

**BOARD OF COUNTY COMMISSIONERS
CAPE MAY COUNTY, NEW JERSEY
RESOLUTION**

No. *314-23*

**RESOLUTION OPPOSING ORSTED'S WIND PROJECTS, OCEAN WIND 1
AND OCEAN WIND 2**

WHEREAS, the Danish energy Company Orsted, through its American subsidiary, Orsted North America, Inc., is the owner of Ocean Wind, LLC; and

WHEREAS, on June 19, 2019, the New Jersey Board of Public Utilities ("NJBP") awarded a contract to Ocean Wind, LLC, in connection with NJBP's first solicitation for the construction of offshore wind power generating facilities; and

WHEREAS, Orsted holds leases from the United States government for the use of approximately 161,000 acres of Atlantic Ocean waters and seabed for the construction of approximately 200 offshore wind foundations, monopoles and wind turbines in connection with Orsted's Ocean Wind 1 and Ocean Wind 2 projects; and

WHEREAS, the completed construction of Ocean Wind 1 and Ocean Wind 2 will place windmills as close as 9 miles from the shoreline in Cape May County and many of the proposed nearly 200 windmills will be visible from the beaches of Cape May County; and

WHEREAS, the County of Cape May recognizes that these construction projects will likely provide a certain number of jobs for workers involved in the trades for certain limited periods of time and that this may provide a short term benefit to our local economy; and

WHEREAS, the County of Cape May ("the County"), desirous of having a productive dialogue with Orsted, coordinated a meeting with Orsted representatives, the County Commissioners and the Mayors and Administrators of Cape May County municipalities on May 24, 2021. The County provided the meeting room, audio-visual hardware and coordinated the more than forty officials who attended the meeting; and

WHEREAS, the May 24, 2021, meeting was informative and cordial, Orsted showed no willingness to consider suggestions by participants related to reducing the visibility of the offshore wind power generating facilities; and

WHEREAS, less than thirty days later, on June 21, 2021, the New Jersey Legislature passed a bill that would strip away the authority of duly elected officials of New Jersey Counties and Municipalities and transfer that authority to the five unelected members of the NJBP; and

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WHEREAS, it is clear that Orsted representatives were aware of the intention of the New Jersey Legislature to introduce such a bill at the time of the May 24, 2021, meeting with Cape May County local and County elected officials, yet did not disclose that fact to the gathered elected officials; and

WHEREAS, thereafter, the County of Cape May, still willing to engage in discussions about possible modifications of the project to mitigate potential economic and environmental harms, continued occasional discussions with Orsted representatives; and

WHEREAS, the County of Cape May agreed to participate in in-person discussion with Orsted and again coordinated a meeting with Orsted representatives, retained a location in Cape May County met with Orsted representatives on January 12, 2022; and

WHEREAS, the January 12, 2022, meeting was unproductive in terms of reaching any common ground on project modifications to mitigate harm. Nevertheless, the County indicated that it would continue to engage with Orsted and discuss possible areas of agreement; and

WHEREAS, throughout the above period of time, the County continued to urge Orsted to engage local elected officials and to respect the fact that there are elected representatives of the people of Cape May County in each municipality in the County; and

WHEREAS, in spite of the County's suggestion that Orsted continue to engage County and local elected officials, on February 2, 2022, Orsted, without warning, filed a Petition ("Orsted BPU Petition One") with the NJBPU, seeking to push aside the duly elected officials of the City of Ocean City, New Jersey, and transfer their authority over certain decisions to the five unelected members of the New Jersey Board of Public Utilities; and

WHEREAS, Orsted BPU Petition One sought to remove any local opposition from Ocean City to Orsted's state environmental permit applications and also sought to effectuate the taking of real property interests from the people of the City of Ocean City and transfer them to the Danish offshore wind company, Orsted; and

WHEREAS, the County of Cape May, shortly thereafter, corresponded with representatives of Orsted and strongly objected to the filing of the Orsted BPU Petition One and reminded Orsted that the County of Cape May had expected Orsted to continue discussions with Ocean City, the County and other stakeholders before taking legal action against them; and

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WHEREAS, despite continued suggestions by the County of Cape May in regard to ways that the Orsted projects may be modified to reduce negative impacts, on May 20, 2022, Orsted filed another Petition with the New Jersey Board of Public Utilities, this time against the County of Cape May ("Orsted Petition Two"). Similar to Orsted Petition One, Orsted Petition Two sought to push aside the duly elected County Commissioners and transfer their authority to the five, unelected members of the NJBPU; and

WHEREAS, Orsted Petition Two also sought to remove any local opposition to Orsted's state environmental permit applications and also sought to effectuate the taking of real property interests from the people of the County of Cape May and transfer them to the Danish offshore wind company, Orsted; and

WHEREAS, the County of Cape May opposed Orsted BPU Petition Two, and was joined by ten Cape May County Municipalities, to wit, the Borough of Avalon, the Township of Dennis, the Township of Lower, the Township of Middle, the City of North Wildwood, the City of Ocean City, the City of Sea Isle City, the Borough of Stone Harbor, the City of Wildwood, and the Borough of Wildwood Crest, in arguing against having the NJBPU disenfranchise Cape May County voters by transferring the authority of their duly elected representatives to the unelected NJBPU; and

WHEREAS, the County of Cape May observing that certain NJBPU Commissioners had taken to wearing wind turbine lapel pins and had made public statements describing Orsted as "partners" of NJBPU, filed to disqualify the NJBPU inasmuch as it was clear that NJBPU could not be fair and impartial in deciding the outcome of the Orsted Petitions; and

WHEREAS, the County of Cape May identified multiple due process violations in the NJBPU Petition process that denied the County of Cape May and the City of Ocean City a fair hearing; and the County filed a motion to dismiss Orsted BPU Petition Two on that basis; and

WHEREAS, since the NJBPU refused to allow the County of Cape May to engage in allowable discovery such as interrogatories, deposition and, perhaps worst of all, the NJBPU refused to allow the County to cross examine any of Orsted's witnesses, the County filed a motion to compel such discovery and to have the matter transferred to an impartial Administrative Law Judge; and

WHEREAS, thereafter NJBPU refused to disqualify itself or any of its members, refused to grant the County the due process it was entitled to under the law and refused to allow the County to engage in typically allowed discovery; and

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WHEREAS, on September 28, 2022, and February 17, 2023, respectively, the NJBPU decided the Orsted Petitions against the City of Ocean City and the County of Cape May, in favor of Orsted and divested the elected officials of the City of Ocean City and the County of Cape May of the authority placed in them by the voters and transferred that authority to the unelected members of the NJBPU; and

WHEREAS, as a result of the decisions of NJBPU on the petitions, the NJBPU empowered itself to push aside any local or County government opposition to Orsted's state permit applications and also transferred real property interests from the people of Ocean City and Cape May County to the foreign offshore wind company, Orsted; and

WHEREAS, the County Commissioners of the County of Cape May authorized and are pursuing an appeal before the Appellate Division of the New Jersey Superior Court of the NJBPU decision against the interests of the County of Cape May and is considering seeking an adjudicator hearing on the validity of certain environmental permits granted to Orsted by the New Jersey Department of Environmental Protection; and

WHEREAS, for approximately the past two years, the County of Cape May has engaged attorneys and consultants to participate in and comment upon certain regulatory processes being conducted by the United States government in connection with Orsted's Ocean Wind One project and will review those upcoming decisions to determine if any legal challenges may be brought through federal litigation; and

WHEREAS, the County of Cape May remains extremely concerned about the impacts of offshore wind surveying and testing being conducted by Orsted and others on the Atlantic Ocean aquatic environment, especially on marine mammals; and

WHEREAS, despite the pronouncements by Executive agencies of the State of New Jersey that the surveying operations of Orsted and other offshore wind developers is not leading to the demise of whales, dolphins and porpoises, the County of Cape May is aware that in 2018, the Murphy Administration joined a federal lawsuit in the United States District Court for the District of South Carolina, case number 2:18-cv-03326-RMG, seeking an injunction against similar surveying activities by offshore oil companies; and

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WHEREAS, in the lawsuit, the State of New Jersey alleged that “The prospect of seeing marine mammals— whether directly from [New Jersey’s] shores, or from boats launched from [New Jersey’s] shores—is an important draw for the States’ coastal economies.” And further, “Whales, dolphins, and porpoises have finely tuned senses of hearing, on which they rely to navigate, seek food, avoid danger, and communicate among themselves. Many species of these animals are vulnerable to human activities.”; and

WHEREAS, the lawsuit further alleged, “The seismic testing activities at issue here will harm [New Jersey] and [its] citizens. They will harass marine mammals and other wildlife that commonly move between federal and state waters, including the waters of [New Jersey]. Further, seismic testing’s negative impact on marine mammals’ health and abundance will make [New Jersey] less attractive for coastal tourism, will deprive [New Jersey] of tax revenues associated with coastal tourism, and could create cascading effects on the [New Jersey’s] economically important commercial and recreational fishing industries.”; and

WHEREAS, the County of Cape May finds the State of New Jersey’s current insistence that the offshore wind surveying activities of Orsted and others will have no negative impacts on marine mammals, tourism or fisheries to be inconsistent with reality and contrary to the arguments the state of New Jersey made in federal Court in 2018; and

WHEREAS, although the Governor and certain other New Jersey elected officials and representatives of Orsted and other offshore wind developers continue to represent to the public that the immediate construction of these offshore wind electric power generation facilities is of emergent importance in efforts to combat “climate change,” the County of Cape May is aware of significant findings of both governmental and private sector researchers to the contrary; and

WHEREAS, the Bureau of Ocean Energy Management (“BOEM”) in 2021, in Volume II of its Final Environmental Impact Statement on the Vineyard Wind 1 offshore wind project at page A-66, states, “Therefore, the Proposed Action (the construction of multiple offshore wind projects along the East Coast) would have negligible impacts on climate change during these activities and an overall minor beneficial impact on Green House Gas emissions compared to the generation of the same amount of energy by the existing grids. Development of offshore wind projects and the construction, implementation, operation, maintenance and the eventual decommissioning activities would cause some Green House Gas emissions increases primarily through the emissions of CO2. Overall, it is anticipated that there would be no collective impact on global warming as a result of offshore wind projects...though they may beneficially contribute to a broader combination of actions to reduce future impacts of climate change.”; and

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WHEREAS, BOEM concluded in 2021 that building multiple offshore wind farms in Atlantic waters off the East Coast of the United States will essentially have no impact on reducing global warming; and

WHEREAS, the County of Cape May is aware of studies conducted by researchers at Harvard University that found that the installation of scores of wind turbines in a concentrated area will actually raise surface temperatures, especially in the immediate area of the turbines. The Harvard researchers concluded, "The direct climate impacts of wind power are instant, while the benefits of reduced emissions accumulate slowly. If your perspective is the next 10 years, wind power actually has — in some respects — more climate impact than coal or gas." Davis & Keith, *Climatic Impacts of Wind Power*, Joule, Volume II, Issue 12, P2618, December 19, 2018; and

WHEREAS, it would appear that combating "climate change" does not appear to be advanced by the installation of Orsted's Ocean Wind One project or other projects and thus the urgent necessity of stripping the County of Cape May and the City of Ocean City of Home Rule does not appear to exist; and

WHEREAS, the recent, unprecedented deaths and stranding of marine mammals including whales, dolphins and porpoises along the shores of Cape May County and other New Jersey Counties and surrounding states is of the utmost concern to the County Commissioners of the County of Cape May and no satisfactory answer to the question of whether or not the actions of Orsted or other offshore ind companies are leading to the deaths of whales and other marine mammals has been provided by any federal or state agency; and

WHEREAS, the County Commissioners of the County of Cape May do not find it an acceptable answer for state and federal officials and agencies to state that they are not certain what is leading to the unprecedented deaths of multiple marine mammals but that they somehow know for certain that the deaths are not related in any way to the activities of Orsted or other offshore wind companies; and

WHEREAS, the County of Cape May has grave concerns about the potential negative impacts on our tourism economy as a result of the installation of scores of offshore wind turbines visible from shore; and

WHEREAS, Orsted itself has included in its literature reference to the study, *The effect of offshore wind power projects on recreational beach use on the east coast of the United States: Evidence from contingent-behavior data*, Elsevier, September 2020, that reaches conclusions that would indicate that Cape May County may see a 15% decrease in tourism as a result of the construction of Orsted's Ocean Wind projects; and

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WHEREAS, a 15% reduction in tourism would be a devastating annual effect to the economy of Cape May County, as follows:

\$7.409 billion generated - 15% loss \$1.11 billion
Lodging \$3.055.9 billion - 15% loss = \$458 million
Food & Bev \$1.667.5 billion - 15% loss = \$250 million
Recreation \$766.7 million - 15% loss = \$115 million
Retail \$1.403.4 billion - 15% loss = \$210.5 million
Trans \$515.9 million - 15% loss = \$77.3 million
State/Local Taxes - \$642.3 million - 15% loss = \$77.3 million
Decline in Visitors- 11.38 million - 15% loss = 1.7 million
Tourism related jobs - 39,430 - 15% loss = 5,915 jobs; and

WHEREAS, certain studies and assessments have also indicated that the Cape May County fisheries industry would suffer significant losses as a result of the construction of offshore wind projects; and

WHEREAS, it has now become apparent to the County of Cape May that Orsted does not appear willing to engage in serious discussions that would lead to modifications to their projects in order to protect the culture and economy of the people of the Cape May County;

NOW, THEREFORE, BE IT RESOLVED, by the County of Commissioners of the County of Cape May in the State of New Jersey, duly assembled in public session this 23rd day of May, 2023, as follows:

1. The preamble of this Resolution is incorporated here by reference and made a part hereof as the findings of the County Commissioners.
2. The County of Cape May hereby resolves that the installation of Orsted's offshore wind projects, and other such projects, as currently designed and intended, will cause great harm to our marine environment and great harm to the tourism and fisheries sectors of our local economy and may cause harm to other sectors such as real estate.
3. The County of Cape May further resolves that until such time that Orsted presents a project design that, to the greatest extent possible, mitigates the negative environmental and economic impacts of its projects, the County of Cape May objects to and opposes the construction of the projects.

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4. It is further resolved that all reasonably necessary and available resources of the County of Cape May, under the authority of the County Administrator and the County Commissioners, be utilized to advance the goal of stopping Orsted's Ocean Wind 1 and Ocean Wind 2 offshore wind farm development projects unless the impacts on marine mammals can be conclusively determined and a legitimate construction plan, acceptable to the County of Cape May, that substantially eliminates environmental and economic concerns, is presented by Orsted.

STATEMENT

This Resolution directs all available resources of the County toward the goal of stopping Orsted's Ocean Wind 1 and Ocean Wind 2 offshore wind development for the protection of our local environment and economy.

cc: All 16 Cape May County Municipalities
Legislators, District 1