



The Offshore Wind Round-Up

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HAS ATLANTIC SHORES SOUTH ASKED THE NJ BUREAU OF PUBLIC UTILITIES FOR A RE-BID OF ITS CONTRACT?

ANSWER: Not yet, as of June 9. Numerous news sources, however, have reported the possibility. Also, mention of re-bidding and the circumstances under which that might be permitted are included in the NJ Board of Public Utilities (“NJBPU”) draft guidance about its fourth offshore shore wind solicitation, recently issued.

■ **On April 25, an article in *The Sandpaper* noted that the mayors** of eight NJ shore communities (including all the LBI mayors) had, through an attorney, **filed comments by letter with the NJBPU** commissioners. (A copy of the letter can be accessed through the link at the end of this section.)

The mayors stated that the draft guidance for the fourth offshore wind solicitation “**appears to be targeted at permitting Atlantic Shores Offshore Wind to rebid** its project to obtain increased offshore wind renewable energy certificate pricing [ORECs].” It had been previously reported that the letter had been sent to the NJBPU at the end of March.

In the same April 25 article, it was reported that in their letter, the mayors wrote that increased subsidies would negatively impact NJ ratepayers and Atlantic Shores representatives

“commented orally at the BPU’s March 20, 2024 stakeholder meeting, **strongly suggesting** that it does intend to rebid, . . .”

Access the full Sandpaper article by clicking on the link below

<https://www.thesandpaper.net/articles/mayors-seek-to-stop-atlantic-shores-rebid-of-offshore-wind-contract/>

--- Three weeks later, **on May 16, Aegir¹ published an article** online that confirmed the possibility of a re-bid but **did not report that any re-bid application** had been made.

The **application window** for the fourth solicitation, including new and re-bidding projects opened on April 30, 2024 and **closes on July 10, 2024** at 5:00 pm.

Access the full Aegir article by clicking on the link below

<https://www.aegirinsights.com/new-jersey-recently-launched-fourth-solicitation-and-10-offshore-wind-projects-could-bid>

--- Section 1.6 in the draft guidance from NJBPU **includes specifics** about under what **circumstances an offshore wind project may be re-bid**, the application process and other requirements.

Access the full draft guidance for the fourth offshore wind solicitation by clicking on the link below and then scrolling down to Section 1.6

<https://bpuoffshorewind.nj.gov/fourth-solicitation/solicitation-documents/Final-Solicitation-Guidance-Documents-with-attachments.pdf>

--- Access the letter filed on behalf of the eight shore communities by the law firm of Pashman Stein Walder Hayden by clicking on the following link:

[https://www.pashmanstein.com/assets/htmldocuments/2024.03.27 Shore Municipalities Public Comment Letter to BPU.pdf](https://www.pashmanstein.com/assets/htmldocuments/2024.03.27%20Shore%20Municipalities%20Public%20Comment%20Letter%20to%20BPU.pdf)

The letter also includes an economic analysis of a potential Atlantic Shores rebid prepared by Whitestrand Consulting, LLC and the recent tourist assessment by Tourism Economics.

FINAL ENVIRONMENT IMPACT STATEMENT FOR ATLANTIC SHORES SOUTH IS AVAILABLE

--- On May 23, the Bureau of Ocean Energy Management (“BOEM”) announced that it has **made available the final Environmental Impact Statement (“EIS”)** for Atlantic Shores South.

¹ Aegir is based in Copenhagen. *From its website:* “Aegir Insights is a technology-driven intelligence company serving the offshore wind sector. We leverage data science and deep industry experience to help global renewable players make smarter decisions. Our expertise lies in contextualizing complex information through use of proprietary models developed in close cooperation with industry and academia. . . .” <https://www.aegirinsights.com/>

Access the full BOEM announcement by clicking on this link

<https://www.boem.gov/newsroom/press-releases/boem-releases-final-environmental-impact-statement-two-wind-projects>

Publication of the final EIS begins the minimum 30-day "wait period," the duration of time in which agencies are generally required to pause before making a final decision on a proposed action. (From *Environmental Impact Statements: Summary of the EIS process*, published by the U.S. Environmental Protection Agency)²

Access the full EIS by clicking on this link

<https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-offshore-wind-south-final-environmental-impact>

July 1, 2024 is still the target date currently listed on the Permitting Dashboard for the issuance of the final EIS for Atlantic Shores South.

The Permitting Dashboard, an official website of the U.S. government, is the source for all updates regarding this project and the dates. Note that the target date mentioned in this section was accurate as of June 9, 2024.

Access The Permitting Dashboard by clicking on this link

<https://www.permits.performance.gov/permitting-project/atlantic-shores-south>

UPDATE FROM ATLANTIC SHORES REGARDING THE ADLS (AVIATION DETECTION LIGHTING SYSTEM)

The May Round-Up included a review the current options available regarding lighting on the top of the offshore wind turbines. At this time, there are two choices:

1) **The offshore wind turbines would have red blinking lights.** They would blink continuously, as do the blinking red lights on cell phone towers, water towers and airplanes. The lights would be installed, per current Federal Aviation Administration ("FAA") regulations, on the nacelle, which sits on top of the tower and houses the mechanical parts that turn the blades, which are attached to it.

2) **An aviation detection lighting system ("ADLS") would be installed.** Lights would only activate when planes are flying at night closer than three nautical miles from the wind turbines and at least 1,000' above them. A study, cited in the May Round-Up, that analyzed how often the ADLS would have been activated based on specific flight data, concluded that the ADLS would have been activated 20 hours 25 minutes and 15 second in a one-year period in the Atlantic Shores North area.

² <https://www.epa.gov/nepa/national-environmental-policy-act-review-process-:~:text=Summary of the EIS Process&text=A draft EIS is published,if necessary, conduct further analyses.>

Terence Kelly, **Atlantic Shores Offshore Wind’s Manager of External Affairs**, provided the following statement on May 24 about the status of the approvals needed for the installation of the ADLS:

“Atlantic Shores plans on implementing—and are/will be working with BOEM and FAA to prepare a plan for review & approval. Still a work in progress—nothing new to report at this point.”

CURRENT LIGHTING REQUIREMENTS FOR OFFSHORE WIND FARMS

Aviation lighting is for the benefit of flying aircraft. “All offshore wind turbines and the meteorological tower will contain aviation obstruction lights in accordance with Federal Aviation Administration (FAA) and/or BOEM guidance to aid aircraft in operating in the wind farm area,” according to Atlantic Shores South’s Construction and Operations Plan (“COP”), Section 5.3 Lighting and Marking.

From the COP:

- “Based on [current FAA guidance], the aviation obstruction lighting system on the offshore wind turbines will include red flashing lights on the nacelle and if the offshore wind turbine exceeds 699 feet, an additional level of flashing red lights on the tower.”

The height of the offshore wind turbines to be used in the Atlantic Shores projects exceeds this threshold, so those additional lights will be required on the tower. Please read the footnote below for information about lighting on the blades themselves.³

- “The lights will be arranged so they are visible by a pilot approach in any direction.”
- “If the height of the offshore substations exceeds 200’ above Mean Sea Level . . . the offshore substations will include an aviation obstruction lighting system . . .”
- The photo below shows the stationary nacelle, around which the hub and blades rotate:



³ There is no mention of lighting on the blades because there are no electrical wires in the blades. In fact, there is usually no metal at all in the blades to minimize the possibility of attracting lightning.

Navigation lighting is for the benefit of ships at sea. The yellow lights are located on the foundations of the turbines, meteorological tower and offshore substations and “marked in accordance with the U.S. Coast Guard and BOEM guidance,” according to Atlantic Shores South’s Construction and Operations Plan (“COP”), Section 5.3 Lighting and Marking.

In a previous Round Up, it was reported that due to waves and the curvature of the earth, it is very unlikely that these yellow navigation lights would be seen from the beach.

From the COP:

- “Atlantic Shores expects to include . . . yellow flashing lights on each foundation that are visible in all directions . . .”
- “[T]he marine navigation lights on structures along the perimeter of the wind farm will be visible at a range of three to five nautical miles (3.5 – 5.75 miles) depending on the structure’s location; lights on interior structures will be visible at wind turbines at a range of two nautical miles (2.3 miles).”
- “Additional information about marine navigation lighting and marking can be found in Navigation Safety Risk Assessment” in the COP in Appendix II-S.
- This photo shows what yellow navigational lighting looks like on the base of some offshore wind turbines at night.⁴



Access the Lighting and Marking section and the entire COP by clicking on this link
[https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Atlantic Shores South Volume I Project Description 05-01-2024.pdf](https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Atlantic%20Shores%20South%20Volume%20I%20Project%20Description%2005-01-2024.pdf)

⁴ *From Sabik Offshore’s website:* “Sabik Offshore has been providing aids to navigation and safety lighting for over 20 years. With our knowledge of systems design and aids to navigation, our products and solutions have been developed specifically for the offshore wind industry. We have a wealth of experience in marking offshore wind farms and we pride ourselves to have earned the trust of our many customers to expand globally with them. <https://sabik-offshore.com/about/>

UPDATE ON LAWSUITS FILED AGAINST ATLANTIC SHORES SOUTH

Re: Federal Consistency Certification. On April 1, the NJ Department of Environmental Protection (“DEP”) announced that it had issued a **Federal Consistency Certification** of Atlantic Shores South.

In its **press release** emailed to those who have requested to be on its distribution list, the DEP said that the **decision was “based upon information** contained in BOEM’s Draft Environmental Impact Statement (DEIS), ASOW’s Construction and Operations Plan (COP), and ASOW’s commitments to undertake construction and operation measures intended to avoid, minimize, and mitigate the reasonably foreseeable effects associated with the Projects consistent with [specific NJ regulations].”

On May 20, The Asbury Park Press reported that attorneys at the same law firm⁵ who had, on behalf of their clients, submitted comments to the NJ Board of Public Utilities referred to above, had also filed three **documents in the court system** on behalf of the same clients.

From The Asbury Park Press:

“Attorneys for the law firm . . . filed **two appeals and one motion** this week targeting the New Jersey Department of Environmental Protection's approval of part of the Atlantic Shores Offshore Wind project. The law firm represents Long Beach Township, Beach Haven, Ship Bottom, Barnegat Light, Surf City, Harvey Cedars, Brigantine Beach and Ventnor City.”

The Asbury Park Press article mentioned that in April, a **consistency certification had been granted to Atlantic Shores South** and explained that “[the] certificate asserts that construction activity in federally-regulated water along the Jersey Shore is consistent with state environmental regulations.”

The appeals and motion were filed to appeal “the DEP’s issuance of the consistency certification and **request a stay** until the courts have weighed in on the DEP’s actions.”

Read the full May 20th Asbury Park Press article by clicking on this link

<https://www.app.com/story/news/local/landenvironment/2024/05/20/offshore-wind-lawsuits-by-nj/>

Re: Prejudgment. In addition, activity around a lawsuit filed in December 2023 by the same eight plaintiffs is still ongoing.

⁵ Pashman Stein Walder Hayden P.C. is a law firm with 86 attorneys with five offices in Hackensack NJ, Holmdel NJ, New York City, Purchase NY and Wilmington DE.

On December 14, 2023, the Asbury Park Press (“APP”) reported that a lawsuit had been filed in Superior Court, Mercer County, earlier that month.

From the APP article:

“In the lawsuit, they said the New Jersey Department of Environmental Protection ‘prejudged’ offshore wind projects under pressure from Gov. Phil Murphy.

The state department acted to ‘advance the Governor’s ambitious wind-energy policy directives rather than serve as an impartial arbiter of the facts and law,’ according to the lawsuit filed by the towns.”

Read the full December 14th article here

<https://www.app.com/story/news/local/land-environment/2023/12/14/nj-offshore-wind-projects-dep-lawsuit/71893711007/>

The APP **published an update on May 20:**

“ . . . the eight towns are also making a second attempt to have their arguments heard by an independent administrative law judge. In December, attorneys for the municipalities filed a lawsuit and argued that the Department of Environmental was biased by pressure from Gov. Phil Murphy to push through approvals for offshore wind projects. The earlier case was dismissed when the court said the towns lacked standing, the attorneys said.”

Access the full APP May 20th article by clicking on this link

https://www.app.com/story/news/local/land-environment/2024/05/20/offshore-wind-lawsuits-by-nj/73733630007/?utm_source=asburyparkpress-dailybriefing-strada&utm_medium=email&utm_campaign=dailybriefing-headline-stack&utm_term=Content List - Stacking - optimized&utm_content=papp-asburypark-letter65

Re: Environmental Impact. Numerous news sources, including *The Sandpaper*, reported that three local groups have sued the NJ Department of Environmental Protection (“NJDEP”).

From the May 8 article in The Sandpaper:

“Saying the current scope of the Atlantic Shores project would be fully visible from beaches; crush and destroy the seabed; interfere with the mitigation of the endangered blue whale and right whale; result in the loss of native species and cause economic damage to the state’s prime fishing grounds and tourist regions, the groups [Protect Our Coast New Jersey, Defend Brigantine Beach and Save LBI] filed suit in appellate court on April 26.”

Access the full May 8th Sandpaper article by clicking on this link

<https://www.thesandpaper.net/articles/offshore-wind-opponents-sue-njdep-over-planned-project/>

■ **RE: Jurisdiction.** Activity around a prior lawsuit, currently in appeal, is ongoing.

In April 2023, plaintiffs Save LBI and its president filed a lawsuit against the Bureau of Ocean Energy Management (“BOEM”), the Department of the Interior and their respective directors. The lawsuit claimed BOEM and the other defendants had failed to comply with the National Environmental Policy Act and the Endangered Species Act when it created the wind farm lease sites off the New Jersey coast.

On February 2024, the judge in the Federal District Court for New Jersey dismissed the plaintiffs’ claims because it found that the plaintiffs did not have standing to challenge the project. The court gave Save LBI 45 days to file an amended complaint.

The plaintiffs filed the amended complaint on March 29. The defendants filed a response on May 2 and the plaintiffs responded through their lawyer on May 9.

As of June 9, there are no further updates.

The court docket sheet is available on DocketBird by clicking on this link
<https://www.docketbird.com/court-cases/Save-Long-Beach-Island-et-al-v-United-States-Department-of-Commerce-et-al/njd-3:2023-cv-01886>

MIGRATORY BIRDS

■ **There have been several questions** regarding statements about how the turbines in the offshore wind farm would affect birds. Specifically, there was interest in knowing what kind of birds would be imperiled.

■ We could find **no information about flyways**—routes that migratory birds use to fly to and from their winter and summer destinations—that are **8 to 20 miles offshore**. Rather, all the credible sources that we found agreed that migratory birds use established flyways that are primarily over land or coastal bays because that is where the food and resting places are.

The information reported by the American Bird Conservatory (“ABC”) is consistent with information provided by similar sources.

Access the ABC article titled “Avian Superhighways: The Four Flyways of North America” by clicking on this link
<https://abcbirds.org/blog/north-american-bird-flyways/ - :~:text=Birds navigate along more or,, Central, and Pacific Flyways.>

In addition, there might be regional interest in New Jersey Audubon’s website with its links to specific Migration Watches: <https://njudubon.org/watches/>

■ If you have information about birds impacted by offshore wind turbines, please email that link to us at RoundUpLBI@gmail.com.

THE ROUND-UPS

--- This Offshore Wind Round-Up was prepared by a group of writers and researchers from Long Beach Island, New Jersey. The first Round-Up first appeared in May 2022 and it has been published every month except two since its debut.

*--- Round-Ups endeavor to periodically provide a **review of recent research efforts** in which the effects of offshore wind farms have been studied. In addition, they occasionally offer factual, **clarifying information**, in response to readers' questions and suggestions.*

*--- Research included in Round-Ups points you in the direction of the science and assumes **no point of view** one way or the other about the presence of offshore wind farms off our shore. Likewise, clarifications are provided without editorial comment; they are there for you to consider so you can **draw your own conclusions**.*

*--- **Questions** about the content of Round-Ups and **suggestions** for future topics can be directed to RoundUpLBI@gmail.com. The Round-Up research and writing team welcomes questions and comments.*

*--- Round-Ups are **distributed** to the voting representatives of the eleven member organizations of the Joint Council of Taxpayers Associations of LBI (JCTA). The board members of each member association collectively make their own decisions about how and when this information will be distributed to its members and/or the community. Most often, taxpayer associations use their regular communication platforms, such as newsletters, website postings and/or social media, to make Round-Ups **available to the public**.*