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November 18, 2024

Via Hand Delivery and Electronic Mail (stephanie.delarosa@puc.ri.gov)

Stephanie De La Rosa, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: In Re: Issuance of Advisory Opinion to Energy Facility Siting Board regarding
Southcoast Wind, LLC Project – Docket No. 24-45-EL

Dear Stephanie:

On behalf of SouthCoast Wind LLC, enclosed please find the following for filing in the
above-referenced proceeding:

1. SouthCoast Wind Energy LLC's Objection to Town of Middletown's Motion to Intervene;
2. SouthCoast Wind Energy LLC's Objection to Town of Little Compton's Motion to Intervene;
3. Entry of Appearance for Christian F. Capizzo, Esq.; and
4. Entry of Appearance for Robert K. Taylor, Esq.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Christian F. Capizzo

CFC:nah
Enclosures

cc: Docket No. 24-45-EL Service List

**STATE OF RHODE ISLAND
RHODE ISLAND PUBLIC UTILITIES COMMISSION**

IN RE: ISSUANCE OF ADVISORY)	
OPINION TO ENERGY FACILITY)	Docket No. 24-45-EL
SITING BOARD REGARDING)	
SOUTHCOAST WIND, LLC PROJECT)	

**SOUTHCOAST WIND ENERGY LLC’S OBJECTION TO
TOWN OF MIDDLETOWN’S MOTION TO INTERVENE**

SouthCoast Wind Energy LLC (“SouthCoast Wind”), through counsel, hereby objects to the Town of Middletown’s (“Middletown” or the “Town”) Motion to Intervene pursuant Rule 1.14(c) of the Rhode Island Public Utilities Commission Rules of Practice and Procedure, 810-RICR-00-00-1.

I. INTRODUCTION

This docket relates to the Rhode Island Energy Facility Siting Board’s (the “Board”) review of SouthCoast Wind’s application for the proposed siting of underground and undersea export cables and related facilities intended to deliver electricity generated by a proposed offshore wind farm in federal waters. *See* Board Docket No. SB-2022-02. As set forth in SouthCoast Wind’s siting application filed with the Board, after leaving federal waters, part of the proposed export cable corridor will travel underwater via the Sakonnet River before making intermediate landfall in Portsmouth, Rhode Island. No part of the proposed export corridor, or any other facilities for SouthCoast Wind’s project, are sited in Middletown.

On October 4, 2022, the Board granted motions to intervene in Docket SB-2022-02 filed by Middletown and Little Compton but limited their intervention to “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[.]”¹ Furthermore, the Board 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.” *See* Docket SB-2022-02, Board Preliminary Order p. 5.

On or about October 8, 2024, the Board issued its Preliminary Decision and Order in Docket No. SB -2022-02. Pursuant to the Energy Facility Siting Act, R.I. Gen. Laws § 42-98-1, the Board designated the Rhode Island Public Utilities Commission (the “Commission” or “PUC”) to render an advisory opinion as to “(i) the need for SouthCoast Wind’s proposed Rhode Island jurisdictional facilities (“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.” *See* Docket SB-2022-02, Board Preliminary Order p. 18.

The Board further requested that “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

¹ The Board further provided that “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.” There has been no change to the Sakonnet River portion of the cable route proposed by SouthCoast Wind that would bring it within or in close proximity to the Town. *See* Docket SB-2022-02, Board Preliminary Order p. 5.

for the project to connect the proposed SouthCoast Wind project to the onshore electric transmission system.” See Docket SB-2022-02, Board Preliminary Order p. 18.

II. STANDARD FOR INTERVENTION

Any person seeking to intervene in a proceeding before the Commission must demonstrate:

1. A right conferred by statute.
2. An interest which may be directly affected and which is not adequately represented by existing parties and as to which movants may be bound by the Commission’s action in the proceeding.
3. Any other interest of such nature that movant's participation may be in the public interest.

Rule 1.14(B).

While the rules are intended to “ensure that the interests of interested parties are met through the adversarial process,” they do not allow persons or entities to intervene whose interests are only indirectly affected, especially where their interests are adequately represented by other parties or where there is insufficient compelling public interest to warrant intervention as a full party. See, e.g., *In Re: Island Hi Speed Form of Regulation and Review of Rates*, PUC Docket 3495 (Order issued May 9, 2003) (citing *In re Island Hi-Speed Ferry, LLC*, 746 A.2d 1240, 1245-46 (questioning the wisdom of the Commission’s decision allowing intervention by parties with only indirect interests in the outcome)). Furthermore, when considering intervention, the Commission must balance several factors, including “whether the Movants may more effectively pursue their respective interests in other forums, and whether the intervention(s) would unduly delay or prejudice the adjudication of the rights of the Petitioners and other parties.” See *In Re: Joint Petition for Purchase & Sale of Assets by the Narragansett Elec. Co. & the S. Union Co.*, D-06-13, 2006 WL 1487796 (May 4, 2006).

III. DISCUSSION

The Town does not identify any statutory right to intervene because there is none. Instead, the Town appears to argue that it should be allowed to intervene as a “directly affected” party which is not adequately represented and which may be bound by the proceeding, pursuant to Rule 1.14(B)(2). The Town’s Motion falls far short of meeting the requirements for intervention under this standard.

First, the Town has not established that it will be directly affected by this proceeding. No part of the proposed export cables or proposed project Facilities will be located in Middletown. Landfall and the underground portion of the export cables in Portsmouth are seven miles away from Middletown. Instead, the Town seeks to intervene based solely on the fact that about 3 miles of the approximately 20-mile long portion of the proposed export cable corridor in Rhode Island state waters would pass by Middletown under the central part of the Sakonnet River. The Town of Middletown’s alleged interest in a cable located in Rhode Island state waters in the middle of the Sakonnet River does not satisfy the requirements for intervention in this Advisory Opinion docket.

The Town filed an almost identical motion to intervene before the Board on Docket No. SB-2022-02 in 2022. In that previous motion, the Town made similar assertions that the “installation and maintenance of the undersea cable will cause direct impact to recreation, revenue, economy, navigation, fishing activities and the environment in their communities.” *See Docket SB-2022-02, Board Preliminary Order p. 3; See also Town’s Motion #12 p.3.* The Board correctly found that the Town had failed 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.” *See Docket SB-2022-02, Board Preliminary Order p. 4.* The same is true of the Town’s current motion. Furthermore, the Town’s alleged interest in the “relative cost and

benefit of electricity” for its residents, is indistinguishable from the interests of the general public. *See* Town’s Motion #12, p.3. Middletown can demonstrate no special interest worthy of intervenor status.

Second, Middletown has not demonstrated that it has an interest that will not be adequately protected by the other parties and agencies involved in this matter. Specifically, the Rhode Island Division of Public Utility and Carriers, the Rhode Island Office of Energy Resources and the Rhode Island Division of Statewide Planning will all participate in this Advisory Opinion docket pursuant to R.I. Gen. Laws 42-98-9(d). *See* Docket SB-2022-02, Board Preliminary Order p. 18. Furthermore, many other entities and agencies have been designated to render Advisory Opinions to the Board: the Rhode Island Historical Preservation & Heritage Commission; the Rhode Island Department of Environmental Management; the Portsmouth Department of Public Works; the Portsmouth Planning Commission; the Portsmouth Zoning Board of Review; the Portsmouth Building Inspector; the Portsmouth Town Council; the Rhode Island Statewide Planning Program; and the Rhode Island Department of Health. In addition, a number of other Rhode Island agencies are tasked with reviewing the project including the Rhode Island Coastal Resources Management Council and the Rhode Island Department of Environmental Management.

The Town’s Motion to Intervene should not be granted, particularly here where the multiple state agencies involved have expertise and experience that the Town does not. Southcoast Wind’s position is further supported by recent precedent. *Verizon New England, Inc. v. Savage*, 267 A.3d 647, 654 (R.I. 2022). In *Verizon*, the Rhode Island Supreme Court recently **denied** motions to intervene by two cities – Cranston and Pawtucket – in a case brought against a state agency, the Division of Taxation. Despite the unique impacts of the case on Cranston and Pawtucket (from a potential multimillion dollar refund of telecommunications equipment property

taxes deposited in a restricted account and distributed to cities and towns pro rata based on population), the Supreme Court found that Cranston and Pawtucket's interests were adequately represented by the Division and the City of Providence. *Verizon*, 267 A.3d at 658. Specifically, the Court noted that the "proffer of a generalized grievance" which is common to all municipalities without an adequate explanation as to how those concerns are different in kind or adverse to another party is insufficient to demonstrate that the interests were not adequately represented by the other parties. *Id.* at 657.

Consequently, as in *Verizon*, the motion to intervene should be denied because the Town's interests are adequately represented by the numerous local, state and federal agencies tasked with reviewing the SouthCoast Wind project.

Third, the Town will not be "bound" by the Advisory Opinion rendered by the Commission in this docket. As is obvious from the nomenclature, the Commission's opinion will be purely *advisory*. Middletown's interests, if any, are already adequately protected by its intervenor status in the Board docket where the Commission's Advisory Opinion will be reviewed, Docket No. SB-2022-02. The Board, like the Commission, will address potential environmental and economic impacts of the proposed Facilities that may be of interest to the Town.

Alternatively, Rule 1.14(B)(3) provides that intervention may be permitted when the putative intervenor has an "*interest of such nature that movant's participation may be in the public interest.*" The Town's Motion also fails to identify any such unique public interest consideration, and there is none. Middletown has not identified any specialized knowledge or expertise that might assist the Commission in rendering its Advisory Opinion to the Board. The mere assertion that participation is in the public interest is not sufficient. *See In re: Invenergy Thermal Development EFSB* Docket SB-2015-06 (Order issued January 29, 2016) (citing *Public*

Service Company of New Hampshire v. Patch, 136 F.3d 197 (1st Cir. 1998) (the court stated that a movant’s promise that it will offer a different angle on the legal questions in the lawsuits was a campaign promise, unamplified by any specifics that did not bear the weight of the claim that adequate representation was lacking). Moreover, as noted above, the alleged interests set forth in the Town’s motion are no different than the interest of the public at large and will be thoroughly protected by the numerous federal and state agencies with oversight and ultimately reviewed by the Board.

IV. CONCLUSION

For all of these reasons, the Town’s Motion to Intervene should be denied.

Respectfully submitted,

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By its Attorneys,



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Dated: November 18, 2024

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2024, I sent a copy of the foregoing to the service list below by electronic mail.



**Docket No. 24-45-EL – Needs Advisory Opinion to EFSB regarding SouthCoast Wind Energy LLC’s Application for a License to Construct Major Energy Facilities (Portsmouth, RI)
Service List – Updated 10/29/2024**

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4873-9637-2220/030938-0002

**STATE OF RHODE ISLAND
RHODE ISLAND PUBLIC UTILITIES COMMISSION**

IN RE: ISSUANCE OF ADVISORY)	
OPINION TO ENERGY FACILITY)	Docket No. 24-45-EL
SITING BOARD REGARDING)	
SOUTHCOAST WIND, LLC PROJECT)	

**SOUTHCOAST WIND ENERGY LLC’S OBJECTION TO
TOWN OF LITTLE COMPTON’S MOTION TO INTERVENE**

SouthCoast Wind Energy LLC (“SouthCoast Wind”), through counsel, hereby objects to the Town of Little Compton’s (“Little Compton” or the “Town”) Motion to Intervene pursuant Rule 1.14(c) of the Rhode Island Public Utilities Commission Rules of Practice and Procedure, 810-RICR-00-00-1.

I. INTRODUCTION

This docket relates to the Rhode Island Energy Facility Siting Board’s (the “Board”) review of SouthCoast Wind’s application for the proposed siting of underground and undersea export cables and related facilities intended to deliver electricity generated by a proposed offshore wind farm in federal waters. *See* Board Docket No. SB-2022-02. As set forth in SouthCoast Wind’s siting application filed with the Board, after leaving federal waters, part of the proposed export cable corridor will travel underwater via the Sakonnet River before making intermediate landfall in Portsmouth, Rhode Island. No part of the proposed export corridor, or any other facilities for SouthCoast Wind’s project, are sited in Little Compton.

On October 4, 2022, the Board granted motions to intervene in Docket SB-2022-02 filed by Middletown and Little Compton but limited their intervention to “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[.]”¹ Furthermore, the Board 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.” *See* Docket SB-2022-02, Board Preliminary Order p. 5.

On or about October 8, 2024, the Board issued its Preliminary Decision and Order in Docket No. SB -2022-02. Pursuant to the Energy Facility Siting Act, R.I. Gen. Laws § 42-98-1, the Board designated the Rhode Island Public Utilities Commission (the “Commission” or “PUC”) to render an advisory opinion as to “(i) the need for SouthCoast Wind’s proposed Rhode Island jurisdictional facilities (“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.” *See* Docket SB-2022-02, Board Preliminary Order p. 18.

The Board further requested that “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

¹ The Board further provided that “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.” There has been no change to the Sakonnet River portion of the cable route proposed by SouthCoast Wind that would bring it within or in close proximity to the Town. *See* Docket SB-2022-02, Board Preliminary Order p. 5.

for the project to connect the proposed SouthCoast Wind project to the onshore electric transmission system.” See Docket SB-2022-02, Board Preliminary Order p. 18.

II. STANDARD FOR INTERVENTION

Any person seeking to intervene in a proceeding before the Commission must demonstrate:

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Rule 1.14(B).

While the rules are intended to “ensure that the interests of interested parties are met through the adversarial process,” they do not allow persons or entities to intervene whose interests are only indirectly affected, especially where their interests are adequately represented by other parties or where there is insufficient compelling public interest to warrant intervention as a full party. See, e.g., *In Re: Island Hi Speed Form of Regulation and Review of Rates*, PUC Docket 3495 (Order issued May 9, 2003) (citing *In re Island Hi-Speed Ferry, LLC*, 746 A.2d 1240, 1245-46 (questioning the wisdom of the Commission’s decision allowing intervention by parties with only indirect interests in the outcome)). Furthermore, when considering intervention, the Commission must balance several factors, including “whether the Movants may more effectively pursue their respective interests in other forums, and whether the intervention(s) would unduly delay or prejudice the adjudication of the rights of the Petitioners and other parties.” See *In Re: Joint Petition for Purchase & Sale of Assets by the Narragansett Elec. Co. & the S. Union Co.*, D-06-13, 2006 WL 1487796 (May 4, 2006).

III. DISCUSSION

The Town does not identify any statutory right to intervene because there is none. Instead, the Town appears to argue that it should be allowed to intervene as a “directly affected” party which is not adequately represented and which may be bound by the proceeding, pursuant to Rule 1.14(B)(2). The Town’s Motion falls far short of meeting the requirements for intervention under this standard.

First, the Town has not established that it will be directly affected by this proceeding. No part of the proposed export cables or proposed project Facilities will be located in Little Compton. Landfall and the underground portion of the export cables in Portsmouth are 5 miles away from Little Compton. The offshore lease area and its wind turbine platforms will be approximately 58 miles from the Little Compton shoreline in federal waters and not in the Sakonnet. Instead, the Town seeks to intervene based solely on the fact that about 3 miles of the approximately 20-mile long portion of the proposed export cable corridor in Rhode Island state waters would pass by Little Compton under the central part of the Sakonnet River. The Town of Little Compton’s alleged interest in a cable located in Rhode Island state waters in the middle of the Sakonnet River does not satisfy the requirements for intervention in this Advisory Opinion docket.

The Town filed an almost identical motion to intervene before the Board on Docket No. SB-2022-02 in 2022. In that previous motion, the Town made similar assertions that the “installation and maintenance of the undersea cable will cause direct impact to recreation, revenue, economy, navigation, fishing activities and the environment in their communities.” *See* Docket SB-2022-02, Board Preliminary Order p. 3; *See also* Town’s Motion #12 p.3. The Board correctly found that the Town had failed 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.” *See* Docket SB-2022-02, Board Preliminary Order p. 4. The same is true of

the Town's current motion. Furthermore, the Town's alleged interest in the "relative cost and benefit of electricity" for its residents, is indistinguishable from the interests of the general public. *See* Town's Motion #12, p.3. Little Compton can demonstrate no special interest worthy of intervenor status.

Second, Little Compton has not demonstrated that it has an interest that will not be adequately protected by the other parties and agencies involved in this matter. Specifically, the Rhode Island Division of Public Utility and Carriers, the Rhode Island Office of Energy Resources and the Rhode Island Division of Statewide Planning will all participate in this Advisory Opinion docket pursuant to R.I. Gen. Laws 42-98-9(d). *See* Docket SB-2022-02, Board Preliminary Order p. 18. Furthermore, many other entities and agencies have been designated to render Advisory Opinions to the Board: the Rhode Island Historical Preservation & Heritage Commission; the Rhode Island Department of Environmental Management; the Portsmouth Department of Public Works; the Portsmouth Planning Commission; the Portsmouth Zoning Board of Review; the Portsmouth Building Inspector; the Portsmouth Town Council; the Rhode Island Statewide Planning Program; and the Rhode Island Department of Health. In addition, a number of other Rhode Island agencies are tasked with reviewing the project including the Rhode Island Coastal Resources Management Council and the Rhode Island Department of Environmental Management.

The Town's Motion to Intervene should not be granted, particularly here where the multiple state agencies involved have expertise and experience that the Town does not. Southcoast Wind's position is further supported by recent precedent. *Verizon New England, Inc. v. Savage*, 267 A.3d 647, 654 (R.I. 2022). In *Verizon*, the Rhode Island Supreme Court recently **denied** motions to intervene by two cities – Cranston and Pawtucket – in a case brought against a state

agency, the Division of Taxation. Despite the unique impacts of the case on Cranston and Pawtucket (from a potential multimillion dollar refund of telecommunications equipment property taxes deposited in a restricted account and distributed to cities and towns pro rata based on population), the Supreme Court found that Cranston and Pawtucket's interests were adequately represented by the Division and the City of Providence. *Verizon*, 267 A.3d at 658. Specifically, the Court noted that the "proffer of a generalized grievance" which is common to all municipalities without an adequate explanation as to how those concerns are different in kind or adverse to another party is insufficient to demonstrate that the interests were not adequately represented by the other parties. *Id.* at 657.

Consequently, as in *Verizon*, the motion to intervene should be denied because the Town's interests are adequately represented by the numerous local, state and federal agencies tasked with reviewing the SouthCoast Wind project.

Third, the Town will not be "bound" by the Advisory Opinion rendered by the Commission in this docket. As is obvious from the nomenclature, the Commission's opinion will be purely *advisory*. Little Compton's interests, if any, are already adequately protected by its intervenor status in the Board docket where the Commission's Advisory Opinion will be reviewed, Docket No. SB-2022-02. The Board, like the Commission, will address potential environmental and economic impacts of the proposed Facilities that may be of interest to the Town.

Alternatively, Rule 1.14(B)(3) provides that intervention may be permitted when the putative intervenor has an "*interest of such nature that movant's participation may be in the public interest.*" The Town's Motion also fails to identify any such unique public interest consideration, and there is none. Little Compton has not identified any specialized knowledge or expertise that might assist the Commission in rendering its Advisory Opinion to the Board. The

mere assertion that participation is in the public interest is not sufficient. *See In re: Invenergy Thermal Development EFSB Docket SB-2015-06* (Order issued January 29, 2016) (citing *Public Service Company of New Hampshire v. Patch*, 136 F.3d 197 (1st Cir. 1998) (the court stated that a movant's promise that it will offer a different angle on the legal questions in the lawsuits was a campaign promise, unamplified by any specifics that did not bear the weight of the claim that adequate representation was lacking). Moreover, as noted above, the alleged interests set forth in the Town's motion are no different than the interest of the public at large and will be thoroughly protected by the numerous federal and state agencies with oversight and ultimately reviewed by the Board.

IV. CONCLUSION

For all of these reasons, the Town's Motion to Intervene should be denied.

Respectfully submitted,

SOUTHCOAST WIND ENERGY LLC

By its Attorneys,



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Dated: November 18, 2024

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2024, I sent a copy of the foregoing to the service list below by electronic mail.



**Docket No. 24-45-EL – Needs Advisory Opinion to EFSB regarding SouthCoast Wind Energy LLC’s Application for a License to Construct Major Energy Facilities (Portsmouth, RI)
Service List – Updated 10/29/2024**

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4886-8618-5468/030938-0002

**STATE OF RHODE ISLAND
RHODE ISLAND PUBLIC UTILITIES COMMISSION**

IN RE: ISSUANCE OF ADVISORY)	
OPINION TO ENERGY FACILITY)	Docket No. 24-45-EL
SITING BOARD REGARDING)	
SOUTHCOAST WIND, LLC PROJECT)	

ENTRY OF APPEARANCE

Christian F. Capizzo, Esquire of Partridge Snow & Hahn LLP hereby enters his appearance as counsel on behalf of SouthCoast Wind Energy LLC in this matter.

SouthCoast Wind LLC

By Its Attorneys,

PARTRIDGE SNOW & HAHN LLP



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DATED: November 18, 2024

**STATE OF RHODE ISLAND
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OPINION TO ENERGY FACILITY)	Docket No. 24-45-EL
SITING BOARD REGARDING)	
SOUTHCOAST WIND, LLC PROJECT)	

ENTRY OF APPEARANCE

Robert K. Taylor, Esquire of Partridge Snow & Hahn LLP hereby enters his appearance as counsel on behalf of SouthCoast Wind Energy LLC in this matter.

SouthCoast Wind LLC

By Its Attorneys,

PARTRIDGE SNOW & HAHN LLP

/s/ Robert K. Taylor

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