

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

**NOTICE OF ADJUDICATION
NOTICE OF ADJUCATORY HEARING**

EFSB 19-05

Notice is hereby given that, Vineyard Wind LLC (“Vineyard Wind” or the “Company”), 700 Pleasant Street, Suite 510, New Bedford, Massachusetts 02740, has filed, pursuant to G.L. c. 164, §§ 69K-69O, with the Energy Facilities Siting Board (the “Siting Board”) on **July 24, 2019** an Initial Petition and an Application for a Certificate of Environmental Impact and Public Interest (“Certificate”) with respect to the Vineyard Wind Connector, which was originally approved by the Siting Board on May 10, 2019, in Vineyard Wind LLC, EFSB 17-05/D.P.U. 18-18/18-19 (2019). The Vineyard Wind Connector (the “Project”) involves the installation of the following elements: (1) the portions of two 220 kilovolt (“kV”) offshore underwater transmission cables within state waters, each approximately 21 to 23 miles long, which will pass through waters offshore from Nantucket, Edgartown, and Barnstable; (2) two 220 kV onshore underground transmission circuits in the Town of Barnstable beginning at a landfall site at Covell’s Beach and proceeding under existing roadways approximately 5.3 miles to a previously developed parcel within the Independence Park commercial/industrial area at 40 Communication Way in Barnstable; (3) a 220 kV/115 kV electrical substation located at 40 Communication Way in Barnstable; and (4) approximately 0.1 mile 115 kV underground transmission lines between the new electrical substation and NSTAR Electric Company d/b/a Eversource Energy’s existing Barnstable Switching Station. The purpose of the Project is to interconnect a proposed offshore wind turbine array located in federal waters to the electric grid in New England. In this adjudication, the Siting Board will review Vineyard Wind’s Initial Petition and Application, which were filed together on July 24, 2019.

The Application asks the Siting Board to issue, in the form of a composite permit, the following approvals for the Project:

1. A final approval that is the equivalent of an Order of Conditions under Chapter 237 of the Barnstable General Ordinances (the Barnstable Wetlands Bylaw), ordinarily issued by the Barnstable Conservation Commission;
2. A final approval that is the equivalent of an Order of Conditions under the Wetlands Protection Act, G.L. c. 131, § 40 and 310 CMR 10.00, applicable to work in the Town of Barnstable, ordinarily issued by the Barnstable Conservation Commission or the Department of Environmental Protection;
3. A final approval that is the equivalent of an Order of Conditions under the Wetlands Protection Act, G.L. c. 131, § 40 and 310 CMR 10.00, applicable to work in the Town of Edgartown, ordinarily issued by the Edgartown Conservation Commission or the Department of Environmental Protection;

4. A final approval that is the equivalent of a Chapter 91 License/Permit and Section 401 Water Quality Certification, pursuant to G.L. c. 91 (the Public Waterfront Act) and implementing regulations at 310 CMR 9.00, and the Massachusetts Clean Waters Act, G.L. c. 21, §§ 26 through 53 (administering Section 401 of the federal Clean Water Act, 33 U.S.C. § 1251) and implementing regulations at 314 CMR 9.00, ordinarily issued by the Department of Environmental Protection;
5. A final approval that is the equivalent of a Non-Vehicular Access Permit to access state highways for the Project pursuant to G.L. c. 81, § 21, and G.L. c. 85, § 2; 720 CMR 13.00, ordinarily issued by the Massachusetts Department of Transportation, Highway Division;
6. A final approval that is the equivalent of a Grant(s) of Location in public ways for the portion of the Project located in public ways in the Town of Barnstable, pursuant to G.L. c. 166, §§ 21, 22, ordinarily issued by the Barnstable Town Manager;
7. A final approval that is the equivalent of Road Opening/Trench Permit(s) in the Town of Barnstable, pursuant to G.L. c. 82A; 520 CMR 14.00; and Chapter 404 of Barnstable's General Bylaws, ordinarily issued by the Town of Barnstable Department of Public Works;
8. A final approval that is the equivalent of a Building Permit(s) for the Project under Chapter 47 of the Barnstable General Ordinances and 780 CMR 1.00 et seq., ordinarily issued by the Town of Barnstable Inspectional Services Department.

Procedural Deadlines

Those persons wishing to participate in this proceeding and/or comment on the Initial Petition and Application, are advised of the following procedural dates and deadlines in the Siting Board's review of this matter:

- **July 24, 2019:** Vineyard Wind filed its Initial Petition and Application.
- **August 9, 2019:** Vineyard Wind to serve this Notice consistent with Siting Board direction.
- **No later than September 16, 2019:** Persons wishing to be admitted as a party to the proceeding must file a Petition to Intervene, and persons wishing limited participant status must file a Petition for Limited Participant status, with the Siting Board. Petitions must satisfy the timing and substantive requirements of 980 CMR 1.05, the Siting Board's procedural rules, which can be found on the Siting Board's website at: <https://www.mass.gov/how-to/file-a-petition-to-intervene-in-an-efsb-or-dpu-siting-case>
Persons that were previously granted intervenor or limited-participant status in the underlying Petition to Construct proceeding, EFSB 17-05/D.P.U. 18-18/18-19, are automatically granted the same status in this proceeding without need of a new petition.
- **No later than September 16, 2019:** Persons wishing to submit written comments must file such comments with the Siting Board, also by

Petitions to Intervene or Petitions for Limited Participant status and written comments must be: (1) filed in hard copy with the Siting Board at the address below; and (2) served upon Vineyard Wind's counsel, Adam P. Kahn, Esq. and Zachary Gerson, Esq., Foley Hoag LLP, 155 Seaport Boulevard, Boston, MA 02210, at the same time as they are filed with the Siting Board. In addition, Petitions to Intervene or Participate and written comments must also be filed with: (1) the Siting Board in electronic format, by e-mail attachment to dpu.efiling@mass.gov; and Kathryn.Sedor@mass.gov; and (2) Vineyard Wind's counsel, Mr. Kahn and Mr. Gerson, at akahn@foleyhoag.com and zgeron@foleyhoag.com. The text of the e-mail must specify: (1) the docket number of the proceeding (EFSB 19-05); (2) the name of the person or entity submitting the filing; and (3) a brief description of the document. The electronic filing should also include the name, title, telephone number, and e-mail address of a person to contact in the event of questions about the filing.

- **September 23, 2019: Deadline for persons granted party status to issue written Information Requests to Vineyard Wind.**
- **October 15 and 16, 2019: The Siting Board will conduct an adjudicatory hearing to review Vineyard Wind's Initial Petition and Application, beginning at 10:00 am in Hearing Room A at the offices of the Energy Facilities Siting Board, One South Station, Boston, Massachusetts, 02110.**

Description of the Project

The Project, as previously approved by the Siting Board in EFSB 17-05/D.P.U. 18-18/18-19 on May 10, 2019, includes offshore cables installed within a corridor that enters state waters near Wasque Shoal off Martha's Vineyard and passes between Martha's Vineyard and Nantucket Island via Muskeget Channel along one of two routes, a western route, which travels through the channel itself, and an eastern route, which would avoid the scoured channel. After exiting Muskeget Channel, the corridor continues northward along the west side of Hawes Shoal before passing through federal waters in Nantucket Sound west of Horseshoe Shoal, then reenters state waters roughly seven miles southwest of Covell's Beach and proceeds to a landfall site located in a transition vault under a large paved parking lot at Covell's Beach in Barnstable. The total length of the offshore route from its initial entry into state waters is approximately 37.5 to 39.4 miles (20.9 to 22.6 miles within state waters), depending on the route through Muskeget Channel. From the Covell's Beach parking lot, the route proceeds easterly on Craigville Beach Road for approximately 0.6 miles before turning north on Strawberry Hill Road for approximately 1.5 miles then merging with Wequaquet Lane, continuing northeasterly to Phinneys Lane, then turning easterly onto Attucks Lane, following Attucks Lane to Independence Drive, and continuing on Independence Drive until it turns north into the substation site at 40 Communication Way in Barnstable. The Substation will be located on the eastern portion of an approximately 13.1-acre parcel, at 40 Communication Way, within the Independence Park commercial/industrial area. Approximately 0.1 miles of 115 kV transmission cables connect the new Substation to the adjacent existing Barnstable Switching Station. The total length of the onshore portion of the route is approximately 5.3 miles.

Initial Petition and Application

Vineyard Wind has stated that it is unable to construct the Project because, on June 7, 2019, Mark Akselson, as trustee for the Charles Akselrad Revocable Trust, appealed the issuance of an Order of Conditions that had been issued by the Barnstable Conservation Commission under the Wetlands Protection Act and the Barnstable Wetlands Bylaw, resulting in an undue delay of the issuance of a final approval and preventing the Department of Environmental Protection from issuing a Chapter 91 License/Permit for the Project, causing further undue delay. Vineyard Wind has also stated that it is unable to construct the Project because, on July 18, 2019, the Edgartown Conservation Commission denied the Project an Order of Conditions under the state Wetlands Protection Act, further resulting in an undue delay of the issuance of a final approval, preventing the Department of Environmental Protection from issuing a Chapter 91 License/Permit for the Project, and preventing construction of the Project. According to Vineyard Wind, the exercise of the Siting Board's Certificate authority is necessary in order for the Project to be constructed as previously approved by the Siting Board. Vineyard Wind has also asserted that it has made good-faith efforts to obtain the remaining permits necessary for the Project, but that, as of the date of this Notice, Vineyard Wind has not yet obtained requisite Orders of Conditions, a Chapter 91 License/Permit and Section 401 Water Quality Certification, Non-Vehicular Access Permits for access to state highways, Grants of Location in public ways in Barnstable, Road Opening Permits for roadwork in Barnstable, or Building Permits for construction in Barnstable and/or those approvals, when obtained, may remain subject to potential appeal. Consequently, Vineyard Wind has requested that, pursuant to G.L. c. 164, §§ 69K-69O, the Siting Board issue the Certificate in the form of a composite of all individual permits, approvals or authorizations that would otherwise be necessary for the construction and operation of the Project in Nantucket, Edgartown, and Barnstable, as requested in the Certificate Application and listed above. Vineyard Wind does not request that the Certificate include final, non-appealable permits, approvals, or authorizations that have been previously issued.

On July 24, 2019, Vineyard Wind filed an Initial Petition and an Application for a Certificate with the Siting Board along with a request that the Siting Board accept the Application for filing and allow for notice and service to be provided subsequent to that filing. On July 31, 2019, the chairperson of the Siting Board issued a Determination providing that the Siting Board would: (1) accept Vineyard Wind's Initial Petition for a Certificate; (2) consolidate Vineyard Wind's Initial Petition with its Application; (3) defer a decision on the merits of the Initial Petition; and (4) adjudicate Vineyard Wind's Initial Petition and Application concurrently.

During the course of this proceeding, the Siting Board will determine whether Vineyard Wind is prevented from constructing the Project because: (1) it cannot meet standards imposed by a state or local agency with commercially available equipment; (2) the processing or granting by a state or local agency of any permit has been unduly delayed for any reason; (3) there are inconsistencies among resource use permits issued for the Project; (4) a non-regulatory issue or condition has been raised or imposed by a state or local agency; (5) a state or local agency has imposed a burdensome condition or limitation that has a substantial impact on the Siting Board's responsibilities as set forth in G.L. c. 164, § 69H; or (6) the facility cannot be constructed due to disapproval, condition, or denial by a local government. See G.L. c. 164, § 69K.

The Siting Board will further make findings, as required by G.L. c. 164, § 69O, with respect to: (1) the need for the facility to meet the energy requirements of the applicant's market area taking into account wholesale bulk power or gas sales or purchases or other co-operative arrangements with other utilities and energy policies as adopted by the Commonwealth; (2) the compatibility of the facility with considerations of environmental protection, public health, and public safety; (3) the extent to which construction and operation of the facility will fail to conform with existing state and local laws, ordinances, by-laws, rules, and regulations and reasonableness of exemption thereunder, if any, consistent with the implementation of the energy policies contained in G.L. c. 164 to provide a necessary energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost; and (4) the public interest, convenience and necessity requiring construction and operation of the facility. See G.L. c. 164, § 69O.

A copy of the Initial Petition and Application may be inspected at the following locations:

- Energy Facilities Siting Board, One South Station, Boston, MA 02110;
- Barnstable Town Clerk's Office, Barnstable Town Hall, 367 Main Street, Hyannis, MA 02601;
- Edgartown Town Clerk's Office, Town Hall, 1st Floor, 70 Main Street, Edgartown 02539;
- Nantucket Town Clerk's Office, 16 Broad St., Nantucket, MA 02554;
- Hyannis Public Library, 401 Main Street, Hyannis, MA 02601;
- Edgartown Public Library, 26 Edgartown Road, Edgartown, MA 02539;
- Nantucket Athenaeum Library, 1 India Street, Nantucket, MA 02554.

The documents for this proceeding may also be accessed on the Siting Board's website at: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/EFSB19-05>. Documents from the underlying proceeding, Vineyard Wind LLC, EFSB 17-05/D.P.U. 18-18/18-19, can also be accessed on the Siting Board's website at: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/EFSB19-05>.

Any person desiring additional information regarding the Notice, including information regarding intervention or participation in the proceeding should contact the Siting Board through the Presiding Officer at the following address:

M. Kathryn Sedor, Presiding Officer
Energy Facilities Siting Board
One South Station
Boston, Massachusetts 02110
(617) 305-3791
Kathryn.Sedor@mass.gov