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

IN THE MATTER OF:

ELECTRONIC APPLICATION OF CRAB RUN SOLAR, LLC FOR A CERTIFICATE OF CONSTRUCTION FOR AN UP TO 45 MEGAWATT ELECTRIC SOLAR GENERATING FACILITY IN MARION COUNTY, KENTUCKY	)))))	**Case No. 2025-00276**

INTERVENORS' APPLICATION FOR REHEARING

Submitted by:
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Adjacent Landowners / Intervenors, Pro Se
Marion County, Kentucky

July 6, 2026

The undersigned Intervenors — adjacent landowners who were granted intervention in this matter and who appear pro se — respectfully apply, pursuant to KRS 278.400, for rehearing of the Order entered by the Siting Board on June 17, 2026 (the "Order"). The Order was served on the Intervenors electronically on June 17, 2026 (Order, Service List); this Application is filed within twenty (20) days of that service. The Intervenors are parties aggrieved by the Order, and they ask the Board to grant rehearing and to modify the Order as set out below.

On rehearing under KRS 278.400, the Board "may change, modify, vacate or affirm its former orders, and make and enter such order as it deems necessary." Rehearing is warranted where the Order is unlawful or unreasonable — including where a finding is not supported by substantial evidence, or where the Order departs without explanation from the Board's own consistent treatment of comparable matters. The grounds below rest principally on the existing record; matters drawn from the Board's own prior dockets are offered by official notice. One item — Mr. Kirkland's sworn testimony at the June 10, 2026 hearing in Case No. 2025-00395, which post-dates the close of this record — is offered as additional evidence that "could not with reasonable diligence have been offered" earlier and is therefore receivable on rehearing under KRS 278.400.

In brief, this Application asks the Board to: (1) require a corrected, project-specific property-value analysis before the KRS 278.710(1)(a) finding stands (Ground I); (2) add the Board's standard decommissioning-bond conditions (Ground II); (3) state that the 500-foot residential-neighborhood setback is measured to the neighborhood's parcel boundaries (Ground III); (4) require perimeter screening and the earthen berm, or decide them on the merits of the record (Ground IV); and (5) correct specific internal conflicts in the Order and Appendix A (¶ 29). Proposed replacement text for each affected Appendix A measure is set out with the relevant ground, so that each request may be granted by adopting the measure as revised.

GROUND I — THE PROPERTY-VALUE FINDING IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

1. **The finding and its sole support.** The Order found "sufficient evidence to conclude that the proposed Crab Run Solar facility will not have a significant adverse impact on nearby property values as long as proper mitigation measures are implemented" (Order at 13), resting on the Kirkland Appraisals Property Value Impact Report (Application, Tab 12, Exhibit B), as reviewed by the Board's consultant, as its only record evidence (Order at 12–13); the finding's remaining support is the Board's own observation that solar operations are "passive" and the facility relatively "temporary" (Order at 13) — an assumption the certificate leaves unsecured (see Ground II, ¶ 15). Nor is "temporary" an answer for the people who own these homes today: the facility will operate for three decades or more (longer than a third of an average lifetime), and every sale during those years occurs with the facility in place. An owner who must sell in that time realizes the diminished value in full; the criterion of KRS 278.710(1)(a) protects the property values of the owners before the Board now, not the restored fields their successors may enjoy decades from now. Property value is a criterion under KRS 278.710(1)(a); the site assessment must evaluate "potential changes in property values and land use … for property owners adjacent to the facility," KRS 278.708(3)(c).

2. **The Applicant's appraiser has given two irreconcilable sworn explanations of the report's battery section — and the later one is demonstrably false.** Exhibit B — the report for this Project, which has no battery storage — contains a full battery-storage section (Table of Contents § K and "BESS Conclusion"; report pp. ~163–182) analyzing a "200 MW (800MWH) BESS" whose "closest home … is 1,516 feet"; those are the Mayfield/MYSO project's figures (Case No. 2025-00395). On direct examination at the April 28, 2026 hearing, Mr. Kirkland testified that pages 163 through 182 "should just be struck" as "a hold over or paste from a different report" that "has nothing to do with this project" — "[j]ust a clerical mistake," with no effect on his conclusions (Apr. 28 Hr'g ~5:11–5:12). Six weeks later, at the hearing in *Mayfield Solar / MYSO* (Case No. 2025-00395) on June 10, 2026, after this matter stood submitted for decision (final post-hearing filings May 11, 2026, Order at 2), he testified under oath that the battery section was "a new template for Kentucky," that he is "not used to having a battery energy storage system" and the section "was just inadvertently left in from the template," and that he builds templates from "real world examples" to "make sure that the data actually applies" (MYSO Hr'g Tr. ~1:57; excerpt attached as Exhibit 1). That explanation cannot be squared with his April testimony — a "hold over or paste from a different report" is not a new, unfamiliar template

— and it is false on this Board's own records: Kirkland Appraisals' *Banjo Creek Solar* report (Case No. 2023-00263, Graves County, 2023) already contained a full battery-storage section — "a 120 MW solar farm with a 30 MW battery energy storage system (BESS)," with a BESS paired-sales analysis (§ XIV; excerpt attached as Exhibit 2) — and materially identical battery sections appear in *Dogwood Corners Solar* (Case No. 2023-00246, § XV, 2023) and *Summer Shade Solar* (Case No. 2025-00064, § XI, 2025). A template described under oath as "new" and unfamiliar was work his firm had been filing with this Board for three years — and by his own account the template's "real world examples" mean the battery figures in this report are another project's real data, not any analysis of this Project. Because the MYSO testimony post-dates the close of this record and "could not with reasonable diligence have been offered" earlier, it is receivable on rehearing under KRS 278.400.

3. **The record was never corrected.** Although its own witness asked, on direct, that pages 163–182 be struck, the Applicant never filed a corrected or updated Exhibit B in this docket; the Order's property-value finding cites the report as filed (Order at 12–13, citing Exhibit B at 1–2 and 162). Nor is the battery section the only foreign material: the report's "Rhode Island Study" analysis computes population density for "the Hickory-Lowes Division of Grave County" (Exhibit B at 23–24) — Graves County is Mayfield's county, not Marion County — and concludes "no impact … for the proposed solar farm project" on that basis; that error, raised at the hearing, likewise remains uncorrected. The uncorrected material even found its way into the certificate: the Order and Appendix A impose battery-storage conditions on this no-battery Project (see ¶ 29(d)). A property-value finding resting on an exhibit that its own author swore should be partly struck — and that was never corrected — is not supported by substantial evidence.

4. **The report contradicts itself, and explains its negatives away rather than engaging them.** Its conclusion reports 470 "data points," a range of impacts of "−10% to +19%," and a "Conclusion" of "0%," disregarding anything within ±5% as "market imperfection" — though its own range bottoms at −10%, twice that threshold. Its treatment of an identified −10% result illustrates the method: by the report's own arithmetic — measured against an unadjusted "common lot value," with no adjustment for lot size or terms — Lot 96, which the report describes as "directly adjoin[ing] the solar farm" with panels that "appear to be visible in the background of the tax card photo," indicated −10%; the report then "[b]lend[s]" that result with the adjacent Lot 97's +22% to suggest "a 12% enhancement for adjoining the solar farm," and concludes that even this "simply support[s] a finding of no impact on property value" (Exhibit B at ~73–75; the same development's related-entity lot sales are addressed in ¶ 7). Under this method, a −10% is blended away, a +22% is disclaimed, and a computed "12% enhancement" still yields "no impact" — no data could produce anything but the pre-set conclusion (see ¶ 5). The statute does not permit that arithmetic: KRS 278.708(3)(c) requires evaluation of the impact on each adjacent property owner, and one owner's loss is not answered by averaging it against another's gain.

5. **It measures opinion, not this project's effect, and pre-commits to "no impact."** Of the 470 "data points," only a minority — 47 matched-pair sales and 166 "national sales" (Exhibit B, Conclusion) — are actual transactions; the remainder are broker comments, tax-assessor opinions, and similar survey responses weighed alongside sales. Mr. Kirkland

confirmed on cross-examination that he has prepared over 1,000 such reports for solar developers and has “never completed a report that indicated a negative impact” (Lost City Renewables, Case No. 2024-00406, Hr’g ~35:37, 37:19). The firm reaches the same “no impact” conclusion regardless of project type — it produced an identical “no impact” finding for a natural-gas generating facility before this very Board (KYMEA Energy Center I, Case No. 2024-00290) — underscoring that the conclusion is a pre-set template rather than a project-specific analysis.

6. **It measures the wrong distance.** KRS 278.708(3)(c) calls for assessing property values *and land use* for adjacent owners — the whole parcel, not the dwelling. Mr. Kirkland measured panel-to-dwelling, conceding “we have most of the time looked at house to panel”; asked whether a resident whose “parcel boundary … is 73 feet away from the proposed facility” would see a negative property-value impact, he answered “No” (Apr. 28 Hr’g ~5:28). This bears directly on Ground III.

7. **The dataset’s negatives and its closest analog cut against the conclusion.** No comparable producing a result beyond the ±5% threshold is explained. The report’s nearest-distance analog to these homes — which even under the Order’s 500-foot condition will sit roughly 500 to 634 feet from panels (Order at 25, 27) — is a rural ~31 MW Virginia project (Endless Cave / Caden Energix, New Market), and Mr. Kirkland’s own matched pair for that project — 771 Craney Island Road, at roughly 300 feet — shows a −6% impact (a 2019 purchase at $155,000, expected to reach $212,658 by 2022, that resold at $200,000), exceeding his own ±5% threshold. The report neither flags it as a negative nor foregrounds it as the closest analog. For the Turkey Creek comparable, the report adjusts a 2019 sale to a 2020 resale via the FHFA House Price Index — which understates rural appreciation in that window — and relies on the Wimbledon/Merriwood lot sales (15 lots on Elmwood Court) that the report itself concedes are “not a good indication of market value as Wimbledon and Merriwood are noted as related entities” — several lots passed between the related entities for $1.

8. **The report ignores — and contradicts — the most relevant research.** Mr. Kirkland’s report cites a study by “Virginia Polytechnic Institute and Sates [sic] University by Chenyang Hu et al, 2025” (Exhibit B at 31) — Hu et al., PNAS 122(24) (2025) — which finds homes within one-half mile sell up to 7.2% less (without a view of the panels) and 7.9% less (with one), with average losses of about 4.8% extending to three miles, and which reports that the negative impact is “largely mitigate[d]” only in “heavily Democratic-leaning counties.” Marion County is not such a county. Yet the report’s own “Stigma” section asserts “[t]here is no stigma associated with solar farms” (Exhibit B, § 5) — contrary to the very study it cites, which attributes the loss to stigma. Every Frogtown Road Intervenor’s home, like other non-participating homes along these roads, lies within one-half mile of the project. The Order recites distances of 335 to 634 feet in the record layout (Order at 27), and even the 500-foot setback leaves every home within roughly a quarter of that half-mile — squarely inside the band where this study measures the largest losses. Because the loss is driven by proximity rather than visibility, the vegetative screening the Order relies on does not cure it. *(No new evidence is offered on this point: Hu et al. is in the record through Exhibit B’s own citation of it.)*

9. **The “no impact” conclusion is a recurring template this Board has been told is unreliable.** By official notice of the Board’s own dockets: in *AEUG Madison Solar* (Case No. 2020-00219), the Board’s own consultant (Wells Engineering) reviewed a materially identical Kirkland report using a sub-reviewer, Mary McClinton Clay, MAI, who concluded the report was “fundamentally flawed, non-credible, … not consistent with [USPAP] and should not be used for any decision-making purposes,” and Wells itself found the report’s “methodology … missing” and its case studies “funded by solar developers.” Notably, where the Board credited “no impact” in Madison it rested that on “the large setback from the property line” — a feature absent here, where the certificate requires only 100 feet from any exterior property line (Appendix A, measure 21; see ¶¶ 20–22). *(These prior proceedings are cited by official notice to show the conclusion is a reusable product warranting scrutiny — not as evidence of the impact on the Crab Run homes.)*

10. **The review did not cure the defects.** The Board’s reviewer concluded only that proximity is “neutral … with proper setbacks and landscape buffers” (Consultant Final Report, Attachment B at 9 — prepared by Elliot Engineering, Inc., with the property-value review by E. Clark Toleman, MAI, SRA; the Order refers to this report as the “Wells Report,” see ¶ 29(g)) — a conclusion conditioned on screening being in place — and did not identify the battery-section or Graves County contamination. The “proper setbacks and landscape buffers” on which that neutrality was conditioned are, moreover, the same screening the Board found will take “at least five years … to completely shield” the affected homes (Order at 27; see Ground IV).

11. **Relief.** The Intervenors request that the Board grant rehearing and find that, on this record, KRS 278.710(1)(a) and KRS 278.708(3)(c) are not satisfied as to property values; decline to credit the “no impact” conclusion of Exhibit B as substantial evidence; require, before that finding may stand, a corrected, project-specific property-value analysis that uses Marion County data, measures to the property line and the whole parcel, reaches the homes within one-half mile, and engages Hu et al. (2025); and reconsider any setback, screening, or other condition premised on the unsupported “no impact” finding.

GROUND II — THE ORDER DEPARTS, WITHOUT EXPLANATION, FROM THE BOARD’S STANDARD DECOMMISSIONING-BOND CONDITIONS.

12. **The statutory standard.** KRS 278.710(1)(j) makes “whether the decommissioning plan is complete and complies with the requirements of KRS 278.706(2)(m)” a criterion for the certificate. KRS 278.706(2)(m)5 requires that the bond amount be “determined by an independent, licensed engineer who is experienced in the decommissioning of solar electric generating facilities and has no financial interest” in the project; that it equal “the net present value of the total estimated cost of completing the decommissioning plan, less the current net salvage value” (Marion County has established no bond requirement of its own, so the net-present-value measure governs); and that each leasing landowner and the Energy and Environment Cabinet be named as primary co-beneficiaries. KRS 278.710(3)(a) separately requires that a copy of the bond be filed with the Cabinet no later than the date construction commences, and refiled, updated, at least every five (5) years.

13. **The Board's standard practice.** In the great majority of its recent merchant-solar certificates the Board has imposed a standard set of decommissioning-bond conditions to give effect to KRS 278.706(2)(m) (cited by official notice of the Board's own orders): the bond "shall be in place at the time of commencement of operation of the Project," and "[t]he bond amount shall be reviewed every five years" at the applicant's expense "by an individual or firm with experience or expertise in the costs of removal or decommissioning of electric generating facilities," with certification to the Siting Board and the County. *See* Starfire Solar (Case No. 2024-00255, Order Aug. 1, 2025); Lost City Renewables (Case No. 2024-00406, Order July 28, 2025); Wood Duck Solar (Case No. 2024-00337, Order Nov. 14, 2025); McCracken County Solar (Case No. 2020-00392, Order Oct. 30, 2021). In Starfire, the Board's order recites that the bond amount "will be an amount equal to the net present value of the total estimated cost of completing the decommissioning plan, less the salvage value." In McCracken, the order recites the applicant's lease commitment that, before construction, "a third-party engineer unassociated with the Project … will be hired to … determine the cost of decommissioning net of the salvage value" — and its Appendix imposes the standard bond conditions quoted above. And in Wood Duck (decided under the same post-2023 statutes that govern here) the Board required a bond "securing the performance of the decommission plan" filed with the Barren County Fiscal Court, naming the county and the lessors as beneficiaries (Order Nov. 14, 2025, Appendix A ¶ 34).

14. **The Crab Run Order omits all of it.** The Order's only decommissioning conditions are that "Crab Run Solar did file a decommissioning plan," that it "submit an updated decommissioning plan" if the plan changes (Appendix A, measure 33), and — precatorily — that it "should work with" the Marion County Fiscal Court on any decommissioning concerns (measure 36). The certificate contains none of the standard conditions — no timely-posted bond, no independent determination or net-present-value sizing, no five-year review, no certification to the Board or County — that the Board imposed in Starfire, Lost City, Wood Duck, and McCracken.

15. **The record underscores the gap.** The decommissioning plan (Exhibit I) states a flat "Net Decommissioning Cost" of $3,097,158 "based on 2025 prices, with no market fluctuations or inflation considered," prepared by ERM, the Applicant's own consultant, with no licensed-engineer seal or independent certification. Without the Board's standard conditions, nothing requires that figure to be independently determined, sized to net present value, or ever updated: the statute's five-year reviews attach to a bond on file (KRS 278.710(3)(a), (8)), and the certificate orders no bond at all. Crab Run Solar itself told the Board it "will secure a bond" (Order at 30, citing Exhibit I at 11), so the requested conditions add no new burden — they make enforceable what the Applicant already promised. And the stakes are the Order's own: the Board explained that returning the land to its original state "is an important part of the Siting Board's finding regarding the impact of the facilities on scenic surroundings, property values, and the economy," and that the facility's relatively "temporary" nature was "a prime consideration of the Siting Board in granting a certificate" (Order at 30). A prime consideration cannot rest on an unsecured promise.

16. **This is an unexplained departure.** The Order gives no reason for treating this merchant differently from Starfire, Lost City, Wood Duck, and McCracken. An order affording one

applicant materially less financial-assurance oversight than the Board requires of comparable applicants, without explanation, is unreasonable within the meaning of KRS 278.400. Nor can the omission be attributed to the Energy and Environment Cabinet's post-construction role under KRS 278.710(7)–(9): the Board imposed its standard bond conditions in orders entered well after the 2023 amendments (Lost City, July 2025; Starfire, Aug. 2025; Wood Duck, Nov. 2025), and the Cabinet's five-year review presupposes that a properly determined bond exists and is on file in the first place (KRS 278.710(3)(a), (8)). The transfer realities the Order itself recites sharpen the need: "[s]olar developments are often sold to other companies during the planning, construction, and operation of projects," and Crab Run Solar presently "has no resources or employees of its own": "without Savion LLC, Crab Run Solar would not have the managerial, technical, or financial capability necessary to construct or operate the facility" (Order at 28–29). Nor is the concern hypothetical: the Board heard at the April 28 hearing that Shell recently sold solar projects to private-credit buyers while "three of the five were still under construction," and that the acquiring fund's own Form 10-K cautions that portfolio companies' profitability "might be materially dependent … on government subsidies being maintained" (Apr. 28 Hr'g ~50:54–51:54). The certificate's transfer-approval condition cannot fully guard against that risk — KRS 278.710(6) makes any condition requiring approval of a transfer "after construction is complete … void and unenforceable" — but the statutory bond is designed to follow the Project through every sale: an acquirer must adopt the existing bond or have a replacement in place "so that there is no lapse in coverage" (KRS 278.710(4)(b)). A bond that was never independently determined or timely posted leaves nothing for a successor to adopt.

17. **Relief.** The Intervenors request that the Board grant rehearing and conform the Crab Run certificate's decommissioning conditions to its standard practice and to KRS 278.706(2)(m)5 — including that the bond (a) be sized to the net present value of the projected decommissioning cost less salvage; (b) be determined, and reviewed at least every five years, by a qualified, independent professional with no financial interest in the Project; (c) be in place, with a copy filed with the Energy and Environment Cabinet, no later than the commencement of construction (KRS 278.710(3)(a)); (d) name the Energy and Environment Cabinet and each leasing landowner as primary co-beneficiaries and, with its consent, the Marion County Fiscal Court as a secondary beneficiary (KRS 278.706(2)(m)5.b–c); and (e) be certified to the Siting Board and Marion County. Following the form the Board used in *Ashwood I* (Case No. 2020-00280) — where it set these very bond conditions on a KRS 278.400 petition — the Intervenors propose that Appendix A be revised to add the following decommissioning-bond condition (revising measure 33 and superseding the precatory measure 36):

33. Crab Run Solar shall secure a bond or other similar security equal to the net present value of the total estimated cost of completing the decommissioning plan, less the current net salvage value, in an amount determined by an independent, licensed engineer who is experienced in the decommissioning of solar electric generating facilities and has no financial interest in the Project. The bond shall be in place, with a copy filed with the Energy and Environment Cabinet, no later than the commencement of construction of the Project (KRS 278.710(3)(a)). The bond shall name the Energy and Environment Cabinet and each leasing landowner as primary co-beneficiaries and, with its consent, the Marion County Fiscal Court as a secondary beneficiary, with authority to draw upon the bond to

effectuate the decommissioning plan. The bond amount shall be reviewed and updated at least every five (5) years at Crab Run Solar's expense by an individual or firm with experience or expertise in the costs of removal or decommissioning of electric generating facilities, with certification of each review provided to the Siting Board and the Marion County Fiscal Court.

GROUND III — THE 500-FOOT SETBACK MUST BE MEASURED TO THE PARCEL BOUNDARIES OF THE RESIDENCES COMPRISING THE NEIGHBORHOOD, NOT TO THE DWELLINGS.

18. **What the Order imposed.** The statute requires a 2,000-foot setback from any residential neighborhood (KRS 278.704(2)); what the Order approved is a deviation from that requirement. The Board denied the Applicant's proposed 335 feet and approved "a distance of 500 feet between any solar panel or string inverter and any residential neighborhood and 100 feet from any exterior property line," and that panels be no closer than 500 feet from a residence (Order at 27; Appendix A, measure 21). The Order does not state what the 500-foot "from any residential neighborhood" setback is measured *to* — the omission this ground asks the Board to fix.

19. **Step one — a residential neighborhood is identified by density, not by parcel lines.** KRS 278.700(6) defines a "residential neighborhood" as "a populated area of five (5) or more acres containing at least one (1) residential structure per acre." That is a density test applied to a populated *area* — five or more acres with at least one residence per acre — and it does not depend on how the underlying parcels are drawn. The Board applied this test to find three residential neighborhoods here.

20. **Step two — the setback is then measured to the parcel boundaries of the residences that comprise the neighborhood, not to the dwellings.** The panels must be set back "from any residential neighborhood" (KRS 278.704(2); 278.706(2)(e); 278.710(1)(g)) — deviated here to 500 feet. A distance "from" a neighborhood is measured to where the neighborhood begins — and a populated area begins where its residents' land begins. The neighborhood consists of the residential properties whose occupants populate it, not merely the spots where their dwellings stand; KRS 278.708(3)(c) confirms the protected interest is the whole property, requiring evaluation of "property values and land use" for adjacent owners. The density test in step one determines only *whether* an area qualifies as a residential neighborhood; it does not shrink the qualifying neighborhood to a shape drawn around its structures. The neighborhood's edge — the endpoint of the setback — is therefore the outermost parcel boundaries of the non-participating residences that comprise it, and measuring to the dwellings instead would strip the setback from everything else those residents own: their yards, fields, and road frontage. That loss is concrete, not abstract: the land nearest the Project is the land on which a future home would be built, and a dwelling-measured setback protects only houses that already exist — a residence built after the panels are placed commands nothing beyond the generic 100-foot property-line setback, one-fifth of the protection the Board found an existing residence requires. An adjoining parcel's value as the site of a future home is precisely the "land use" that KRS 278.708(3)(c) directs be evaluated and that the setback exists to protect. The statute's own word choice confirms the distinction: the legislature used "residential *structure*" for the density test and "*property*

boundary" for the exhaust-stack setback, but "residential *neighborhood*" (an area) for this setback. Reading it to mean the nearest dwelling rewrites "neighborhood" as "structure." The Order's own construction principle points the same way: the Board found the statutory definitions "should be liberally construed" to protect property owners from the negative effects of generation siting (Order at 24) — a principle that governs the setback's endpoint no less than the neighborhood's identification. *(The separate "1,000 feet from the property boundary of any adjoining property owner" in KRS 278.704(2) governs exhaust stacks and wind turbines — or solar only under a KRS 278.216 site-compatibility certificate, which applies to utilities, not to a merchant facility; the issue here is the endpoint of the 500-foot neighborhood setback, not a separate property-line setback for the panels. KRS 278.704(4) independently requires a deviation to meet the goals of KRS 278.216, which protects adjoining owners through a property-boundary setback — reinforcing parcel-boundary measurement.)*

21. **The Board's own findings require parcel-boundary measurement — yet the Order recited dwelling distances.** The Board found Neighborhood 3 is a residential neighborhood even though its nearest dwelling is 2,915 feet from a panel, because the neighborhood's southern portion — one 133-acre parcel — has a "parcel boundary … 73 feet away from the solar panel" (Order at 24, 26; the distances are Crab Run Solar's own figures, recited by the Board). The Board could reach Neighborhood 3 only by measuring to the parcel boundary, and it adopted property-line measurement in the companion "100 feet from any exterior property line" condition. Having measured to the parcel boundary for purposes of *including* Neighborhood 3, the Board left the 500-foot setback's endpoint undefined and elsewhere recited the 335-foot *dwelling* distance (Order at 25). The endpoint should not be left to interpretation: the Applicant's witnesses uniformly measured to the dwelling, and the final site plan will be prepared — and reviewed — against whichever reading prevails (¶ 22).

22. **The endpoint is outcome-determinative for the final site plan.** The Order's setbacks will be implemented through a final site plan the Applicant must submit for approval at least 30 days before construction (Appendix A, measure 1) — and what that plan must show turns entirely on the endpoint. Measured to dwellings, the record layout requires only modest adjustment (its closest panel stood 335 feet from a residence, Order at 25). Measured to the neighborhoods' parcel boundaries, the redesign is substantial: the record layout placed a panel 73 feet from Neighborhood 3's boundary (Order at 24), and its Neighborhood 1 panels necessarily stood closer than 335 feet to the Frogtown parcel lines, since each dwelling lies beyond its own lot line (the fence itself stood 35–105 feet from those lines, Applicant's Response to Staff's Second Data Request, Response No. 39, Table 1). The Applicant's engineer, Mr. Jennings, confirmed the Project can be redesigned by removing panels or adjusting row spacing (Apr. 28 Hr'g ~3:23–3:24). Unless the Board states the endpoint now — before the final site plan is prepared — neither the Applicant designing that plan nor the Board reviewing it can know what compliance means, and the Intervenors have no assurance the plan will honor the setback the Board actually imposed.

23. **Lost City's contrary wording does not control, and the point is preserved.** In Lost City Renewables (Case No. 2024-00406), the Board worded a deviation condition as a distance "to the nearest residential structure … within that neighborhood." That phrasing collapses the statutory "neighborhood" into a "structure," reflects a discretionary deviation-condition

choice rather than a construction of the statutory measurement, and cannot be reconciled with the Board's parcel-boundary treatment of Neighborhood 3 here. To the extent the Order rests on the view that "residential neighborhoods" are not defined by parcel boundaries (Order at 24), the Intervenors preserve, for judicial review under KRS 278.712(5), their position that KRS 278.700(6) defines a neighborhood as a geographic area whose edge is the parcel lines of the residences comprising it.

24. **Relief.** The Intervenors request that the Board clarify and modify the Order to provide that the 500-foot residential-neighborhood setback is measured from the nearest generating structure to the nearest parcel boundary of any non-participating residence comprising a residential neighborhood, and that the final site plan demonstrate compliance so measured. To make the change easy to adopt — and following the form this Board granted in *AEUG Madison Solar* (Case No. 2020-00219) and *Glover Creek Solar* (Case No. 2020-00043) — the Intervenors propose that Appendix A, measure 21, be revised to read (new language in bold):

21. Crab Run Solar shall place panels, inverters, and switchyard components consistent with the distances prescribed in this Order. The Siting Board approves a setback of 500 feet between any solar panel or string inverter and any residential neighborhood, **measured from the nearest generating structure to the nearest parcel boundary of any non-participating residence that comprises the residential neighborhood**, and 100 feet from any exterior property line. Crab Run Solar shall not place solar panels or string inverters, if used, closer than 500 feet from a residence, church, or school, or 50 feet from any adjacent roadway. Crab Run Solar shall not place a central inverter, if used, closer than 650 feet from any non-participating parcel boundary. These setbacks shall not be required for residences of participating landowners who so agree in writing. **The final site plan shall demonstrate compliance with the 500-foot residential-neighborhood setback as measured to the parcel boundary.**

This single revision fixes the measurement ambiguity (this Ground); resolves the 650/450 conflict in favor of the 650-foot figure the Board's findings recite, measured, consistent with this Ground and with the Intervenors' request below (Order at 15), to the non-participating parcel boundary; deletes the energy-storage references that correspond to no component of this Project; and thereby resolves the internal conflicts identified in paragraph 29(a)–(d) below.

GROUND IV — THE DENIAL OF THE EARTHEN-BERM CONDITION RESTS ON AN IMPROPER RATIONALE AND ON AN UNSUPPORTED "NOT NECESSARY" FINDING.

25. **What the Board did.** The Board declined the Intervenors' requested 10-foot earthen berm on two stated grounds: that the third vegetative row and 500-foot setback make it "not necessary," and that the Intervenors "should have addressed this mitigation … during discovery or at the hearing so that Crab Run Solar could have the opportunity to respond" (Order at 11).

26. **The procedural rationale is improper.** The berm was timely raised in the Intervenors' Post-Hearing Brief, filed pursuant to the Board's own May 4, 2026 scheduling order. The

Board has independent authority under KRS 278.708(6) to require "any mitigation measures that the board deems appropriate," and it exercised that authority for numerous measures not raised in discovery (the 500-foot setback, the 2,400-foot construction-notice radius, the complaint-resolution program). Applying a forfeiture rule to the berm alone is arbitrary. The premise that the Applicant had no opportunity to respond is also incorrect: the Applicant used its post-hearing data-request responses to address matters it was not asked about (the proposed fourth neighborhood) and introduced its own new post-hearing analysis (its engineer Mr. Jennings's 450/500-foot capacity analysis). And with PJM Phase 2 results pending (Order at 23) and a final site plan due at least 30 days before construction (Appendix A, measure 1), there was ample time to address a berm. The inconsistency is decisive on its own: the Board *acted on* the Intervenors' post-hearing vegetation request — adding a "third row" of screening (Order at 11) — while rejecting the earthen-berm portion of the same Post-Hearing Brief request as procedurally forfeited. The Board cannot treat one half of a single post-hearing request as properly before it and the other half as too late.

27. **The "not necessary" finding is not supported by substantial evidence.** The Board itself found it "is going to take at least five years for the vegetative screening to completely shield the proposed facility to the homes located on Frogtown Road" (Order at 27). During those years — including the construction period with pile driving at up to 76.5 dBA (Order at 13–14) — there is no effective vegetative screen, and the record contains no Year 1–5 visual simulations. A berm is the only immediate physical mitigation for both the visual gap and construction noise, and no physical barrier was ever evaluated by the Applicant's experts — so "unnecessary" rests on an absence of analysis, not on evidence. The "third row" the Board relied on does not reach the perimeter, either: the Applicant proposed only a *double* row along *parts* of the east and west boundaries and *parts* of Frogtown Road, North Loretto Road, and Arthur Mattingly Road (approximately 4,165 linear feet), and Appendix A, measure 14, requires added screening only "in areas where … viewshed impacts occur from residences or roadways directly adjacent to the Project" and only "to the reasonable satisfaction of the affected adjacent property owners." Long stretches of the Project perimeter abutting non-participating parcels are thus left with no screening at all — precisely the perimeter the Intervenors' continuous triple-row and berm requests were meant to protect. That gap falls hardest on adjoining parcels without an existing dwelling near the Project: because measure 14 is triggered only by viewshed impacts from residences or roadways, land held as a future home site receives no vegetative protection however close the panels stand to its boundary — even though that land's value is protected "land use" under KRS 278.708(3)(c) (see ¶ 20). A third row on selected road frontage is not substantial evidence that the perimeter is adequately screened.

28. **Relief.** The Intervenors request that the Board grant rehearing and modify the Order to require an earthen berm of at least 10 feet along the Project perimeter abutting non-participating parcels, constructed before any panel installation, with native evergreen plantings on its face and crest; or, at minimum, strike the procedural rationale and decide the berm on the merits of the existing record, including the Board's own "at least five years" screening finding. To make the change easy to adopt, the Intervenors propose that Appendix A, measure 14, be revised to read (new language in bold):

14. Crab Run Solar shall install a continuous vegetative buffer of at least three staggered rows of native evergreen trees and shrubs, a minimum of six feet in height at planting, **along the entire Project perimeter abutting any non-participating parcel**, and shall construct a **10-foot earthen berm along that same perimeter**, both completed before any panel installation, with native evergreen plantings on the berm's face and crest. Because the Board found that vegetative screening will not fully shield the affected homes for at least five years, this requirement shall not be contingent on individual property-owner satisfaction, and existing vegetation may be counted toward the buffer only where it already provides equivalent screening.

REQUEST FOR CORRECTION AND CLARIFICATION

29. Independent of the foregoing, the Intervenors ask the Board to correct or clarify the following internal conflicts and clerical errors so the certificate's conditions are clear and enforceable. Items (a)–(d) are implemented by the revised Appendix A measure 21 proposed in paragraph 24 above (item (d) also requires deleting one phrase from measure 1); items (e) through (g) are corrections to the Order's text, cross-references, and attributions:

a. **Central-inverter / energy-storage setback.** The body of the Order states this setback as "650 feet" (Order at 27), while Appendix A, measure 21, states "450 feet"; because the Order directs that Appendix A controls in the event of such a conflict (Ordering ¶ 4), the operative figure is 450 feet, 200 feet less than the Board's own stated finding. The Board should resolve the conflict by conforming Appendix A to the 650-foot figure its findings recite, and by stating the measurement to the non-participating parcel boundary, consistent with Ground III and with the inverter setback the Intervenors requested below, which was measured "to any non-participating parcel boundary" (Order at 15). The revised measure 21 proposed in paragraph 24 so provides.

b. **Non-participating-parcel setback.** Appendix A, measure 21, approves both "100 feet from any exterior property line" and "25 feet from non-participating adjoining parcels." The Board should reconcile these into one governing distance — and, in doing so, should adopt the 300-foot property-line setback the Intervenors requested below for parcels outside a residential neighborhood, which protects "the future residential development potential of adjacent parcels over the 35-year certificate term" (Intervenors' Post-Hearing Brief at 15). For adjoining parcels whose value lies in their buildable land rather than an existing dwelling, this setback is the only protection the certificate affords (see Ground III, ¶ 20). At minimum, the 100-foot figure should govern over the conflicting 25.

c. **Incomplete sentence.** Measure 21 contains an incomplete clause ("… 50 feet from adjacent roadways and."), which should be completed or corrected.

d. **Battery-storage conditions on a project with no battery.** The Order and Appendix A impose conditions on a "battery energy storage system" / "energy storage systems" (Order at 27; Appendix A, measures 1, 21), though the Project has none. These references should be struck; their presence corroborates that the property-value report and the resulting conditions were drawn from another project (see Ground I). The revised measure 21 (¶ 24) deletes the energy-storage references while retaining the central-inverter setback at 650 feet (see item (a)); the Intervenors further request that Appendix A, measure 1, be revised to delete “battery energy storage system” from the list of potential site-plan changes.

e. **Operations-phase economic figures.** The operations-phase impact is stated as “3.34 total jobs with labor income of $7.6 million and $17.68 million in economic value added” (Order at 20) — figures identical to the construction-phase totals (Order at 19). The Applicant’s own economic report states that the operations phase is expected to “add an additional 3.34 jobs and $342,841.93 in labor income per year,” with a total annual operations-phase impact of about $1.65 million (Application, Tab 10, Attachment H, Table 4 and accompanying text). The Board should conform the Order to the record (criterion KRS 278.710(1)(c)).

f. **Body-to-Appendix cross-references.** Several of the Order’s citations to Appendix A do not match the Appendix’s numbering: the noise discussion cites “mitigation measures 19 through 21” (Order at 16), but the noise measures are 18–20; the participating-landowner setback exceptions are said to be “included in Appendix A, mitigation measure 22” (Order at 28), but appear in measure 21; the transfer-of-control discussion cites “mitigation measure 32” (Order at 29), but the transfer condition is measure 31; and the decommissioning discussion cites “mitigation measures 33 and 34” (Order at 31), though measure 34 is the Complaint Resolution Program (the decommissioning measures are 33 and 36). Measures 13 and 17 are also verbatim duplicates. The Board should conform these references so the certificate is administrable.

g. **Consultant of record.** The Order states that “Siting Board consultant, Wells Consultant (Wells), filed its report” on April 6, 2026, and cites the “Wells Report” throughout (Order at 2, 4, 12–13). The report filed on April 6, 2026 was prepared by Elliot Engineering, Inc. — its property-value review (Attachment B) by E. Clark Toleman, MAI, SRA — and Wells Engineering, the Board’s consultant in other solar dockets, does not appear in it. The Intervenors respectfully ask that the Order be corrected to name the consultant of record so the record is clear; like the battery-storage references (item (d)), the entry appears to reflect text carried over from other dockets, which underscores the value of the fresh look this Application requests.

CONCLUSION AND RELIEF REQUESTED

30. For the foregoing reasons, the Intervenors respectfully request that the Board grant rehearing under KRS 278.400 and modify its June 17, 2026 Order to:

(1) decline to credit the Exhibit B “no impact” conclusion as substantial evidence and require a corrected, project-specific property-value analysis before any property-value finding stands (Ground I);

(2) conform the certificate’s decommissioning-bond conditions to the Board’s standard practice and to KRS 278.706(2)(m)5 — NPV-sized, independently determined and reviewed every five years, in place no later than commencement of construction (KRS 278.710(3)(a)), with EEC and leasing-landowner co-beneficiaries and certification to the Board and County (Ground II);

(3) clarify that the 500-foot residential-neighborhood setback is measured to the nearest parcel boundary of any non-participating residence comprising a residential neighborhood, and require the final site plan to demonstrate compliance so measured (Ground III);

(4) require the earthen berm and perimeter vegetative screening as conditions, or decide them on the merits (Ground IV); and

(5) correct and clarify the matters in paragraph 29;

and grant such further relief as is just.

Respectfully submitted this 6th day of July, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Intervenors' Application for Rehearing was filed with the Kentucky Public Service Commission through the Commission's eFiling System on this 6th day of July, 2026, which constitutes electronic service on all parties of record in Case No. 2025-00276 pursuant to 807 KAR 5:001 § 8(8). Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, to which the Siting Board's January 7, 2026 Order in this case directs the parties, no paper copies will be filed.

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