



STATE OF RHODE ISLAND

Energy Facility Siting Board

Energy Facility Siting Board
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Associate Director Meredith Brady
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October 9, 2024


Cynthia Wilson-Frias, Chief of Legal Services
State of RI Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888
Cynthia.wilsonfrias@puc.ri.gov

Dear Attorney Wilson-Frias:

As you may be aware, the RI Public Utilities Commission has been designated by the Energy Facility Siting Board to render an advisory opinion in Docket No. SB-2022-02, SouthCoast Wind Energy LLC's application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island. Please find enclosed the Board's Decision and Order 168 pursuant to a preliminary hearing in that docket, and a Notice of Designation.

Please contact me if you require any application materials or have any questions regarding this process.

Sincerely,


Kristen L. Masse, Coordinator
Rhode Island Energy Facility Siting Board

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC :
APPLICATION TO CONSTRUCT : **SB-2022-02**
A MAJOR ENERGY FACILITY :

PRELIMINARY DECISION AND ORDER

I. INTRODUCTION

On May 31, 2022, SouthCoast Wind Energy LLC (formerly MayflowerWind Energy LLC)¹ filed with the Energy Facility Siting Board (EFSB or Board) an application to construct and operate the transmission facilities associated with the SouthCoast Wind Project (Facilities or Project), an offshore wind farm with a projected capacity of approximately 2,400 megawatts (MW).² The proposed Facilities will bring the power generated by the offshore wind farm to shore, connecting to the onshore electric transmission system at Brayton Point in Somerset, Massachusetts. Although the wind farm will consist of wind turbines and an offshore substation located on the outer continental shelf in federal waters, which are outside of the jurisdiction of the Board, the Facilities necessary to connect the wind farm to the onshore electric transmission system are within the jurisdiction of the Board as they will traverse Rhode Island waters and the Town of Portsmouth (Portsmouth). The proposed Facilities constitute transmission lines greater than 69 kV and thus qualify as a major energy facility, defined by R.I. Gen. Laws § 42-98-4.

¹ On February 2, 2023, the Applicant, through counsel, advised of a change in the name of the Applicant, originally MayflowerWind Energy LLC, to SouthCoast Wind Energy LLC and a change in the name of the project to SouthCoast Wind 1. Throughout this Order, SouthCoast Wind Energy LLC is referred to as either SouthCoast, SouthCoast Wind, or Applicant.

² The application and all documents filed are available at available at the PUC offices located at 89 Jefferson Boulevard, Warwick, Rhode Island or at <https://ripuc.ri.gov/Docket-SB-2022-02>.

II. THE FACILITY

SouthCoast Wind applied for a license to construct and operate the following Facilities: 1) two 20-mile submarine export cables, 2) two landfall work areas for hydraulic directional drilling (HDD) activities, and 3) two new underground approximately 2 mile long, +/-320 kV nominal voltage transmission lines plus associated communications cabling. Although the Project is engineered to transmit 1,200 MW of renewable energy to Brayton Point, SouthCoast Wind submitted a “Noticed Variation” with the application which provides for alternative sizing of the trenching and conduits for the onshore underground transmission cables to accommodate the potential addition of another 1,200 MW of export cables. The Noticed Variation would involve sizing underground infrastructure for the export cables to include spare underground conduits at landfall and onshore that would be capable of accommodating an additional 1,200-MW HVDC circuit. The purpose of the variation is to minimize environmental impacts if the additional connector project is developed. SouthCoast Wind acknowledges that it would need to obtain another license from the Board in order to use this additional infrastructure for the installation of an additional circuit.

The total land area covered by the aforesaid Facilities is approximately 138.9 acres, which includes both onshore and offshore land area. The export cables will make landfall on the north side of Portsmouth where they will be jointed with onshore transmission cables before traversing approximately two miles underground across Portsmouth into the Mount Hope Bay, where they will travel to Brayton Point. The Applicant anticipates commencing construction in 2026 and having the Project in-service by 2030.

III. TRAVEL OF THE CASE

A. Filings and Motions to Intervene

The application was docketed on June 24, 2022. Subsequently and pursuant to the Rule 1.10 of the EFSB Rules of Practice and Procedure (Rules), 445-RICR-00-00-1, Portsmouth filed a Notice of Intervention, and the Town of Middletown (Middletown) and the Town of Little Compton (Little Compton) (collectively referred to as Towns) filed Motions to Intervene on July 21, 2022 and July 29, 2022, respectively. SouthCoast Wind filed objections to Middletown's and Little Compton's motions.

On August 1, 2022, the Board directed the Towns of Middletown and Little Compton to file memoranda of law explaining their positions for intervention with more specificity and detail and how each of the interests cited in the motions to intervene will be directly or materially affected and not be sufficiently addressed through other federal or state agency proceedings. The Board also directed the two Towns to provide a legal explanation of how the Board has jurisdiction over the turbines and associated platforms proposed to be located in federal waters if that is their position.

On August 9, 2022, the Towns filed almost identical objections and supplemental memorandum in support of its motion to intervene.³ Both Towns asserted that the installation and maintenance of the undersea cable will cause a direct impact to approximately twenty specifically identified recreational, revenue generating, navigational, and fishing activities and the environment in their respective communities.

³ The difference was the identification of a few interests alleged to be impacted by the proposed facilities.

After public notice, a preliminary hearing was convened on August 18, 2022.⁴ The purpose of the preliminary hearing was “to determine the issues to be considered by the Board in evaluating the application, and to designate those agencies of state government and of political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions on these issues, and to determine petitions for intervention.”⁵

At the preliminary hearing, the Motions to Intervene filed by Middletown and Little Compton were considered prior to any testimony being provided by SouthCoast Wind. The two Towns supported their motions with the same arguments for intervention. As in their Supplemental Memoranda, they asserted that the installation and maintenance of the undersea cable will cause a direct impacts to recreation, revenue, navigation, and fishing activities and the environment in their communities. The Towns, however, were unable to articulate with specificity how there would be more than a temporary disruption to some of the activities resulting from the installation and maintenance of the undersea cable. Counsel for the Towns was specific when questioned during the preliminary hearing that the concern of the Towns was the economic impact on the interests they identified when activity was occurring on the surface of the water.⁶ Additionally, the Towns expressed a desire to be heard if any alternatives were considered during the course of the proceedings.

The Board asked the Towns and the Applicant to attempt to establish some reasonable parameters for intervention.⁷

⁴ Notice of the preliminary hearing was published in the *Providence Journal* and *The Newport Daily News*; sent directly to the service list; posted on the Public Utilities Commission and Secretary of State websites; and posted in the Public Utilities Commission, Department of Administration, and the Department of Environmental Management office buildings.

⁵ R.I. Gen. Laws § 42-98-9(a).

⁶ Hr’g Tr. at 65, 82 (Aug. 18, 2022). The Towns were represented by the same counsel.

⁷ Middletown Mem. at 2 (Sept. 8, 2022); Little Compton Mem. at 1-2 (Sept. 8, 2022).

After the preliminary hearing, the parties reported to the Board through counsel that negotiations were unsuccessful. The Town also submitted a memorandum on September 8, suggesting that they be permitted intervenor status to address the economic impacts that would result from the construction, maintenance and decommissioning of the cable.

At an Open Meeting on October 4, among other matters considered, the Board granted the Towns' Motions to Intervene but limited their participation to the local economic impacts of those activities that occur on the surface of the Sakonnet River during periods of construction, maintenance, and decommissioning; provided, however, to the extent issues arise in these proceedings regarding changing the cable route to alternatives in which the cable would traverse within or in close proximity to the borders of either of the Towns, the scope of the intervention would include participation on issues in consideration of the impacts of such cable route alternatives proposed to be located within or in close proximity to the Towns. Since the Towns were represented by the same counsel, the Board further found that for purposes of efficient management of the proceedings, the Towns shall be designated as one party to the proceedings and shall be referred to in the record as the "Coastal Communities."

B. Testimony at Preliminary Hearing on August 18, 2022

At the preliminary hearing on August 18, SouthCoast Wind presented three witnesses who testified: Kelly Smith, onshore package manager who manages the development of the onshore transmission component; Lawrence Mott, transmission development manager who leads the project's efforts on transmission solutions which includes the interconnection of assets; and Kelsey Perry, community liaison officer. They also made available Erin Healy, marine science permitting manager. The witnesses were offered to describe the Company, illustrate the onshore and offshore

components of the Project, and address how the Company would meet the standards set forth in the statute.

Mr. Mott described the lease area and the power that would be generated by the 149 wind turbines located offshore in the lease area which will provide green energy to the region.⁸ He noted that 1,200 megawatts of energy generated would be delivered to Brayton Point where SouthCoast Wind intends to sign a large generator interconnection agreement with National Grid and where it has secured property rights.⁹ Mr. Mott described the route of the cable through the Sakonnet River and across Portsmouth and the process of burying the cable along the onshore route.¹⁰ He discussed the outreach efforts within the community and the fishing industry.¹¹

Ms. Smith testified about the high voltage direct current (HVDC) cables that are proposed to be routed through federal waters, up the Sakonnet River before proceeding underground through Portsmouth, and then up Mount Hope Bay to Brayton Point where they will be converted back to high voltage alternating current (HVAC) and connected to an existing National Grid substation.¹² She testified that a number of alternative routes were considered but all were determined to be infeasible.¹³ Ms. Smith addressed how the proposed project would meet all of the requirements of the Energy Facility Siting Act.¹⁴ Finally, she briefly described the permitting process.¹⁵ Ms. Perry provided very brief testimony regarding the translation of information on the SouthCoast Wind website in eleven different languages.¹⁶ Ms. Healy was not asked to testify.

⁸ Hr'g Tr. at 98-101 (Aug. 18, 2022).

⁹ *Id.* at 102.

¹⁰ *Id.* at 112-20.

¹¹ *Id.* at 127-30.

¹² *Id.* at 103-04, 112.

¹³ *Id.* at 105-06.

¹⁴ *Id.* at 124-25.

¹⁵ *Id.* at 131-33.

¹⁶ *Id.* at 149-150.

C. Open Meeting of October 4, 2022

On October 4, 2022, the Board conducted an Open Meeting.¹⁷ The Board ruled on the Motions to Intervene, as discussed above, determined the issues to be considered in evaluating the application, and designated those agencies of state government and of political subdivisions of the state to render advisory opinions.¹⁸ The issues and designated agencies to render advisory opinions are set forth later in this Order.

D. Issuance of Show Cause Order

On November 8, 2022, prior to the issuance of the written Preliminary Order, the Chairman of the EFSB – serving as presiding officer over procedural issues – learned through media reports that the Massachusetts Department of Public Utilities (Mass. DPU) issued an interlocutory order on November 4, 2022 relating to requests from two offshore wind developers, including SouthCoast Wind (i.e., then doing business as Mayflower Wind), for a suspension of the contract approval proceedings relating to the offshore wind PPAs applicable to the proposed projects of Commonwealth Wind and SouthCoast Wind that were pending before the Mass. DPU. The media reports regarding filings that SouthCoast Wind had made with the Mass. DPU called into question the financial viability of the Project. In response, the Chairman of the Board issued a Show Cause Order, asking SouthCoast Wind to show cause why the proceedings before the Board should not be stayed.¹⁹ In the filings with the Mass. DPU, SouthCoast requested a suspension of the contract approval proceedings alleging that the wind project may not be economically viable with the current pricing under the contract and that pricing adjustments might be necessary.²⁰

¹⁷ Notice of the open meeting was posted on the Public Utilities Commission and Secretary of State websites and in the Public Utilities Commission and the Attorney General office buildings.

¹⁸ R.I. Gen. Laws § 42-98-9(a).

¹⁹ Order No. 160 (Nov. 10, 2022).

²⁰ <https://commonwealthmagazine.org/energy/clock-ticking-avangrid-finds-itself-isolated/>

Show cause hearings were scheduled by the Board in a timely manner. However, SouthCoast Wind requested several extensions of time, which were granted. Finally, the Show Cause Hearings went forward on June 12, 2023.

E. Show Cause Hearing and Order to Stay Proceedings

On June 12, 2023, the Board conducted a hearing during which time SouthCoast Wind presented evidence about why the matter should not be stayed. At an Open Meeting on July 13, 2023, the Board found that the wind farm upon which the jurisdictional transmission facilities depend is not financially viable without having reasonable assurance of power purchase agreement(s) which would provide the revenue to support the financing of the wind farm. Further, it found that SouthCoast Wind lacked the necessary power purchase agreement(s), at that time, to provide such financing and that its application failed to support a case of need because the Applicant lacked reasonable assurance of a revenue stream to finance the construction of the wind farm to which the jurisdictional transmission facilities would be connected.²¹

The Board ordered the proceedings stayed until the earlier to occur of (i) October 1, 2024, or (ii) a filing by the Applicant to lift the stay and reopen the proceedings, consistent with the other conditions set forth in this Order that required certain evidence to be presented to the Board should the Applicant seek to lift the stay which the Board afforded as a right should SouthCoast Wind be awarded a bid for the negotiation of power purchase agreement(s) prior to October 1, 2024. The written order regarding the stay was issued on July 13 after an Open Meeting decision on that same day.²²

²¹ Order No. 163 (Jul. 18, 2023).

²² On July 28, 2023, SouthCoast Wind filed a *writ of certiorari* with the Rhode Island Supreme Court, seeking to overturn the Board's Order. The request was denied by the Supreme Court on January 19, 2024.

F. Motion to Lift Stay

On September 11, 2024, SouthCoast Wind filed a Motion to Lift Stay and Reopen Proceedings, a Motion to Expedite, a Motion for Confidential Treatment, and an Updated Application. With the Motion to Lift Stay and Reopen Proceedings was an Affidavit of SouthCoast Wind Chief Executive Officer Michael Brown attesting that SouthCoast Wind was selected and awarded the right to negotiate power purchase agreements to supply 1287 MW of offshore wind to Rhode Island and Massachusetts electric distribution companies and that the pricing submitted in the bids supports the financing of the offshore wind project as was required by the order staying the proceedings.²³

In addition to the Motion to Lift Stay and Reopen Proceedings, SouthCoast Wind filed a Motion to Expedite asking the Board to shorten the time within which designated agencies were required to submit Advisory Opinions. The Applicant asserted that a significant amount of time has lapsed since it filed its original application in May 2022 and that since that time it has been actively engaged with the state and local agencies that were designated to provide Advisory Opinions continuing to provide information and updates with 45-day status reports.²⁴ Finally, with the Updated Application, SouthCoast Wind filed a Motion for Protective Treatment of Confidential Information, specifically Confidential and Competitively Sensitive Project Cost Information contained in Attachment H to the Updated Application and Confidential Archeological Site Information contained in Attachment J to the Updated Application.²⁵

At an Open Meeting on September 23, 2024, the Board granted SouthCoast Wind's Motion to Lift the Stay and Reopen Proceedings and its Motion to Expedite. It ordered that the designated

²³ Motion to Lift Stay and Reopen Proceedings (Sept. 9, 2024).

²⁴ Motion to Expedite (Sept. 9, 2024).

²⁵ Motion for Protective Treatment of Confidential Information (Sept. 9, 2024).

agencies provide Advisory Opinions to the Board within 4 months of the date of the written order. The Board took no action on SouthCoast Wind’s Motion for Protective Treatment of Confidential Information, but allowed preliminary confidential treatment to remain in effect, pending further hearings in the Docket.

IV. THE ENERGY FACILITY SITING ACT

The Energy Facility Siting Act (Siting Act), R.I. Gen. Laws §§ 42-98-1 *et seq.*, consolidates in the Board, with two exceptions, all state and local governmental regulatory authority for the siting, construction, operation, and alteration of transmission lines of 69 kV or greater, which are included in the definition of “major energy facility.”²⁶ Thus, the Board is the “licensing and permitting authority for all licenses, permits, assents or variances which, under any statute of the state or ordinance of any political subdivision of the state, would be required for siting, construction or alteration of a major energy facility in the State of Rhode Island.”²⁷ A Board decision in favor of an application to site a major energy facility in Rhode Island “shall constitute a granting of all permits, licenses, variances, or assents, which under any law, rule, regulation or ordinance of the state or of a political subdivision thereof which would, absent this chapter, be required for the proposed facility.”²⁸

Although the Board does consider and act upon each of such permits, licenses, variances, and assents, the Board does so in a comprehensive manner that is distinct in nature from the review that would be performed by the several agencies absent the Siting Act. Whereas each such agency would review its respective permitting, licensing, variance, or assent issues according to its own particular mandates and concerns, the Board will evaluate all of such issues in a single and

²⁶ R.I. Gen. Laws § 42-98-3(d).

²⁷ *Id.* § 7(a)(1).

²⁸ *Id.* § 11(c).

comprehensive decision based upon the “overall impact of the facilities upon the public health and safety, the environment, and the economy of the state.”²⁹

While the Siting Act makes the Board the final licensing authority, an applicant for a Board license must still apply to all state and local governmental bodies for permits and license that would, absent the Siting Act, be required. Instead of issuing a permit or license, however, the state or local governmental body must act at the direction of the Board and issue an advisory opinion to the Board regarding such permit or license. The Board has authority to designate “those agencies of state government and political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions.”³⁰ Each agency must follow its statutory procedures for determining “the license, assent, or variance [and] shall forward its findings from the proceeding, together with the record supporting the findings and a recommendation for final action, to the siting board”.³¹ Typically, such advisory opinions must be submitted to the Board not more than six months following Board designation of the agency that will render the advisory opinion. Such advisory opinions will be considered by the Board before it renders its final decision. A state or local governmental body that renders an advisory opinion to the Board as a designated agency may also intervene as a matter of right and participate in Board hearings.³²

In addition to those advisory opinions, specifically authorized under the Siting Act from agencies that, in the absence of the Siting Act, would have permit, license, assent, or variance authority, the Board may require further advice from other or additional state and local agencies to assist it in assessing the overall impact of a facility. Due to the comprehensive nature of the ultimate issues facing the Board, the Board will often require expertise beyond the scope of those

²⁹ *Id.* § 1(a).

³⁰ *Id.* § 9(a).

³¹ *Id.* § 7(a)(2).

³² Rule 1.10(A)(1).

issues raised in the particular permit and license reviews at the agency level. The Siting Act provides broad discretion in this regard for the Board to summon further information and advice deemed necessary for the discharge of its duty,³³ and also provides that its provisions shall be construed liberally to effectuate its purposes.³⁴ Further, the Siting Act clearly envisions that the Board shall have the benefit of the full range of technical expertise available within other existing agencies in making its decisions.³⁵ Accordingly, the Board may request the opinion of various agencies on matters in addition to those issues covered by the specific permits, licenses, assents, or variances that would be required in the absence of the Siting Act.

The primary discussion of issues to be considered in the review of a major energy facility alteration application, and the designation of agencies to act at the Board's discretion, occur at the Board's preliminary hearing. Following the preliminary hearing, the Board issues a preliminary order establishing the agenda of issues for the Board's final hearing and designates agencies to act at the Board's discretion. Such agenda may be modified, and additional agencies and issues may be designated and determined as needed at any time before the final hearing.³⁶ The advisory opinions directed by the preliminary order must be submitted to the Board within six months of this Order. Final Board hearings must begin no later than forty-five days after the date for submission of advisory opinions, whether or not such opinions are submitted. Final hearings regarding the instant application have not yet been scheduled.³⁷

³³ R.I. Gen. Laws § 42-98-7(b).

³⁴ *Id.* § 18.

³⁵ *Id.* § 1(d).

³⁶ Rule 1.9(f).

³⁷ At times, it is not possible to conduct hearings within the statutory timeframe due to the complexity of some applications as well as Board members' schedules. There are numerous cases supporting that these time periods are directory rather than mandatory. *See West v. McDonald*, 18 A.3d 526 (R.I. 2011); *New England Development, LLC v. Berg*, 913 A.2d 363 (R.I. 2007). Since the Board ordered Advisory Opinions within 4 months, final hearing should begin within 45 days after the expiration of the four-month time frame.

The purpose of the final hearing is not to rehear evidence presented in hearings before designated agencies providing advisory opinions, but rather to provide the parties the opportunity to address -- in a single forum and from a consolidated, statewide perspective -- the issues reviewed and the recommendations made by such agencies.³⁸ The final hearing must be concluded not more than sixty days after its initiation, and the Board must issue its final decision within sixty days after conclusion of the final hearing. A final decision that favors the applicant shall constitute a granting of all required and jurisdictional permits, licenses, variances, and assents; and such final decision may be issued on any condition or conditions the Board deems warranted by the record.³⁹

V. ISSUES TO BE CONSIDERED AT FINAL HEARING

The statutory standards by which the application must be judged are found in the Siting Act.⁴⁰ Each of the issues that need to be considered are set forth below:

ISSUE 1: Are the proposed Facilities necessary to meet the needs of the state and/or region for energy of the type to be produced (or, in this case, transmitted)⁴¹ by the proposed Facilities?⁴²

ISSUE 2: Are the proposed Facilities (A) cost-justified and can it be expected to produce (or transmit) energy at the lowest reasonable cost to the consumer; (B) capable of remaining consistent with the objective of ensuring that its construction and operation will comply with all applicable laws, rules, regulations, and ordinances under which, absent the Act, a permit, license, variance, or assent would be required; or (C) does consideration of public health, safety, welfare, security, and the need for the proposed alteration justify a waiver of some requirement where compliance therewith cannot otherwise be assured?⁴³

³⁸ R.I. Gen. Laws § 42-98-11(a).

³⁹ *Id.* §§ 11(b), 11(c).

⁴⁰ *Id.* §§ 11(b), 9(e).

⁴¹ The statute uses the word produced; however, here the facilities will not be producing energy but transmitting it.

⁴² *Id.* § 11(b)(1).

⁴³ *Id.* § 11(b)(2).

ISSUE 3: Will the proposed Facilities cause unacceptable harm to the environment?⁴⁴

ISSUE 4: Will the proposed Facilities enhance the socio-economic fabric of the state?⁴⁵

ISSUE 5: Is the proposed Facility consistent with the Act on Climate?⁴⁶

VI. EXEMPT LICENSES

In addition to all permitting within the jurisdiction of federal agencies, the Board finds the following permits and licenses to be exempt from its jurisdiction pursuant to R.I. Gen. Laws § 42-98-7(3):

- Freshwater wetland alteration permits issued pursuant to the Freshwater Wetlands Act, R.I. Gen. Laws § 2-1-21.
- Air pollution prevention of significant deterioration permit for construction of a facility that will discharge air pollutants from the combustion of natural gas and fuel oil issued pursuant to authority delegated to DEM by the Environmental Protection Agency (EPA) pursuant to the Clean Air Act, 42 U.S.C. Sec. §§ 7401, *et seq.* R.I. Gen. Laws § 23-23-1 *et seq.*
- Water quality certification pursuant to authority delegated to DEM by EPA pursuant to the Clean Water Act, 33 U.S.C. Sec. §§ 1251 *et seq.*, R.I. Gen. Laws §§ 46-12-1 *et seq.*
- Rhode Island Pollution Discharge Elimination System permit for point source discharge, issued pursuant to authority delegated to DEM by EPA pursuant to the Clean Water Act, 33 U.S.C. Sec. §§ 1251 *et seq.*
- CRMC concurrence with SouthCoast Wind's Federal Consistency Certification pursuant to Section 307 of the Coastal Zone Management Act, 16 U.S.C. § 1456 and Coastal Zone

⁴⁴ *Id.* § 11(b)(3).

⁴⁵ *Id.*

⁴⁶ R.I. Gen. Laws § 42-6.2-1 *et seq.*

Management Act Regulations, 15 CFR Part 930, subpart E and § 11.10 of Rhode Island Ocean Special Area Management Plan, 650-RICR-20-05-11.10

- Category B Asset and Submerged Lands License pursuant to CRMC Management Procedures, 650-RICR-20-00-1.1 *et seq.*
- Freshwater Wetlands Permit pursuant to the Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of Coast, 650-RICR-20-00-2.1 *et seq.*

VII. ADVISORY OPINIONS⁴⁷

A. Jurisdictional Agencies

The following agencies and subdivisions of state and local government that, absent the Siting Act, would have the authority to act upon permits, licenses, assents, or variances required for the proposed Facility are required by the Act to issue advisory opinions as directed by the Board and shall act at the direction of the Board in issuing the advisory opinions designated below. An agency so designated should, to the extent possible, render its advisory opinion pursuant to procedures that would be followed absent the Siting Act, and such advisory opinion should conform to the provisions of the Rhode Island Administrative Procedures Act (APA), R.I. Gen. Laws §§ 42-35-1 *et seq.*, regarding Decisions and Orders.⁴⁸ The agency must, however, render an advisory opinion to the Board regarding the issuance of the license or permit, rather than a final decision. Unless otherwise provided, if the agency does not issue its advisory opinion within four months after its designation by the Board, its right to render an opinion shall be forfeited.⁴⁹

⁴⁷ The designation letters are attached to this Order as Appendix A.

⁴⁸ Rule 1.11(A).

⁴⁹ R.I. Gen. Laws § 42-98-10(a).

The agencies and the respective advisory opinions they are directed to render are as follows:

1. **The Rhode Island Historical Preservation & Heritage Commission** is directed to render an advisory opinion as to (i) whether the Facilities would be subject to its jurisdiction and, if so, whether the Facilities would conform with requirements relevant thereto, and (ii) whether any required approval or exception should be granted.
2. **The Rhode Island Department of Environmental Management** is directed to render an advisory opinion as to (i) the impact on vegetative community, fish and wildlife that will be caused by disruption of the habitat and (ii) whether the Facilities will present an unacceptable harm to the environment.
3. **The Portsmouth Department of Public Works** is directed to render an advisory opinion as to (i) whether any Town permits are required for street openings and (ii) the potential impacts upon traffic and road conditions associated with the construction and operation of the Facilities on Town roads.
4. **The Portsmouth Planning Board** is directed to render an advisory opinion as to whether the Facilities would be a land use consistent with its respective comprehensive plan.
5. **The Portsmouth Zoning Board of Review** is directed to render an advisory opinion as to whether the Facilities would meet the requirements of its respective zoning ordinances and whether any variance, including a special use or dimensional variance, should be granted.
6. **The Portsmouth Building Inspector** is directed to render an advisory opinion as to (i) whether the work proposed in the municipality as part of the Facilities' construction and operation is subject to the municipality's Erosion and Sediment Control Ordinance, and if so, whether SouthCoast Wind's Erosion and Sediment Control Plan would conform to the

Ordinance, and (ii) whether the Project would meet the requirements of other municipal ordinances.

7. **The Portsmouth Town Council** is directed to render an advisory opinion as to the whether the Project will meet the Town noise ordinance limits and, if not, whether an exemption from the Portsmouth Noise Ordinance should be granted.

B. Non-Jurisdictional Agencies

The Board has both the obligation and authority to request further advisory opinions from agencies other than those that, absent the Siting Act, would have some specific authority over the proposed Facility. In addition to the mandatory opinions required from the Jurisdictional Agencies by the Siting Act, the Board in its discretion may and hereby does request informational advisory opinions from the agencies listed below for which there are no applicable license, permit, assent, or variance proceedings required for the Facility.

In the absence of a proceeding conducted in accordance with the APA, the Board requests that each such agency named below prepare to have a representative appear at the final hearing of the Board to sponsor the informational advisory opinion, as well as to sponsor and enter into evidence any information outside of the record of this docket that is relied upon in the advisory opinion. At such time, the Applicant, the Board, and other parties will have the opportunity to cross-examine the sponsoring agency representative.

For each non-jurisdictional advisory opinion, the subject agency may request, and the Applicant shall provide, any information or evidence deemed necessary to support the subject opinion. The Applicant shall provide information in a timely manner. The Applicant shall remain responsible for ensuring that the information provided to the Board and the various agencies remains consistent and up-to-date.

1. **The Rhode Island Public Utilities Commission** is directed to render an advisory opinion, as to (i) the need for the proposed Facilities; and (ii) whether the Facilities are expected to transmit energy from the offshore generating source of the SouthCoast Wind Project to the mainland at the lowest reasonable cost to the consumer consistent with the objective of ensuring that the construction and operation of the proposed Facilities will be accomplished in compliance with all of the requirements of the laws, rules, and regulations. Further, to the extent the Commission determines the Facilities are needed, the Commission also is directed to evaluate whether the offshore wind source being served by the Facilities will benefit the regional electric system and associated markets and, as a result, bring benefits to Rhode Island. The Division of Statewide Planning, the Office of Energy Resources, and the Division of Public Utilities and Carriers shall participate in the PUC proceeding pursuant to R.I. Gen. Laws § 42-98-9(d). The PUC's opinion must specifically consider the need for the Project to connect the proposed SouthCoast Wind Project to the onshore electric transmission system.
2. **The Division of Statewide Planning** is directed to render an advisory opinion as to (i) the socio-economic impact of the proposed Facilities, including its construction and operation; (ii) the proposed Facilities' consistency and compliance with the State Guide Plan including the State Energy Plan – Energy 2035; and (iii) in coordination with the Rhode Island Office of Energy Resources, a particular examination of the proposed Facility's consistency and compliance with the State Energy Plan and whether the Facility will conform to the requirements and provisions of the Act on Climate, R.I. Gen. Laws §§ 42-6.2-1 *et seq.*, or any other applicable and/or relevant statute enacted during this session of the General Assembly that would relate to the project, and state energy policies.

3. **The Rhode Island Department of Health** is directed to render an informational advisory opinion on (i) the potential public health concerns relating to the proposed Facilities, including but not limited to biological responses to power frequency, electric, and magnetic fields associated with the operation of the Facilities and (ii) the potential impacts on the quality of drinking water associated with the construction and operation of the proposed Facilities. In particular, the Department of Health should review and comment on Section 7.10 and Appendix D of the application.

Accordingly, it is hereby

(168) ORDERED

1. The following State of Rhode Island and local agencies and political subdivisions of the state shall act at the direction of the Energy Facility Siting Board for the purpose of rendering advisory opinions on the issues determined by the Preliminary Decision of the Energy Facility Siting Board:
 - a. The Historical Preservation & Heritage Commission
 - b. The Department of Environmental Management
 - c. The Portsmouth Department of Public Works
 - d. The Portsmouth Planning Commission
 - e. The Portsmouth Zoning Board of Review
 - f. The Portsmouth Building Inspector
 - g. The Portsmouth Town Council
 - h. The Public Utilities Commission
 - i. The Statewide Planning Program
 - j. The Department of Health

2. The Coordinator of the Energy Facility Siting Board shall prepare and forward to all agencies designated above a certified copy of this Preliminary Decision and Order and a separate written notice of designation.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND THIS 8th DAY OF OCTOBER, 2024.

ENERGY FACILITY SITING BOARD



Ronald T. Gerwatowski

Ronald T. Gerwatowski, Chairman

Meredith E. Brady

Meredith E. Brady, Member

Terrence Gray

Terrence Gray, Member

APPENDIX A

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

**NOTICE OF DESIGNATION TO THE PORTSMOUTH TOWN COUNCIL TO
RENDER AN ADVISORY OPINION**

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Portsmouth Town Council has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2108, or by email at Kristen.L.Masse@puc.ri.gov.



Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC’S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

NOTICE OF DESIGNATION TO THE RHODE ISLAND HISTORICAL PRESERVATION AND HERITAGE COMMISSION TO RENDER AN ADVISORY OPINION

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Historical Preservation and Heritage Commission has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC’s (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board’s Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board’s final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board’s Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH DEPARTMENT OF PUBLIC WORKS TO RENDER AN ADVISORY OPINION

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Department of Public Works has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

NOTICE OF DESIGNATION TO THE RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO RENDER AN ADVISORY OPINION

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Department of Environmental Management has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

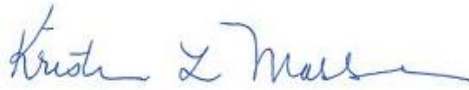
**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH ZONING BOARD
OF REVIEW TO RENDER AN ADVISORY OPINION**

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Zoning Board of Review has been designated as a political subdivision of the state has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH BUILDING
INSPECTOR TO RENDER AN ADVISORY OPINION**

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Building Inspection Department has been designated as a political subdivision of the state has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02


**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH PLANNING
COMMISSION TO RENDER AN ADVISORY OPINION**

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Planning Commission has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02


**NOTICE OF DESIGNATION TO THE RHODE ISLAND PUBLIC UTILITIES
COMMISSION TO RENDER AN ADVISORY OPINION**

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Public Utilities Commission has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

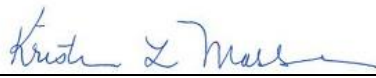
**NOTICE OF DESIGNATION TO THE RHODE ISLAND DIVISION OF STATEWIDE
PLANNING TO RENDER AN ADVISORY OPINION**

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Division of Statewide Planning has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 168 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before February 7, 2025, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

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Kristen L. Masse, Coordinator
Energy Facility Siting Board
October 8, 2024

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: SOUTHCOAST WIND ENERGY LLC'S APPLICATION TO CONSTRUCT THE FACILITIES ASSOCIATED WITH THE SOUTHCOAST WIND PROJECT IN PORTSMOUTH, RHODE ISLAND – DOCKET NO. SB-2022-02

**NOTICE OF DESIGNATION TO THE RHODE ISLAND DEPARTMENT OF HEALTH
TO RENDER AN ADVISORY OPINION**

By Order 168 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Department of Health has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating SouthCoast Wind Energy LLC's (SouthCoast Wind) application to construct the Facilities associated with the SouthCoast Wind Project in Portsmouth, Rhode Island filed in Docket No. SB-2022-02. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

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Energy Facility Siting Board
October 8, 2024