

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

In the Matter of:

ELECTRONIC APPLICATION OF WOOD)	
DUCK SOLAR LLC FOR A CERTIFICATE OF)	
OF CONSTRUCTION FOR AN APPROXIMATELY)	
100 MEGAWATT MERCHANT ELECTRIC)	
SOLAR GENERATING FACILITY AND)	Case No. 2024-00337
NONREGULATED ELECTRIC TRANSMISSION)	
LINE IN BARREN COUNTY, KENTUCKY)	
PURSUANT TO KRS 278.700 AND 807 KAR)	
5:110.)	

RESPONSE IN OPPOSITION TO MOTION TO INTERVENE

Wood Duck Solar LLC (the “Applicant” or “Wood Duck”) files this Response to the Motion to Intervene, filed by counsel on behalf of Nancy West (“Movant”), on June 19, 2025 (the “Motion”). Wood Duck objects to the Motion and requests denial of the same for the following reasons:

Pursuant to 807 KAR 5:110, Section 4, a party wishing to intervene in a matter before the Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board” or “Board”) must demonstrate either (1) the party has special interest in the proceeding, or (2) that participation in the proceeding will assist the Board in reaching its decision without unduly interrupting the proceeding. In this instance, the Motion establishes neither.

The Motion alleges Movant has a special interest in the construction of the Applicant’s proposed merchant electric generating facility and nonregulated electric transmission line (the “Project”) because it is located in Barren County, where she resides. Further, Movant asserts that she owns an adjoining parcel to the Project. Finally, Movant asserts that the Project will “place a substantial burden on Movant and other similarly situated landowners”.

While a “special interest” has not been defined by the relevant regulations or statutes, “special” is defined by Merriam-Webster as “[d]istinguished by some unusual quality” or “readily distinguishable from others in the same category” or “being other than the usual”.¹ Residence in a county with a solar project does not constitute a special interest. Proximity to a solar project does not confer upon a party special interest status. Movant is not authorized to represent the interests of other similarly situated landowners, so this does not constitute a special interest. Movant’s argument appears to be that owning land adjacent to the Project confers special interest status, but there are 106 other parcels adjoining the Project. Permitting one adjacent landowner to intervene sets a dangerous precedent whereby aggrieved neighbors could intervene in any future Board matter simply on account of living near a solar project. Allowing an individual to intervene contradicts both the clear language of and the spirit of 807 KAR 5:110, Section 4.

While the Motion does not allege that Movant’s participation in the proceeding will assist the Board in reaching its decision without unduly interrupting the proceeding, Movant does allege that it intends “to raise economic, environmental, and conservation issues that will be associated with the proposed construction.” However, Movant provides no qualifications regarding these subject areas or assertions that Movant is capable of assisting the Board with these topics. Instead, Movant looks to sidestep the procedural and substantive requirements for submitting evidence into the record by submitting a public comment. This places Movant’s comment and Applicant’s response into an awkward position not governed by the Board’s current Orders or the Board’s regulations, which means it is clear evidence that Movant will unduly interrupt the proceeding. Given the lack of detail on the specific assistance that will be provided and the qualifications to

¹ <https://www.merriam-webster.com/dictionary/special>.

provide said assistance, it seems unlikely that Movant's participation will both assist the Board and not unduly interrupt the proceeding.

The Board's decision to allow intervenors in Lost City Renewables LLC,² is distinguishable from this situation due to the local regulatory scheme. Wood Duck's parcels fall under the jurisdiction of a local planning commission, the Joint City-County Planning Commission of Barren County, Kentucky ("Planning Commission"), which has already approved a variance from applicable setback requirements.³ In Lost City, the Board allowed intervenors, in part, to allow them an opportunity to address the Motion for Deviation from the setbacks contained in KRS 278.704; however, Wood Duck will file no such motion on account of the Planning Commission having jurisdiction over setbacks. Moreover, because KRS 278.704(3) grants primacy to the Planning Commission over setbacks, any concerns Movant may have regarding setbacks would have been best addressed at the local Planning Commission.

Denial of the Motion to Intervene will not prejudice the Movant because Movant has multiple opportunities for participation in this matter. As with all Board proceedings, every document and pleading produced by the Applicant is publicly available on the Board's website. In addition, a local public hearing will be held on July 1, 2025, at which time the Movant may provide comments, and the Movant may file written comments with the Board at any time, as Movant recently did on June 23, 2025. Further, the Movant may appear and provide comments either in-person or virtually at the Applicant's Evidentiary Hearing scheduled for October 2, 2025. This follows on the heels of two public information meetings organized and hosted by the Project on

² *In the Matter of the Electronic Application of Lost City Renewables LLC for a Certificate of Construction for an Approximately 250 Megawatt Merchant Electric Solar Generating Facility in Muhlenberg County, Kentucky Pursuant to KRS 278.710 and 807 KAR 5:110*, Case No. 2024-00406 (hereinafter "Lost City").

³ See Application Exhibit J. Notably, the Project submitted a Property Value Impact Assessment from Kirkland Appraisals LLC (dated May 25, 2023) as part of its local development plan application, which was ultimately approved by the Planning Commission. See Exhibit J at 5.

August 22, 2024 and February 4, 2025, and a local Planning Commission hearing held on December 18, 2023 where the public was afforded the opportunity to comment. If the Movant has broad or general concerns regarding “economic, environmental, and conservation issues”, as alleged, those are best dealt with via public comment opportunities.

Finally, Movant does not represent an organization with a particularized interest or even a localized business interest. Wood Duck can find no precedent, whether before the Board or the Kentucky Public Service Commission, where a single individual has been allowed to intervene in a matter. To the contrary, the Kentucky Public Service Commission regularly denies intervention to individuals.⁴

For the reasons stated herein, Movant’s Motion to Intervene should be denied. However, should the Board grant Movant’s Motion to Intervene, Applicant requests Movant’s June 23, 2025 comment be reclassified as a pleading in the underlying case and be subject to the substantive and procedural requirements applicable to a full party.

WHEREFORE, for the reasons described herein, Applicant requests the Board to deny the Motion to Intervene.

Dated this 26th day of June 2025.

⁴ *In the Matter of Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251, Order at 5, Dec. 5, 2008 (relating to Geoffrey Young). *See, e.g., In the Matter of Application of Kentucky American Water Company for an Adjustment of Rates*, Case No. 2015-00418, Order, February 29, 2016 (relating to Jeanne Connell); *In the Matter of Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order, Jan. 6, 2015 (relating to Rosa Hubbard); *In the Matter of Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-00221, Orders of July 12, 2012 (relating to John Thompson), August 9, 2012 (relating to Michael Whipple), and August 9, 2012 (relating to Bruce Nunn). *See also, In the Matter of the Electronic Application of Dogwood Corners LLC for a Certificate of Construction for an Approximately 125 Megawatt Merchant Electric Solar Generating Facility in Christian County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, Case No. 2023-00246, Order, Oct. 12, 2023 (Siting Board granted intervenor status to the Christian County Fiscal Court because the fiscal court represents the interests of county citizens.).

Respectfully submitted,



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