



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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Post Office Box 350  
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[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 – REQUEST )  
FOR EXTENSION OF TIME FOR APPLICATION )  
REVIEW )

ORDER ON EXTENSION OF  
TIME FOR APPLICATION  
REVIEW

DOCKET NO. EO11050314V

**Parties of Record:**

- Stefanie A. Brand, Esq.**, 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 THE BOARD:

BACKGROUND/PROCEDURAL HISTORY

On August 19, 2010, Governor Chris Christie signed into law the Offshore Wind Economic Development Act ("The Act"), P.L. 2010, c. 57, which amends and supplements the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. On February 10, 2011, the Board of Public Utilities ("Board") adopted N.J.A.C. 14:8-6.1 et seq., providing an application process and a framework under which the Board will review any application and ultimately approve, conditionally approve, or deny the application.

By Order dated May 16, 2011, in Docket No. EO11050290V, the Board opened an application window for 30 days for offshore wind projects in New Jersey territorial waters pursuant to N.J.S.A. 48:3-87.2. Fishermen's Atlantic City Windfarm, LLC ("FACW" or "the applicant"), submitted, on May 19, 2011, the only application to the Board.

Upon receipt of the application, Board staff immediately began the administrative review process pursuant to N.J.A.C. 14:8-6.4 et seq. The initial review uncovered administrative deficiencies which were outlined in letters to the applicant on June 2, 2011 and June 13, 2011. The applicant responded to the administrative deficiencies with written submissions on June 8, 2011 and June 14, 2011. Staff then determined that the application was administratively complete as of June 14, 2011, and provided such notice to FAGW on June 22, 2011.

Pursuant to the Act, the Board has 180 days to conduct its review, and to approve, conditionally approve, or deny the application. N.J.S.A. 48:3-87.1(d). Pursuant to N.J.A.C. 14:8-6.3 and 6.4, the 180-day period for the Board's review began to run on June 14, 2011, when staff determined that FACW's application was administratively complete. Hence, the Board's review period was set to expire on December 11, 2011, unless the applicant consented to an extension of time. By letter dated November 23, 2011, the applicant consented to an initial additional 60 days of review, beyond the initial 180 days, which placed the requirement to act no later than February 8, 2012. By letter dated December 13, 2011, the applicant consented to an additional extension, which placed the requirement for the Board to act on or before March 21, 2012. By order dated December 15, 2011, Docket No. EO11050314V, the Board ordered that the review period be extended to March 21, 2012. By letter dated February 6, 2012, the applicant consented to an additional extension of time, which required the Board to act on FACW's application on or before April 11, 2012. By order dated February 10, 2012, Docket No. EO11050314V, the Board ordered that the review period be extended to April 11, 2012. By letter dated March 2, 2012, FACW requested an additional extension of the review period until October 31, 2012 and agreed to provide an amended application by April 20, 2012, in order to respond to the evaluation reports by Boston Pacific Company, the Board's consultant, and Acadian Consultants, consultant for the Division of Rate Counsel. By order dated March 12, 2012, Docket No. EO11050314V, the Board ordered that the review period be extended to October 31, 2012 and that FACW provide an amended application on or before April 20, 2012. By letter dated April 2, 2012, FACW notified the Board that it would not be able to submit the amended application by April 20, 2012. Accordingly, FACW requested an extension of the deadline for the submission of the amended application to June 1, 2012, and for an extension of the review period to December 31, 2012. By order dated April 12, 2012, Docket No. EO11050314V, the Board ordered that the review period be extended to December 31, 2012.

In addition to the orders granting an extension of time for the Board to act upon FACW's application, the Board appointed President Robert M. Hanna as the presiding officer in this matter by order dated January 18, 2012, Docket No. EO11050314V. As the presiding officer, President Hanna issued an initial prehearing order on February 15, 2012, and amended orders on August 28, 2012, October 24, 2012 and November 30, 2012.

On or about August 17, 2012, FACW requested a suspension of the procedural schedule in order to reassess its application. The presiding officer granted FACW's request in the August 28th Order by suspending the prior procedural schedule. The August 28th Order also directed FACW to provide a written statement of its assessment along with any revisions to its application by September 17, 2012. On September 17th FACW submitted a letter that, in part, advised that it did not intend to revise its application. The parties (Board Staff, FACW, Rate Counsel, Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric & Gas Company and Rockland Electric Company) subsequently consented to and proposed a new procedural schedule, which requires Board action on the petition by April 30, 2013. FACW memorialized its consent to the procedural schedule in a letter dated October 24, 2012.

The Second Amended Prehearing Order dated October 24, 2012 acknowledged the consent of the parties to extend the application review period until April 30, 2013, and adopted the parties' proposed schedule. By Order dated November 20, 2013, Docket No. EO11050314V, the Board ordered that the review period be extended to April 30, 2013.

President Hanna issued a Third Amended Prehearing Order dated November 30, 2012, which changed the discovery schedule but did not change the hearing dates or the deadline for Board action. The November 30, 2012, procedural schedule explained that the parties were unable to comply with all of the discovery deadlines due to the significant delays caused by Super Storm Sandy and its aftermath.

Pursuant to the procedural schedule, on December 17, 2012, expert reports were filed with the Board. Following the submission of the expert reports the Department of the Treasury ("Treasury") informed Board staff that a contract modification would be needed in order for Boston Pacific Company to perform services in support of remaining items listed in the procedural schedule. The contract modification process delayed the procedural schedule until Treasury approved the modified contract on January 23, 2013.

The parties subsequently conferred to discuss new dates for the remaining procedural schedule. As of February 12, 2013, as memorialized in FACW's correspondence dated February 28, 2013, and in President Hanna's Fourth Amended Prehearing Order dated March 7, 2013, the parties consented to extend the deadline for Board action to June 30, 2013. By order dated March 20, 2013, the Board extended the deadline for its review from April 30, 2013, to June 30, 2013.

On March 8, 2013, FACW submitted new, material information to the Board as an update to its June 1, 2012 Amended Application and indicated that it would also submit rebuttal testimony on March 25, 2013, consistent with the timeline set forth in the Fourth Amended Prehearing Order. Rate Counsel subsequently requested an eight-week extension of the procedural schedule in order to review the information contained in FACW's March 8, 2013 submission.


On or about April 1, 2013, the parties conferred and agreed to a four-week extension of the procedural schedule to accommodate their review of the new information. FACW confirmed its consent to the four-week extension via correspondence dated April 10, 2013, which included an extension of the Board's deadline to act on the petition from June 30, 2013 to July 31, 2013. President Hanna issued a Fifth Amended Prehearing Order on April 18, 2013, which memorialized the revised procedural schedule. Staff recommends that the Board extend the deadline for its review from June 30, 2013 to July 31, 2013.

FINDINGS and DISCUSSION

The Board has carefully considered staff's recommendations and **HEREBY FINDS** that FACW has consented to extend the time for the Board's review of its application. The extension until July 31, 2013 represents a fair and reasonable extension and is in the public interest. The Board **HEREBY ORDERS** that the review period to consider the above referenced application has been extended to July 31, 2013. The Board continues to recognize President Hanna as the appointed presiding officer in this matter.

DATED: 5/29/13

BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT


  
JEANNE M. FOX  
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ATTEST:   
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



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FOR THE APPROVAL OF THE STATE WATERS PROJECT AND AUTHORIZING  
OFFSHORE WIND RENEWABLE ENERGY CERTIFICATES – REQUEST FOR EXTENSION  
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