

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

MAYOR AND CITY COUNCIL OF
OCEAN CITY MARYLAND, *et al.*,

*

Plaintiffs/Cross-Defendants,

*

v.

*

UNITED STATES DEPARTMENT
OF THE INTERIOR, *et al.*,

*

Defendants/Cross-Defendants,

*

No: 1:24-cv-03111-SAG

*

and

*

US WIND, INC.,

*

*Defendant-Intervenor/
Cross-Plaintiff.*

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**BRIEF OF THE STATE OF MARYLAND
AS AMICUS CURIAE IN SUPPORT OF US WIND'S
MOTION FOR A PRELIMINARY INJUNCTION**

INTRODUCTION AND INTERESTS OF AMICUS CURIAE

Shortly after President Trump took office in January, the new Administration began targeting the country's wind energy resources in an attempt to halt the development of wind energy projects across the country. Offshore wind projects, in particular, have found themselves a target of the Administration's ire.¹

¹ See, e.g., Presidential Memorandum, *Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government's Leasing and Permitting Practices for Wind Projects*, 90 Fed. Reg. 8363 (Jan. 29, 2025). In May, Maryland joined sixteen other states and the District of Columbia in challenging that memorandum's moratorium on wind-related permitting activities. Complaint, *New York v. Trump*, No. 25-cv-11221 (D. Mass., May 5, 2025).

In its attempt to curtail this burgeoning industry, the Trump Administration has ignored the vital public benefits of these projects, both economic and environmental. That is evident here: If the federal government is successful in reversing its previous commitment to the US Wind project off the coast of Maryland, the State and its residents would suffer the consequences, losing over \$6 billion in projected economic benefits; 1,710 megawatts of much-needed electricity (enough to power over 700,000 homes); and massive amounts of avoided pollution.

The State of Maryland submits this brief as amicus curiae in support of Defendant-Intervenor/Cross-Plaintiff US Wind's motion for a preliminary injunction (ECF 92) to maintain the status quo with respect to the ongoing US Wind project ("the Project"). Maryland's interest in this case, and in the Project more generally, stems from over a decade of active engagement with the offshore wind industry. In 2013, the State amended its renewable energy portfolio standard (RPS) to include a mandatory offshore wind component.² Maryland Offshore Wind Energy Act of 2013, 2013 Md. Laws ch. 3. The State has since increased its offshore wind-specific goals. First, Maryland's Clean Energy Jobs Act of 2019 increased the offshore wind energy component of the RPS and required the in-state generation of an additional 1,200 megawatts of offshore wind energy. 2019 Md. Laws ch. 757. Next, the Promoting Offshore Wind Energy Resources Act of 2023 set an increased goal of 8,500 megawatts of in-state offshore wind energy generation by 2031. 2023 Md. Laws ch. 95. And the State has made significant regulatory and financial investments to implement these legislative requirements. For example, the Maryland Energy Administration has issued over \$16 million in grants to develop the offshore wind industry supply

² Maryland's RPS requires electricity suppliers in the State to purchase a certain proportion of their electricity from specified renewable energy sources, including offshore wind. *See generally* Off. of Pol'y Analysis, Md. Dep't of Leg. Servs., *Introduction to the Renewable Energy Portfolio Standard* (Sept. 2025), <https://perma.cc/MHN7-AJC6>.

chain and workforce in the State. (Decl. of Paul G. Pinsky, Director, Maryland Energy Administration, ECF 92-5, at 5 ¶¶ 13-14 (“Pinsky Decl.”).)

Maryland stands to benefit greatly from the development and success of US Wind’s project in particular. US Wind has committed hundreds of millions of dollars to in-state investments to support the Project, and these investments are projected to support over 13,000 in-state jobs over the Project’s lifetime. (Pinsky Decl. at 6 ¶¶ 17-18, 19 ¶ 32.) Once fully constructed, the Project will generate enough electricity to power over 700,000 homes.³ (Decl. of Jeffrey Grybowski, ECF 92-4, at 3 ¶ 7 (“Grybowski Decl.”) (detailing the generation of 1,710 MW of electricity expected of the Project).) The State has a particularly strong interest in bringing this new generation capacity online at a time of increasing demand for electricity and rising utility bills. (Pinsky Decl. at 9-10 ¶¶ 28-31.) Project-related investments are also expected to help reduce electricity transmission congestion along the Eastern Shore—a historic contributor to high electricity rates in the region—and to benefit the environment, climate, and public health by reducing air pollution from other sources of electricity. Skipjack Offshore Energy, LLC and US Wind, Inc.’s Offshore Wind Applications Under the Clean Energy Jobs Act of 2019, Case No. 9666, Order No. 91496, 2025 WL 388265, at 11-14 (Md. Pub. Serv. Comm’n, Jan. 24, 2025) (“PSC Order”).

³ For context, the Maryland Energy Administration has estimated that if all of the offshore wind lease areas off the coast of Maryland were fully developed, the energy produced could meet approximately one-third of the State’s annual energy consumption; US Wind’s project would cover approximately one-third of that leased capacity. Md. Energy Admin., *Reaching 100 Percent Net Carbon-Free Electricity in Maryland* 29-31 (Jan. 2025), <https://perma.cc/P4UT-9JJD>.

ARGUMENT

THE PROJECT WILL BENEFIT MARYLAND AND ITS RESIDENTS.

A preliminary injunction would preserve the Project's viability and secure the many economic, energy, and environmental benefits that the Project offers. These benefits underscore that the requested injunction will serve the public interest and should be granted.

A. Immediate Investments by US Wind Will Benefit the State in the Short Term.

In the short term, Maryland stands to benefit from the significant investments US Wind is already making to ensure that the Project is ready to begin offshore construction in 2027. Accordingly, the public interest would be served by an injunction providing US Wind with the certainty it needs to continue those investments.

Maryland anticipates significant economic benefits even at the Project's early stages. US Wind has stated that "a significant portion of fabrication, assembly, and staging activities," the earliest stages of overall project construction, will take place at Sparrows Point in Baltimore County and other facilities in the Baltimore area.⁴ The in-state investments start with massive investments in on-shore development during Phase 1 of the Project, including over \$75 million in Maryland steel and port industry facilities. (Pinsky Decl. at 6 ¶ 18 (citing PSC Order at 36).) The Maryland Public Service Commission, for its part, projected that the Project will bring over 13,600 direct and secondary jobs to the State, with US Wind committed to creating over 1,000 direct job-years in the State for developing and constructing the Project's first phase. PSC Order at 12-13, 38. The Commission thus concluded that the Project will meet statutory criteria for in-state investments as a prerequisite to receiving its offshore renewable energy credits. PSC Order at 22.

⁴ US Wind, *Construction and Operations Plan: Maryland Offshore Wind Project, Vol. I*, at 3-1 to 3-2 (June 2024) ("US Wind COP"), <https://perma.cc/6NKX-V37C>.

As US Wind’s preliminary injunction motion explains, any further delay “would jeopardize US Wind’s ability to deliver the Project’s myriad benefits to the people of Maryland” because contractual pressures and investment commitments require it to maintain its permits and meet time-sensitive targets. (ECF 92-1, at 24-26, 28.) Those benefits include the tens of millions of dollars of in-state investments committed by US Wind for the first stages of construction, as well as the thousands of “well-paying jobs associated with these projects, both during construction and as the facilities shift to long-term operations and management.” (Pinsky Decl. at 10 ¶ 32.) A preliminary injunction would serve the public interest by providing US Wind with the necessary certainty to continue the flow of investment funds and new jobs to communities in Maryland.

B. The Project’s Long-Term Operation Will Have Significant Economic, Energy, and Environmental Benefits for the State.

The State and its residents also stand to benefit greatly from the long-term operation of the Project. Although many of these benefits will not be realized until the Project is fully operational, none will materialize if US Wind is not afforded the regulatory certainty that it needs to proceed at this stage. (ECF 92, at 1.) Indeed, beyond the immediate impacts of construction, the Project will (1) support thousands of jobs over its operating lifetime (Pinsky Decl. at 6 ¶ 17); (2) bring hundreds of millions of dollars in additional investments to in-state facilities (Grybowski Decl. at 26-27 ¶ 69); PSC Order at 36-37; (3) advance the State’s climate and environmental goals (Pinsky Decl. at 10-11 ¶¶ 34-35); PSC Order at 13-14, 17-18; and (4) bolster the region’s energy supply (Pinsky Decl. at 9-10 ¶¶ 28-31, 33; Grybowski Decl. at 27-28 ¶¶ 71-73); PSC Order at 11-12. It was just nine months ago that the Maryland Public Service Commission relied on those significant expected benefits to explicitly find it “in the public interest” to issue renewable energy credits for all four phases of the Project. PSC Order at 23.

1. The Project Is Projected to Provide Billions of Dollars in Economic Benefits and Support Thousands of Jobs Over Its Lifetime.

A preliminary injunction is essential to preserving the Project's long-term economic benefits. In total, the Project is projected to provide over \$6.2 billion in benefits to the State and support over 13,600 in-state jobs. (Pinsky Decl. at 6 ¶ 17 (citing PSC Order at 12-13).) US Wind has committed to creating 1,000 in-state job-years for "operations and management" activities during Phase 1 of the Project alone, and over 1,300 in-state job-years for the construction and operation of each of Phases 2, 3, and 4. PSC Order at 38.

US Wind plans to house the on-shore hub for managing the Project in an operations and maintenance facility near Ocean City, Maryland. US Wind COP at 2-34 to 2-35. That facility's operations will include the "24/7 monitoring of the Project," "the loading of maintenance crews, replacement components, and consumables" onto watercraft for transport to the developed project, and other coordination and communication activities necessary to support the Project's offshore operations. US Wind COP at 6-1 to 6-2. The State has a significant interest in preserving these long-term jobs and investments.

2. The Project Will Provide a Much-Needed Source of Electricity.

The Project also offers a significant new source of electricity at a time when PJM—the entity that manages the wholesale electricity grid for Maryland, all or parts of twelve other states, and the District of Columbia—is projecting a significant need for new resources.

To ensure that long-term energy supply will meet long-term demand, PJM holds market-based auctions in which companies commit to supplying the market with generating capacity in

the future.⁵ PJM’s last two capacity auctions have cleared at substantially higher prices, largely reflecting a surge in projected future demand from new data centers being constructed in the region.⁶ These market results are already being passed on to ratepayers, and the situation is only projected to worsen. (Pinsky Decl. at 7-9 ¶¶ 21-25 (discussing the ratepayer impacts of PJM’s recent capacity auction results, the implications of rising forecasts for electricity demand, and the challenges for new generation resources coming online)); CRS Report at 1 & n.2; Monitoring Analytics Report at 2.

These auction results send a clear signal that new generation is needed, and the “unprecedented” rapid growth in projected data center demand has further strained PJM’s ability to meet this demand with traditional market tools. (Pinsky Decl. at 8 ¶ 24); Monitoring Analytics Report at 3-4. US Wind’s project “would bring much needed capacity online at just the time when PJM expects to need it the most”: The Project’s first phase is expected to come online in 2029, with the remainder of the Project expected to start providing electricity in December 2030. (Pinsky Decl. at 9 ¶¶ 28-29.)

The Project’s 1,710 megawatts of capacity will benefit the regional grid as a whole and Maryland residents in particular. The Maryland Public Service Commission found that US Wind’s project will produce “capacity benefits, wholesale energy and ancillary market benefits, . . . [and] market benefits to ratepayers.” PSC Order at 11-12. In addition, Project-related investments in regional transmission system upgrades will potentially help alleviate transmission congestion

⁵ Ashley J. Lawson, Cong. Research Serv., R48553, *PJM’s Electric Capacity Market: Background and Current Issues* 1-2, 4-6 (June 2, 2025) (“CRS Report”).

⁶ Monitoring Analytics, *Analysis of the 2026/2027 RPM Base Residual Auction: Part A* 1-3 (Oct. 1, 2025) (“Monitoring Analytics Report”), <https://perma.cc/WST2-ZDAX> (stating that “existing and forecast data center load . . . resulted in . . . an 82.1 percent increase in capacity market revenues for the 2026/2027 [capacity market auction]”).

issues, which contribute to higher electricity prices, throughout Maryland’s Eastern Shore. (Pinsky Decl. at 9-10 ¶¶ 30-31); PSC Order at 11-12, 42. Marylanders are already feeling the effects of an electricity grid strained by increased demand, CRS Report at 1 n.2, and threatening or delaying the Project will only make matters worse (Pinsky Decl. at 10 ¶ 33). The Project is one of the few resources that can be deployed to both meet this increasing demand and comply with the State’s environmental requirements and clean energy goals.⁷ (Pinsky Decl. at 8-9 ¶ 25, 10-11 ¶¶ 34-35.)

3. The Project Will Have Significant Environmental and Climate Benefits.

Absent a preliminary injunction, the State would also lose the Project’s significant environmental benefits. As a coastal state, Maryland faces mounting threats from climate change, including rising sea levels, increased flooding, and the broader environmental and public health risks associated with increased temperatures.⁸ Climate change is already impacting the State, and the environmental and public health harms from air pollution will only worsen if clean energy resources like offshore wind are not brought online as soon as possible.⁹ The rate of sea level rise along Maryland’s shores is already accelerating, while water temperatures in the Chesapeake Bay are rising even faster than air temperatures, posing unique challenges for Maryland and its coastal

⁷ The State has authority to determine the mix of resources that will generate energy in-state. 16 U.S.C. § 824(b)(1); *see also Hughes v. Talen Energy Mktg., LLC*, 578 U.S. 150, 154, 166 (2016) (“The States’ reserved authority includes control over in-state ‘facilities used for the generation of electric energy.’” (quoting 16 U.S.C. § 824(b)(1))).

⁸ *See generally* Md. Dep’t of the Env’t, *2024 Programmatic Status Report on Climate Change* 3-4, 30-31, 40-42 (Dec. 31, 2024) (“MDE Climate Report”), <https://perma.cc/ND83-53H3>.

⁹ Md. Comm’n on Climate Change, *2024 Annual Report* 24-27 (2024) (“MCCC Climate Report”), <https://perma.cc/ANQ5-H5NE>; Md. Dep’t of the Env’t, *Maryland’s Climate Pollution Reduction Plan* 11-12, 19 (Dec. 28, 2023) (“MDE Climate Plan”), <https://perma.cc/3YVD-5Q2P>.

communities and ecosystems.¹⁰ These climate harms jeopardize Maryland’s public health, economy, and natural resources, and the costs of responding to climate impacts such as disaster recovery are projected to grow.¹¹

Maryland has accordingly invested in a number of policies and initiatives aimed at reducing human-caused greenhouse gas emissions, the driving cause of climate change. *See generally* MDE Climate Plan. These efforts include legislation and investments to decarbonize Maryland’s economy, infrastructure, and energy mix. MDE Climate Plan at 5-8. As “a densely populated state without other major domestic energy resources,” Maryland’s offshore wind energy resources are central to many of the State’s clean energy goals. (Pinsky Decl. at 11 ¶ 35.) In 2023, the Maryland Department of the Environment released its Climate Pollution Reduction Plan as required under the Climate Solutions Now Act of 2022, outlining the steps the State must take to achieve its greenhouse gas emissions reduction targets. MDE Climate Plan at 4-5, 15. Offshore wind energy plays a key role in those plans as a significant in-state clean energy resource. MDE Climate Plan at 19-21, 75-76.

Maryland is also committed to improving its air quality by reducing concentrations of criteria pollutants, such as nitrogen oxides, sulfur dioxide, and particulate matter, which are heavily emitted by the energy sector and contribute to a multitude of public health harms. (Pinsky Decl. at 6 ¶ 19); MDE Climate Plan at 12. The Maryland Public Service Commission found that the US Wind project would improve air quality not just in Maryland but throughout the region by reducing emissions of these harmful pollutants from other sources of electricity. PSC Order at 13-14. The

¹⁰ Md. Comm’n on Climate Change, *Sea-Level Rise Projections for Maryland* 5, 21-23 (2023), <https://perma.cc/QKA7-KHTX>; MCCC Climate Report at 27-28.

¹¹ Comptroller of Md., *State Spending Series: Climate Change Costs* 3-7 (Apr. 2025), <https://perma.cc/9JEN-XSVD>; MDE Climate Report at 3.

Project's emissions reductions could result in significant public health benefits and cost savings, and the Commission found that the Project "has demonstrated net environmental and health benefits to the State." PSC Order at 13-14. The State of Maryland has a strong interest in obtaining those benefits, which will be lost entirely if the Project cannot go forward.

CONCLUSION

The motion for a preliminary injunction should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2025, the foregoing Brief of the State of Maryland as Amicus Curiae in Support of US Wind's Motion for a Preliminary Injunction was electronically filed using the Court's CM/ECF system, which will effect service on counsel of record who are registered CM/ECF users.

Dated: October 29, 2025

/s/ Robert N. Brewer

Robert N. Brewer