

I. Authority

This Action by Consent is taken pursuant to 980 CMR 2.07, which provides the Siting Board with the authority to render a decision, other than a final decision in an adjudicatory proceeding, by an Action by Consent, when the Board determines that expeditious action is necessary. Below, the Siting Board finds that expeditious action is necessary to provide complete information to the Supreme Judicial Court during the appeal of the Final Decision in Park City Wind LLC, EFSB 20-01/D.P.U. 20-56/20-57 (December 15, 2023).¹

II. Park City Wind Final Decision and Condition S

On December 15, 2023, the Siting Board issued a Final Decision in Park City Wind LLC, EFSB 20-01/D.P.U. 20-56/20-57 (December 15, 2023) (“Final Decision”). As part of the Final Decision, the Siting Board addressed the potential operational noise that would be produced by the proposed Substation. The Final Decision included Condition S, which reads:

The Siting Board directs the Company to provide a compliance filing, within the first 180 days of commercial operation, demonstrating that the Substation’s actual noise profile is consistent with the modeled results it has presented in this proceeding. For this Condition, “commercial operation” shall mean the date when the PCW Energy Facility is installed and capable of delivering approximately 800 MW of energy. In addition, to gain earlier visibility of the steps being taken by the Company to achieve this result, the Siting Board further directs the Company to provide a pre-construction compliance filing documenting (a) the noise profiles of the Substation equipment types listed in Exh. VW-7, 7-12, Table 7-3, when the relevant information from the equipment supplier is made available to Park City Wind, and (b) any additional noise mitigation measures, such as additional or taller sound walls, that the Company intends to take as a result. As part of this process, the Company shall communicate with Jacqueline Johnson about additional noise mitigation measures and attempt to reach consensus.

Final Decision at 154, 228.

On December 20, 2023, Jacqueline Johnson, an abutter to the proposed Substation, filed an appeal of the Siting Board’s Final Decision before the Supreme Judicial Court. SJC 13622. The appeal contests the Siting Board’s findings regarding potential operational noise at the Substation. On August 15, 2024, Ms. Johnson filed a brief in the appeal. In that brief at page 13, item 23, Ms. Johnson notes that Condition S requires pre-construction compliance related to equipment referenced in Exhibit VW-7, at 7-12, Table 7-3, when there is additional equipment that should also be referenced (specifically from Exhibit VW-7, at 7-13, Table 7-4). Tables 7-3 and 7-4 identify equipment that would produce operational noise at the Substation.

¹ The Siting Board’s brief is due to be filed with the Supreme Judicial Court on September 25, 2024.

The Siting Board proposes to correct this inadvertent omission.² The Siting Board intended for Condition S to apply to all noise producing equipment at the Substation, including equipment listed in Exhibit VW-7, at 7-13, Table 7-4. In fact, Condition S described the need for the Company to “demonstrat[e] that the Onshore Substation’s actual noise profile is consistent with the modeled results it has presenting in this proceeding.” Final Decision at 154. The Final Decision analysis that precedes, and therefore informs, Condition S also directly references the pages in Exhibit VW-7 that contain both Tables 7-3 and 7-4. Final Decision at 153. This clarification does not modify Exhibit VW-7, which was introduced on March 19, 2021. In sum, the Siting Board proposes to clarify that Condition S should reference both Tables 7-3 and 7-4 of Exhibit VW-7, which is consistent with the broad language of the condition and the numerous references to noise reduction design considerations in the Final Decision. See Final Decision at 153-154.

III. Decision

The Siting Board’s regulations authorize the Siting Board to render any decision (except final decisions in an adjudicatory proceeding) by issuing an Action by Consent if the Siting Board, in its discretion, “determines that expeditious action is necessary.” 980 CMR 2.07(1). Under the Siting Board’s regulations, a proposed Action by Consent shall be deemed to have been taken when the document and copies bearing the signatures of all Siting Board members are returned to the Chair. A proposed Action by Consent shall become void if it does not receive all required signatures before the beginning of any meeting of the Siting Board held pursuant to 980 CMR 2.07. The Siting Board finds that expeditious action is necessary to provide complete information to the Supreme Judicial Court during the appeal of the Final Decision in Park City Wind LLC, EFSB 20-01/D.P.U. 20-56/20-57 (December 15, 2023). Accordingly, as provided by 980 CMR 2.07, the Siting Board issues this Action by Consent. Upon signature of each member of the Siting Board, this Action by Consent shall be delivered to the Chair and posted on the website of the Siting Board.

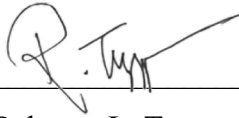
Condition S in the Final Decision shall be replaced with the following language (changes emphasized):

The Siting Board directs the Company to provide a compliance filing, within the first 180 days of commercial operation, demonstrating that the Substation’s actual noise profile is consistent with the modeled results it has presented in this proceeding. For this Condition, “commercial operation” shall mean the date when the PCW Energy Facility is installed and capable of delivering approximately 800 MW of energy. In addition, to gain earlier visibility of the steps being taken by the Company to achieve this result, the Siting Board further directs the Company to provide a pre-construction compliance filing documenting (a) the noise profiles of the Substation equipment types listed in Exh. VW-7, 7-12 to 7-13, Tables 7-3 and 7-4, when the relevant information from the equipment supplier is made available to Park City Wind, and (b) any additional noise mitigation

² The Siting Board notes that no parties commented on this omission when the Tentative Decision was issued November 22, 2023, or during the Board meeting on December 11, 2023.

measures, such as additional or taller sound walls, that the Company intends to take as a result. As part of this process, the Company shall communicate with Jacqueline Johnson about additional noise mitigation measures and attempt to reach consensus.

Signed:



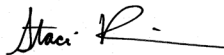
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Rebecca L. Tepper, Secretary of the Executive Office of Energy and Environmental Affairs and Chair, Energy Facilities Siting Board;



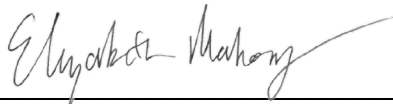
date: 9/13/24

James M. Van Nostrand, Chair, Department of Public Utilities;



date: 9/13/24

Staci Rubin, Commissioner of the Department of Public Utilities;



date: 9/18/24

Elizabeth Mahony, Commissioner of the Department of Energy Resources;



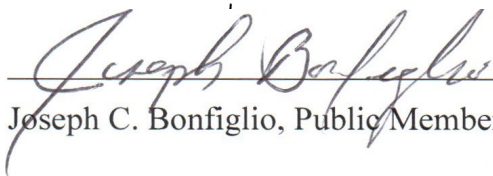
date: 9/12/2024

Bonnie Heiple, Commissioner, Department of Environmental Protection;



date: 9/13/24

Jonathan Cosco, General Counsel and designee for the Secretary of the Executive Office of Economic Development;



date: 9/16/2024

Joseph C. Bonfiglio, Public Member;



date: 9/16/24

Greg Watson, Public Member.