



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

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

**Parties of Record:**

**Ira G. Megdal, Esq.**, Cozen O’Connor, on behalf of Ocean Wind, LLC  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) addresses notification by Ocean Wind, LLC (“Ocean Wind”) of various changes to its offshore wind project awarded by the Board on June 21, 2019 (“Project”), specifically key employee changes.

**I. BACKGROUND**

Governor Murphy signed Executive Order No. 8 (“EO8”) on January 21, 2018, establishing the nation’s most aggressive offshore wind (“OSW”) goal of 3,500 MW of OSW capacity by 2030.<sup>1</sup> EO8 also directed the Board to issue an initial 1,100 MW solicitation for OSW projects in federal waters off the outer continental shelf of New Jersey consistent with the Offshore Wind Economic Development Act (“OWEDA”).<sup>2</sup> In response, on September 17, 2018, the Board opened an application window, inviting all interested parties to submit applications to develop OSW projects.<sup>3</sup>

The Board received three competitive applications on December 28, 2018, and, after thorough review, approved Ocean Wind’s 1,100 MW project as a qualified OSW facility by Board Order dated June 21, 2019 (“June 21 Order”), in accordance with N.J.S.A. 48:3-87.1b and N.J.S.A. 48:3-87.1c.<sup>4</sup>

<sup>1</sup> Executive Order 92 signed by Governor Murphy on November 19, 2019 changed the state’s OSW goal to 7,500 MW by 2035. All other provisions of EO8 remained in full force and effect.

<sup>2</sup> N.J.S.A. 48:3-87d(4) to -87.2.

<sup>3</sup> In the Matter of the Opening of Offshore Wind Renewable Energy Certificate (OREC) Application Window for 1,100 Megawatts of Offshore Wind Capacity in Furtherance of Executive Order No. 8, Docket No. QO18080851, Order dated September 17, 2018.

<sup>4</sup> 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, Order dated June 21, 2019.

### *Key Employee Changes:*

The Board's rules, at N.J.A.C. 14:8-6.5(a), detail the requirements for offshore wind applicants and include that all offshore wind applicants submit a list of key employees,<sup>5</sup> including resumes and relevant work experience.<sup>6</sup>

The rules also state that the applicant is not permitted to replace key employees it used to obtain the Offshore Wind Renewable Energy Certificate ("OREC") without prior approval of the Board.<sup>7</sup> For the duration of the Project, the Board must receive notification of the departure of any key employee and be provided with the expertise and qualifications for any new key employee, also subject to Board approval.

Within its original application to the Board, Ocean Wind submitted a list of key employees and relevant resumes. By letters dated December 6, 2019, December 20, 2019, and March 13, 2020, Ocean Wind notified Board Staff of key employee changes and included the resumes and relevant work experience of new key employees.

## **II. DISCUSSION AND FINDINGS**

N.J.A.C. 14:8-6.5(a)1(vi) mandates that Ocean Wind not replace the key employees it used to obtain the OREC without prior approval of the Board. The rule further requires that Ocean Wind "commit to: notifying the Board, within 30 days, of the departure of any key employee" and submit "the expertise and qualifications for any new key employee for approval by the Board" for the lifetime of the Project.<sup>8</sup>

The Board recognizes the importance of having qualified and experienced key employees at Ocean Wind. While "the depth of knowledge base among Ocean Wind's key personnel"<sup>9</sup> was an attributing factor in the Board's selection of the Project, retention and the replacement of personnel are anticipated and addressed in the rules. The Project was awarded ORECs through 2045 and with a project of this magnitude, spanning over several decades, key employees will inevitably change. The Board appreciates that Ocean Wind has the ability to manage its key personnel and to make changes.

Accordingly, implementation and timing concerns respecting the processes surrounding Board approval and lead times that could delay securing key personnel in a timely manner are at issue. Consequently, Staff recommends that consideration be given to the grant of limited authority to review and authorize key personnel changes to avoid undue delays in the project.

As such, Staff proposes that the Board delegate to Staff limited authority with respect to determinations concerning replacements or modifications proposed regarding Ocean Wind's key employees. Board Staff is closely involved with the Ocean Wind Project and routinely coordinates with Ocean Wind's key employees. As a result, Board Staff is appropriately positioned to make informed decisions as it pertains to Ocean Wind's key employees. Staff review of key personnel changes by Ocean Wind prior to implementation provides for an expeditious process and limits

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<sup>5</sup> A key employee is defined as "any individual employed by the applicant in a supervisory capacity or empowered to make discretionary decisions with respect to the project." N.J.A.C. 14:8-6.1.

<sup>6</sup> N.J.A.C. 14:8-6.5(a)1(i).

<sup>7</sup> N.J.A.C. 14:8-6.5(a)1(vi).

<sup>8</sup> N.J.A.C. 14:8-6.5(a)1(v).

<sup>9</sup> 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, Order dated June 21, 2019 at 16.

the possibility of delays. Board Staff ultimately seeks to ensure Ocean Wind has the flexibility to make swift business decisions regarding its employees. In providing approval, Board Staff does not intend to limit or become deeply involved in Ocean Wind's hiring decisions, but rather to confirm that the Project's key employees conform to the Board's rules at N.J.A.C.14:8-6.5 (a)1(i) and (ii). The ability for Board Staff to approve key employee changes does not materially diminish any aspect of the Project.

Having thoroughly considered Board Staff's recommendations, the Board **HEREBY FINDS** that Ocean Wind's ability to manage its key employees in a manner that allows Staff the limited grant of authority to review said modifications is in the best interest of the Project. Further, the Board **HEREBY FINDS** that Board Staff is properly positioned to make limited determinations with respect to Ocean Wind's key employee changes throughout the duration of the Project. The Board also **HEREBY FINDS** that the proposed limited delegated authority is administrative in nature and is not intended to give any Board Staff authority to make decisions outside of key employee changes.

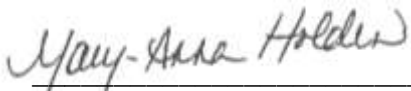
Therefore, the Board **HEREBY AUTHORIZES** Board Staff to exercise limited delegated authority with respect to N.J.A.C. 14:8-6.5(a)1(v) and (vi) for the Project. The Board **HEREBY DIRECTS** Ocean Wind to notify Board Staff within thirty days of the departure of any key employee, to submit the expertise and qualifications for any new key employee for approval by Board staff, and to seek Board Staff approval for any changes to the organizational structure of key employee positions and the level of expertise and qualifications of those key employees. Board approval remains required for an entity to assume a controlling interest in the Project.

DATED: May 20, 2020

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER

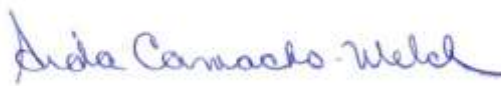


UPENDRA J. CHIVUKULA  
COMMISSIONER



ROBERT M. GORDON  
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH  
SECRETARY

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FOR 1,100 MW – EVALUATION OF THE OFFSHORE WIND APPLICATIONS  
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