unless three (3) copies are provided to the undersigned hearing officer and one copy to each party, unless otherwise agreed.

## **5. ESTIMATED NUMBER OF WITNESSES**

The parties' initial witness lists were filed on May 3, 2013. On August 16, 2013, FACW added Walt Musial, Principal Engineer, Wind Technology Center at the National Renewable Energy Laboratory to its witness list. Staff removed Mr. Miguel Campo from its witness list.

FACW shall provide a proffer concerning the full extent of Mr. Musial's testimony no later than August 21, 2013. The parties shall have an opportunity to respond to FACW's proffer on the first day of the hearing.

## **6. CONFIDENTIAL TESTIMONY**

To minimize disruption to the hearing, the parties shall group the cross-examination of each witness into two main categories: public and confidential. For each witness, the parties will have an opportunity to cross-examine the witness on topics that are public. Following the

witness's public testimony, the hearing officer will clear the room and the parties will have an opportunity to cross-examine the witness on topics that are confidential.

I **HEREBY ISSUE** this prehearing Order. All other aspects of the prior procedural orders shall remain in effect. This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: 8.19.2013

BY:

  
ROBERT M. HANNA

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

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