

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF LOST CITY)	
RENEWABLES LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	CASE NO.
250 MEGAWATT MERCHANT ELECTRIC SOLAR)	2024-00406
GENERATING FACILITY IN MUHLENBERG)	
COUNTY, KENTUCKY PURSUANT TO)	
KRS 278.710 AND 807 KAR 5:110)	

ORDER

On February 20, 2025, 12 local landowners in Muhlenberg County (Movants) filed a motion requesting full intervention through local counsel. On March 3, 2025, Movants amended their motion (Amended Motion) to include six additional local landowners as Movants, bringing the total number to 18. The same attorney filed the Amended Motion. As a basis for their motion, Movants stated that they had a special interest in these proceedings because their land was near the proposed project site of Lost City Renewables LLC (Lost City Renewables). On March 6, 2025, Lost City Renewables filed a response to Movant’s Motion to Intervene (Response). On March 13, 2025, the Siting Board issued an Order directing Movants to supplement their motion with information establishing the proximity of their properties to the project. On March 21, 2025, Movants filed supplemental information in support of their Motion to Intervene, including maps indicating the location of Movants’ property in proximity to the proposed project and once again, the same attorney filed the information on behalf of all the Movants. Included in

these motions as part of the signatory portion is a statement that says “[a]ttorney for...” and includes a list of the parties moving for intervention.¹

LEGAL STANDARD

The regulatory standard for permissive intervention, set forth in 807 KAR 5:110, Section 4, is twofold. The regulation requires a party to set forth in the motion to intervene either (1) a special interest in the proceeding, or (2) that the participation in the proceeding will assist the board in reaching its decision and would not unduly interrupt the proceeding.

DISCUSSION AND FINDINGS

Movants argued that as adjoining and nearby landowners to the proposed construction, they will be impacted by the project and have a substantial interest that will not be adequately represented by other parties to the proceeding.² More specifically, the Movants argued that the cutting down of 900 acres of standing timber and the fact that the project “appears to seek a deviation from the requirements of subsection 2 of KRS 278.704,” will substantially impact their property interests.³ Further, Movants argued that they will be able to raise environmental and conservation issues associated with the proposed construction.⁴

Lost City Renewables filed a Response to the Movants’ Motion to Intervene.⁵ Lost City Renewables argued that the Amended Motion filed by Movants on March 3, 2025,

¹ Motion to Intervene (filed Feb. 20, 2025) at 3; Amended Motion to Intervene (filed March 3, 2025) at 2; Maps (filed Mar. 21, 2025) at 2.

² Motion to Intervene at 1.

³ Motion to Intervene at 2.

⁴ Motion to Intervene at 1.

⁵ Response to Motion to Intervene (filed Mar. 6, 2025).

was not timely and did not show good cause, as the deadline for a motion to intervene was February 21, 2025.⁶ Lost City Renewables further argued the Amended Motion to Intervene contained no information as to why the potential additional intervenors meet the standard for intervention.⁷

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Siting Board finds that the Movants' have a special interest in this matter as a result of the proximity of their properties to the proposed project, and their participation in the proceeding will assist the Siting Board in reaching its decision. Lost City Renewables' Response focused on the Movants' Amended Motion, on its untimely nature, and the lack of grounds for the additional adjoining or nearby landowners' intervention in the proceeding. The Siting Board is persuaded that the original Motion to Intervene established grounds for the Movants' participation, and that the Amended Motion adopted the arguments from the original Motion to Intervene. The Siting Board notes that the Movants have all retained the same counsel to represent them in this matter. The Siting Board has reviewed the maps provided by the Movants and agrees that the proximity of the Movants' property to this project does provide a basis for a special interest in this matter.

The Movants have asserted their intervention would not unduly complicate the proceeding. The Siting Board reminds all Movants that counsel represents them in this matter, and they should speak and participate in this matter through their attorney. The Movants' intervention does not prejudice Lost City Renewables because the Movants',

⁶ Response to Motion to Intervene at 1.

⁷ Response to Motion to Intervene at 2.

through counsel, will be expected to comply with the current procedural schedule as well as any subsequent Orders of the Siting Board.⁸ In addition, the Siting Board will issue an order addressing hearing procedures in order to reduce confusion and delay the day of the scheduled hearing.

Based on the above, the Siting Board finds that the Movants should be granted full rights of a party in this proceeding pursuant to 807 KAR 5:011 Section 4. The Siting Board directs the Movants to the Commission's July 22, 2021 Order in Case No. 2020-00085⁹ regarding filings with the Siting Board.

IT IS HEREBY ORDERED that:

1. The Movants' Motion to Intervene and Amended Motion to Intervene are granted.
2. The Movants shall act through counsel of record.
3. The Movants are entitled to the full rights of a party and shall be served with the Siting Board's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
4. The Movants shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
5. The Movants shall adhere to the procedural schedule set forth in the Siting Board's February 12, 2025 Order and as amended by subsequent Orders.

⁸ Order (Ky. PSC Feb. 12, 2025).

⁹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

6. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, the Movants shall file a written statement with the Siting Board that:

a. Certifies that they, or their agent, possess the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

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KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING



Chairman, Public Service Commission



Commissioner, Public Service Commission

Commissioner, Public Service Commission

by AH
w/permission



Secretary, Energy and Environment Cabinet,
or her designee



Secretary, Cabinet for Economic Development,
or his designee

ATTEST:



Executive Director
Public Service Commission
*on behalf of the Kentucky State
Board on Electric Generation
and Transmission Siting*



*James W Gardner
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KY 40507

*Honorable Harold Mac Johns
English, Lucas, Priest & Owsley, LLP
12 Public Square
P.O. Box 746
Elkton, KY 42220

*Rebecca C. Price
Sturgill, Turner, Barker & Moloney
155 East Main Street
Lexington, KY 40507

*Sean Joshi
Developer
Lost City Renewables Solar LLC
412 W. 15th Street
Floor 15
New York, NY 10011

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KY 40507