

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

Petition of Vineyard Wind LLC Pursuant to G.L. c. 164, § 72 for Approval to Construct, Operate, and Maintain Transmission Lines in Massachusetts for the Delivery of Energy from an Offshore Wind Energy Facility Located in Federal Waters to an NSTAR Electric (d/b/a Eversource Energy) Substation Located in the Town of Barnstable, Massachusetts)	
)	D.P.U. 20-57

PETITION OF VINEYARD WIND LLC FOR APPROVAL OF NEW TRANSMISSION LINES PURSUANT TO G.L. c. 164, § 72

I. INTRODUCTION

Vineyard Wind LLC (“Vineyard Wind”) hereby petitions the Department of Public Utilities (the “Department”) for a determination that, pursuant to G.L. c. 164, § 72 (“Section 72”), Vineyard Wind’s proposal to construct, operate, and maintain an approximately 27-mile, 220- or 275-kilovolt (“kV”) combined offshore/onshore underground electric transmission line from the boundary with federal waters south of Muskeget Channel to a new substation to be located off Shootflying Hill Road in the Town of Barnstable (the “Onshore Substation”)¹ and a new, approximately 0.7-mile, 345-kV, underground, onshore transmission line between the Onshore Substation and NSTAR Electric Company’s existing West Barnstable Substation in the Town of Barnstable, referred to herein collectively as the “New Lines,” is necessary, serves the public convenience, and is consistent with the public interest (the “Section 72 Petition”). The New Lines and the Onshore Substation are, together, referred to as the “Vineyard Wind

¹ Approximately 23 miles of this line will consist of two three-core cables with fiber optics located offshore in state waters (the “Offshore Export Cable”) and approximately 4 miles of the line will be located onshore and consist of six export cables (three circuits) encased in a concrete duct bank (the “Onshore Export Cable”).

Connector 2” or the “Project.” The Vineyard Wind Connector 2 is the Massachusetts-jurisdictional elements of “Park City Wind” – an approximately 800-megawatt (“MW”) wind energy generation facility under development by Vineyard Wind, which includes wind turbine generators (“WTGs”) located in federal waters within Bureau of Ocean Energy Management (“BOEM”) Lease Area OCS-A-0501 (the “Lease Area”).

Vineyard Wind is in the process of permitting the onshore and offshore facilities necessary to interconnect Park City Wind to the New England electric grid. The Vineyard Wind Connector 2, including the New Lines, is necessary to interconnect Park City Wind to the New England electric grid and thereby realize the public benefits associated with offshore wind generation while minimizing environmental and other impacts and contributing to a reliable energy supply.

Vineyard Wind states the following in support of this Petition:

1. Vineyard Wind is a Delaware limited liability company registered in the Commonwealth of Massachusetts. Its principal place of business is 700 Pleasant Street, Suite 510, New Bedford, MA 02740. Vineyard Wind is entitled to petition the Department for authority to construct and use a line for the transmission of electricity under Section 72.
2. Vineyard Wind is represented, for the purposes of this petition, by Adam P. Kahn, Esq., Tad Heuer, Esq., Zachary Gerson, Esq., and Aaron Lang, Esq., Foley Hoag LLP, 155 Seaport Boulevard, Boston, MA 02210.
3. The New Lines satisfy the Department’s standards under Section 72 because they are needed to interconnect the Park City Wind WTGs to the New England electric grid and will serve the public interest by delivering approximately 800 MW of offshore wind generation to the

New England electric grid, thus making a substantial contribution to meeting individual New England state renewable energy requirements.

4. Vineyard Wind is constructing Park City Wind and the Vineyard Wind Connector 2 in response to a solicitation issued by the Connecticut Department of Energy and Environmental Protection (“DEEP”) pursuant to Connecticut legislation calling for the procurement of up to 2,000 MW of offshore wind energy by 2030. *See An Act Concerning the Procurement of Energy Derived from Offshore Wind*, Public Act 19-71. Similar to Section 83C of the Green Communities Act (St. 2008, c. 169, § 83C, as amended) in Massachusetts, Public Act 19-71 is intended to ensure a diversified electrical energy portfolio for Connecticut while reducing greenhouse gas emissions and strengthening the region’s clean energy economy – in particular, by supporting the development of an offshore wind industry in the region.

5. The Vineyard Wind Connector 2 will also serve the public interest by providing electricity, capacity, reliability, resource diversity and other benefits associated with developing and interconnecting offshore wind generation to the New England electric grid and by reducing regional greenhouse gas emissions. In particular, the Project will support the policies of Connecticut, Massachusetts, and other New England states, including those advanced by the Commonwealth’s 2008 Global Warming Solutions Act, St. 2008, c. 298, as amended, and Connecticut’s Act Concerning Global Warming Solutions, Public Act 08-98, both of which call for significant reductions in greenhouse gas emissions.

6. Simultaneously herewith, Vineyard Wind is also filing: (a) a petition with the Energy Facilities Siting Board (the “Siting Board”) requesting approval for the construction of the Vineyard Wind Connector 2 pursuant to G.L. c. 164, § 69J (the “Section 69J Petition”) (EFSB 20-01); (b) a petition to the Department pursuant to G.L. c. 40A, § 3 requesting specific

and comprehensive zoning exemptions from the *Zoning Ordinance of the Town of Barnstable* (the “Zoning Petition”) (D.P.U. 20-56); and (c) motions with the Department and the Siting Board requesting that the Department refer this Section 72 Petition and the Zoning Petition to the Siting Board and that the Siting Board consolidate the Section 69J Petition, the Section 72 Petition, and the Zoning Petition for its review. *See* G.L. c. 25, § 4; G.L. c. 164, § 69H(2).

7. The Section 69J Petition includes, as Attachment A, a document titled “Vineyard Wind Connector 2: Analysis to Support Petition Before the Energy Facilities Siting Board” (the “Analysis”), which describes the Vineyard Wind Connector 2 in detail and provides factual bases for Vineyard Wind’s conclusions that the Vineyard Wind Connector 2 meets the standards applied by the Siting Board under G.L. c. 164, §§ 69J and 72, and G.L. c. 40A, §3.

II. STANDARD OF REVIEW

8. Section 72 provides that

Any electric company, distribution company, generation company, or transmission company or any other entity providing or seeking to provide transmission service may petition the department for authority to construct and use . . . a line for the transmission of electricity for distribution in some definite area or for supplying electricity to itself or to another electric company or to a municipal lighting plant for distribution and sale . . . and shall represent that such line will or does serve the public convenience and is consistent with the public interest. . . . The department, after notice and a public hearing in one or more of the towns affected, may determine that said line is necessary for the purpose alleged, and will serve the public convenience and is consistent with the public interest.

G.L. c. 164, § 72.

9. “The Department, in making a determination under G.L. c. 164, § 72, considers all aspects of the public interest.” *See Vineyard Wind LLC*, EFSB 17-05/D.P.U. 18-18/18-19, at 157 (May 10, 2019) (“*Vineyard Wind I*”).

10. “In evaluating petitions filed under G.L. c. 164, § 72, the Department examines: (1) the need for, or public benefits of, the present or proposed use; (2) the environmental impacts

or any other impacts of the present or proposed use; and (3) the present or proposed use and any alternatives identified.” *Id.* at 157.

11. “The Department then balances the interests of the general public against the local interests and determines whether the line is necessary for the purpose alleged and will serve the public convenience and is consistent with the public interest.” *Vineyard Wind I* at 157. In assessing the public interest, the Department undertakes “a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [an] examination of the local and individual interests which might be affected.” *Vineyard Wind I* at 136; *New York Central Railroad v. Department of Pub. Utils.*, 347 Mass. 586, 592 (1964) (addressing consideration of the public interest under G.L. c. 40A); *NSTAR Elec. Co.*, EFSB 14-2/D.P.U. 14-73/14-74, at 92 (quoting same). Further, “[w]ith respect to the particular site chosen by a petitioner, [considering the public convenience or welfare under G.L. c. 40A, § 3] does not require the petitioner to demonstrate that its primary site is the best possible alternative, nor does the statute require the Department to consider and reject every possible alternative” *Vineyard Wind I* at 137 n.136; *NSTAR Elec. Co.*, EFSB 14-2/D.P.U. 14-73/14-74, at 92 (citing *Martarano v. Dep’t of Pub. Utils.*, 401 Mass. 257, 265 (1987); *New York Central Railroad*, 347 Mass. at 591).²

12. Vineyard Wind incorporates its Section 69J Petition, including the Analysis and all exhibits and attachments, and its Zoning Petition, including all exhibits and attachments, herein by reference as a part of this Section 72 Petition.³ The Vineyard Wind Connector 2 is

² Department precedent provides that the public interest analysis required by G. L. c. 164, § 72 is analogous to the Department’s analysis for the “reasonably necessary for the convenience or the welfare of the public” standard under G.L. c. 40A, § 3. *Boston Edison Co.*, EFSB 04-1/D.T.E. 04-5/D.T.E. 04-7, at 163 (2005); *Russell Biomass, LLC*, EFSB 07-4/D.P.U. 07-35/07-36, at 55-56.

³ In light of the motions filed herewith requesting that the Department refer this Section 72 Petition and the Zoning Petition to the Siting Board for consolidation with the 69J Petition, Vineyard Wind has not filed a copy of its Section 69J Petition herewith. Vineyard Wind requests that the Department, to the extent necessary, consider the Section

more particularly described in Section 1.0 of the Analysis. The Analysis provides the factual basis for Vineyard Wind's conclusion that the Vineyard Wind Connector 2 meets the standards applied by the Siting Board under G.L. c. 164, §§ 69J and 72 and G.L. c. 40A, § 3, is necessary, provides public benefits, appropriately balances and minimizes environmental and other impacts, and is superior to alternatives.

13. Section 2.0 of the Analysis provides information regarding the need for the Vineyard Wind Connector 2. The primary purpose of the Vineyard Wind Connector 2 is to bring offshore wind generation to the New England electric grid consistent with Connecticut and Massachusetts legislation and policy. As described more fully in the Analysis, the existing transmission system is inadequate to connect Park City Wind to the electric grid in New England. The Vineyard Wind Connector 2 would address that need by providing a reliable means to bring electricity from Park City Wind to the New England electric grid. As also described in the Analysis, the generation component of Park City Wind is not subject to the Siting Board's jurisdiction. *See Vineyard Wind I at 2; Russell Biomass, LLC, EFSB 07-4/DPU 07-35/07-36, at 7.* Park City Wind's generation component is likely to be available to contribute to the regional energy supply for several reasons, as set out in more detail in Section 2.0 of the Analysis. For instance, Park City Wind is consistent with and supported by state and federal policies, and it is being developed in conjunction with those policies, particularly BOEM's lease of the Lease Area, Connecticut Public Act 19-71, which embodies a legislative determination that facilities such as Park City Wind are needed, provide significant benefits, and must be constructed. Park City Wind was selected by DEEP for procurement pursuant to a solicitation

69J Petition, including the Analysis, which has been docketed as EFSB 20-01, pursuant to 220 C.M.R. § 1.10(3). Vineyard Wind will file additional copies of the Section 69J Petition upon request.

under Public Act 19-71, and Vineyard Wind has executed power purchase agreements (“PPAs”) with the Connecticut electric distribution companies consistent with Public Act 19-71, which were filed with Connecticut Public Utilities Regulatory Authority on May 21, 2020.

14. Vineyard Wind identified and considered potential alternatives for addressing the identified need. In evaluating alternatives, Vineyard Wind considered issues relating to the reliability, complexity, cost, and the time required to implement them in order to address the identified need in an efficient, reliable, and long-lasting manner while balancing issues of cost and environmental impacts. Alternative approaches considered by Vineyard Wind included: (1) a no-build alternative and non-transmission alternatives; (2) alternative cable technologies; and (3) alternative interconnection locations and transmission routes, including the possibility of pursuing multiple interconnection points. Vineyard Wind also conducted a rigorous analysis to identify a preferred route and a noticed alternative, which included an evaluation of environmental impacts, reliability, and cost of various potential routes. The project alternatives and routing alternatives considered are described in Sections 3.0 and 4.0 of the Analysis. Vineyard Wind’s route analysis resulted in the selection of a Preferred Route, a Noticed Alternative, and several Variants, which are described and compared in Section 5.0 of the Analysis.

15. Vineyard Wind conducted detailed analyses of the environmental impacts of the Vineyard Wind Connector 2, identified the relevant impacts, and proposed measures to minimize impacts associated with the construction and operation of the Vineyard Wind Connector 2. The Analysis provides detailed information about the minimization of impacts in Section 5.0.

16. Consistent with the requirements of Section 72, and in support of this Petition, a description of the Vineyard Wind Connector 2 and an estimate of cost differences among routing

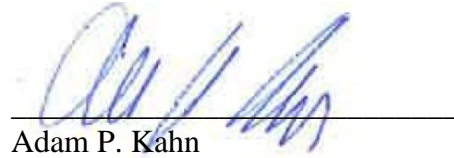
alternatives are included in the Analysis. The Department's Section 72 Checklist is provided as Attachment 1 to this Petition. A draft hearing notice (including an electronic version in MS Word format) is being provided with the Section 69J Petition filed in EFSB 20-01. That draft hearing notice addresses the Section 69J Petition, this Section 72 Petition, and the Zoning Petition. USGS locus maps and diagrams of the proposed transmission line routes are provided in Sections 1.0, 4.0, and 5.0 of the Analysis. A list of all permits required for the Vineyard Wind Connector 2 is provided in Section 6.0 of the Analysis. Vineyard Wind will soon submit an Environmental Notification Form for the Vineyard Wind Connector 2 (the "ENF") to the MEPA office of the Executive Office of Energy and Environmental Affairs. Vineyard Wind will update the record with the ENF when it is filed and with a copy of the Certificate of the Secretary of Energy and Environmental Affairs on the ENF when such Certificate is received. The Draft Environmental Impact Report has not yet been filed for the Vineyard Wind Connector 2 under MEPA and, accordingly, no related Certificates or draft MEPA Section 61 findings are yet available.

WHEREFORE, Vineyard Wind respectfully requests that the Department, or the Siting Board, pursuant to G.L. c. 164, § 72, and after due notice and a public hearing, determine that the construction of the Vineyard Wind Connector 2 is necessary for the purposes stated and will serve the public convenience and be consistent with the public interest, and thus, authorize Vineyard Wind to construct and operate the New Lines, and take such other action as may be necessary and appropriate.

Respectfully Submitted,

VINEYARD WIND LLC

By its Attorneys:

A handwritten signature in blue ink, appearing to be "Adam P. Kahn", is written over a horizontal line.

Adam P. Kahn
Tad Heuer
Zachary Gerson
Aaron Lang
FOLEY HOAG LLP
Seaport West
155 Seaport Boulevard
Boston, MA 02210-2600
617-832-1000
akahn@foleyhoag.com
theuer@foleyhoag.com
zgeron@foleyhoag.com
alang@foleyhoag.com

Dated: May 28, 2020