

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION  
DOCKET NO. EMP-93, Sub 0

In the Matter of	)	
Application of Wilkinson Solar LLC	)	
for a Certificate of Public Convenience	)	<b>Response to Wilkinson Solar,</b>
and Necessity to Construct a 74-MW	)	<b>LLC's Second Motion to</b>
Solar Facility in Beaufort County,	)	<b>Deny Intervention</b>
North Carolina	)	

**Ms. Deb VanStaalduin** (hereinafter "Petitioner"), by and through its undersigned attorneys, respectfully responds to the Motion to Deny Second Petition to Intervene of Deb VanStaalduin and requests that the North Carolina Utilities Commission (the Commission) issue an Order allowing her to intervene in the above-reference docket, pursuant to N.C.G.S. § 62-72 and Rule R1-19 of the Rules and Regulations of the Commission, and grant Petitioner leave to participate fully as a party in this docket. In support of this Petition, Petitioner shows the Commission the following:

1. On March 13, 2017, Wilkinson Solar, LLC (hereinafter "Applicant") filed an Application for a Certificate of Public Convenience and Necessity for a solar facility in Beaufort County, North Carolina, which would be more than likely to provide electricity for persons outside of the state of North Carolina.
2. On May 11, 2017, the Applicant filed a Motion to Confirm Evidentiary Hearing Procedure, which sought to limit the scope of the testimony of citizens of the state of North Carolina and their ability to call witnesses.
3. On May 22, 2017, at an evidentiary hearing in Raleigh, the Applicant objected to a motion to allow citizens of North Carolina to intervene.<sup>1</sup>

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<sup>1</sup> Specifically, the Applicant targeted the Petition to Intervene of Terra Ceia Christian School.

4. On March 12, 2018, the Applicant again objected to the petitions to intervene of three citizens of North Carolina.
5. On April 3, 2018, the Applicant objected once more to the petition to intervene of a citizen of North Carolina.
6. The Applicant, an LLC owned by a company headquartered in the state of Illinois and incorporated in Delaware, which intends to use land in North Carolina to carry electricity to people outside of North Carolina<sup>2</sup>, has doggedly attempted to prevent the citizens of North Carolina from participating in proceedings at this Commission.
7. The Applicant's most recent attempt to deny a citizen of the state of North Carolina the opportunity to participate at the Commission bases its argument on minutia and technicalities.
8. The Applicant argues that the Petitioner, who was appearing *pro se* at the time, did not comply with Commission Rule R1-5(d) on verifications because she failed to file sign verification page on the third page of her document, even though she signed the first page of the document and swore before a notary that the contents of the document are true and correct. The Applicant's reading of Rule R1-5(d) is mistaken. The rule does not specify a certain page that a petitioner must sign his or her pleading. It merely states pleadings shall be signed in ink and verified. A document sworn to before a notary public is an effective verification.

9. The Applicant also argues that the Petitioner withdrew her Petition to

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<sup>2</sup> The Applicant's intent to provide electricity in the PJM Interconnection region is stated in Exhibit 3 of the Applicant's May 13, 2017 Application.

Intervene at the public hearing on March 19, 2018 in Washington, North Carolina and acknowledged that she had not filed a verification. The Petitioner's withdrawal and acknowledgement were ineffectual for variety of reasons. First, the Petitioner is a schoolteacher who was appearing *pro se* and the Commission's Order requiring her to file an additional verification only allowed her two business days to do so. Having limited opportunity to obtain a verification and no legal counsel to advise her, the Petitioner was unaware of her legal options. Secondly, legal proceedings are intimidating environments for everyone, but especially for *pro se* petitioners. Her withdrawal resulted from the intimidating and stressful environment of the proceeding and not from thoughtful consideration.<sup>3</sup> Therefore, it should be given no weight.

10. Finally, the Applicant argues that the Petitioner's intervention should not be allowed under Commission Rule R1-19(b) because the intervention is untimely and without good cause. The Applicant states granting the Petitioner's second intervention would not serve justice, but the Applicant fails to show any reason that it is prejudiced by the intervention.

11. Rule R1-19(b) states, "Petitions under this rule shall be filed with the Commission *not less than ten (10) days prior to the time the proceeding is called for hearing*, unless the notice of hearing fixes the time for filing such petitions, in which case such notice shall govern. *A petition, which for good*

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<sup>3</sup> This is not to say that the Commission or the Applicant's counsel coerced or intentionally intimidated the Petitioner. Instead, the fact of the matter is that the stress of being a lay person in front of a body of experts while facing cross-examination from practiced attorneys caused the Petitioner to act against her own interest.

*cause shown was not filed within the time herein limited, and which neither broadens the issues nor seeks affirmative relief, may be presented to and allowed or denied by the presiding official, in his discretion, at the time the cause is called for hearing. (emphasis added).*

12. Although the Applicant quibbles with the form of the Petitioner's Petition for Intervention and subsequent verification, the Petitioner timely filed a Petition to Intervene on March 9, 2018 in accordance with the Commission's notice.
13. Secondly, subsequent to the passing of the deadline for intervention the Commission postponed the evidentiary hearing for twenty-one days from March 21, 2018 to April 11, 2018. The Petitioner's second motion for intervention was filed March 26, 2018<sup>4</sup> a full sixteen days before the postponed evidentiary hearing. Rule R1-19(d) suggests that ten days is sufficient time to afford parties to proper notice of other participants in proceedings. In any event, the Applicant has not been prejudiced by insufficient notice of the Petitioner's desire to intervene.
14. The Commission has good cause to allow the Petitioner's intervention. This Commission has already recognized the Petitioner's interest in the subject matter of the proceeding. The Petitioner timely filed a Petition to Intervene, and as *pro se* made attempts to rectify legal formalities. Now, the Petitioner has retained counsel and wishes to proceed as an intervenor in this docket.
15. As its repeated pattern of conduct indicates, the Applicant undoubtedly would choose to keep any and all opposition out of its case. However, this matter is

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<sup>4</sup> It was also refiled on March 27, 2018 with an unquestionably complete and notarized verification form.

in the Commission's discretion. To deny the intervention now based on a technicality would be an abuse of that discretion.

**WHEREFORE**, Petitioner respectfully requests that the Commission enter an order allowing Petitioner to intervene and fully participate in the above-captioned proceeding, and to otherwise exercise all statutory rights provided to Intervenor under North Carolina law.

Respectfully submitted, this 3rd day of April, 2018

**ALLEN LAW OFFICES, PLLC**

Dwight W. Allen

Britton H. Allen

Brady W. Allen

By: Brady W. Allen

Brady W. Allen

1514 Glenwood Ave., Suite 200

Raleigh, NC 27608

Ph: 919-838-5175

[brady.allen@theallenlawoffices.com](mailto:brady.allen@theallenlawoffices.com)

*Attorneys for Ms. Van Staaldin and Mr. and Mrs. Lilly*

CERTIFICATE OF SERVICE

I certify that all parties of record on the service list have been served with the foregoing Petition to Intervene either by electronic mail or by deposit in the U.S. Mail, postage prepaid.

This the 3rd day of April, 2018.

By Brady W Allen  
Brady W Allen