



ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re US Wind Inc. – Maryland Offshore Wind Project
Maryland Permit-to-Construct No. 047-0248; PSD Approval No. PSD-2024-01; NSR Approval No. NSR-2024-01
OCS Appeal No. 25-01

ORDER STAYING DEADLINES AND HOLDING MATTER IN ABEYANCE
PENDING RESOLUTION OF INTERLOCUTORY JUDICIAL REVIEW

February 24, 2026

Before Environmental Appeals Judges Aaron P. Avila and Ammie Roseman-Orr.

Per Curiam:

Currently before the Environmental Appeals Board are two motions requesting a stay of the Board’s January 13, 2026 Order Setting Deadline to Reissue Notice and Briefing Schedule. MDE’s Motion for Abeyance of Proceedings and Stay of Order Requiring Republication of Notice (Feb. 6, 2026) (“MDE Mot.”); US Wind, Inc.’s Motion to Hold Case in Abeyance and Stay Order Requiring Republication of Notice (Feb. 9, 2026) (“US Wind Mot.”). Movants also request that the Board hold the proceedings in the above-captioned matter in abeyance until the United States Court of Appeals for the Fourth Circuit disposes of the pending petitions seeking review of the Board’s December 16, 2025 Order Affirming Jurisdiction that were filed by US Wind, Inc. and the Maryland Department of Environment (“MDE”). MDE Mot. at 1; US Wind

Mot. at 1. MDE and US Wind maintain that a pause in these proceedings is appropriate because: (1) the question before the Fourth Circuit is directly relevant to whether to the Board has jurisdiction to resolve the challenges to the Outer Continental Shelf permit matter or whether the matter would be properly adjudicated in Maryland state court; (2) it would avoid irreparable harm by decreasing the time and litigation costs for all parties; and (3) it would also avoid unwarranted petitions and expansion of the number of issues before the Board. *See generally* MDE Mot. at 2-4; US Wind Mot. at 3-4.

Petitioners (the Mayor and City Council of Ocean City and the Commissioners of Worcester County, Maryland) oppose the motions. Petitioners' Opposition to Motions for Abeyance of Proceedings and Stay of Order Requiring Republication of Notice (Feb. 17, 2026). According to Petitioners, the proper course of action is for the Board to proceed unless and until a court issues a binding directive. *Id.* at 3. They add that an interlocutory appeal does not justify halting administrative proceedings, and that proceeding here promotes efficiency. *Id.* at 3-4. Lastly, they contend that movants have not shown irreparable harm, and that "continued delay prejudices Ocean City and the public by deferring resolution of the merits." *Id.* at 5-6.

Upon consideration, the Board determines that under the circumstances of this matter principles of judicial and administrative economy counsel in favor of the stay. *See* 40 C.F.R. § 124.19(n). Moreover, we are not persuaded by Petitioners' contention that a stay of proceedings will prejudice Ocean City and the public given that, as MDE acknowledges, the OCS permit being challenged is stayed and will remain stayed during the pendency of Board review. *See* MDE Mot. at 4 (stating "the OCS Permits are stayed during the appeal process"). Accordingly, the Board's January 13, 2026 Order Setting Deadline to Reissue Notice and Briefing Schedule is hereby stayed, and the above-captioned matter is held in abeyance until

such time as the Fourth Circuit issues an order or decision disposing of the petitions for review that US Wind Inc. and MDE filed in that court.

So ordered.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Staying Deadlines and Holding Matter in Abeyance Pending Resolution of Interlocutory Judicial Review* in the matter of US Wind Inc. – Maryland Offshore Wind Project, OCS Appeal No. 25-01, were sent to the following persons on February 24, 2026, in the manner indicated:

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