

**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	)	Case No.
MEGAWATT ELECTRIC SOLAR GENERATING	)	2025-00276
FACILITY IN MARION COUNTY, KENTUCKY	)	

**INTERVENORS’ RESPONSE IN OPPOSITION TO CRAB RUN SOLAR
PROJECT, LLC’S APPLICATION FOR REHEARING**

Submitted by:

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Adjacent Landowners / Intervenors, Pro Se
Marion County, Kentucky

July 14, 2026

The undersigned Intervenors — adjacent landowners who were granted intervention in this matter and who appear pro se — respectfully respond in opposition to the Application for Rehearing filed by Crab Run Solar Project, LLC (“Crab Run” or “the Applicant”) on July 7, 2026 (the “Applicant’s Application”). This Response is filed within seven days of that filing, consistent with the period provided for responses under 807 KAR 5:001 Section 5(2).

The Applicant’s Application asks the Board to do three things: reduce the 500-foot setback in Appendix A, measure 21, to 335 feet — the distance at which the Applicant’s own preferred layout happens to sit — and measure it to residential structures rather than to the parcels on which those residences stand; resolve the internal conflict between the 100-foot and 25-foot property-line figures in measure 21, in substance at the lower figure, since the Applicant discloses that the nearest panel in its proposed layout sits 73 feet from a non-participating parcel line; and eliminate measures 12, 13, and 17. The Board should decline each request, with one exception: measure 17 duplicates measure 13 and should be deleted — a correction the Intervenors have already requested (Intervenors’ Application for Rehearing ¶ 29(f)). One pair of numbers, drawn from the Applicant’s own filings, frames all three requests: the nearest panel stands 718 feet from the participating landowner’s home — an owner who had waived every setback in writing — and 335 feet from the nearest objecting neighbor’s.

I. THE 500-FOOT SETBACK SHOULD STAND.

1. **The baseline is 2,000 feet, and the burden is the Applicant's.** KRS 278.704(2) provides that no construction certificate shall issue unless all proposed generating structures are “two thousand (2,000) feet from any residential neighborhood”; a shorter distance is available only as a deviation under KRS 278.704(4), and only on a finding that the facility, as designed and located, would meet the statutory goals “at a distance closer than those provided in subsection (2).” The 500-foot condition in measure 21 is therefore not a burden imposed on the Applicant that the Intervenor was required to justify; it is already a deviation of 1,500 feet in the Applicant's favor. The request to shrink the distance further — to 335 feet, roughly one-sixth of the statutory default — is a request for a still larger deviation, and the burden of supporting it rests on the Applicant, not on the property owners the statute protects. The Applicant's Application proceeds as though zero were the baseline and 500 feet the aberration. The statute is to the contrary.
2. **The assertion that the Intervenor “never offered any study or evidence” is not accurate.** The Applicant asserts that the Intervenor “never offered any study or evidence as to why that distance, and not 335 feet, or 400 feet, or 450 feet, etc. was necessary to achieve the statutory goals” (Applicant's Application at 6). The record says otherwise. Two university studies are in the record — both contained in the Applicant's own Exhibit B, and both put to the Applicant's appraiser at the April 28, 2026 hearing: the Virginia Tech study (Hu et al., 2025, cited at Exhibit B at 31), whose findings Exhibit B itself summarizes (§ H) as “a reduction in value for homes within 0.5-miles of 7.2% if it has no view of the project or 7.9% if it has a view of the project,” with “a 4.8% impact up to 3 miles away”; and the Lawrence Berkeley National Laboratory study (March 2023), “Shedding light on large-scale solar impacts: An analysis of property values and proximity to photovoltaics across six U.S. states” (Exhibit B, § E). Mr. Kirkland acknowledged both at the hearing: “I addressed the university studies as additional information that I considered” (Apr. 28 Hr'g ~5:15). What is true — and unremarkable — is that no study selects a regulatory line. The studies quantify how the loss grows as distance shrinks (§ 3 below); none certifies 500 feet as the necessary figure, and none endorses the 335 feet the Applicant prefers — a figure that is the product of no analysis in the record and is simply where its layout places the nearest panel.
3. **The proximity evidence in the record runs toward more distance, not less.** The record's studies find losses that grow with proximity and concentrate within one-half mile — 2,640 feet. Every distance under discussion here (335, 450, 500, or 634 feet) lies deep inside that band. If the distance gradient in the record's peer-reviewed evidence is credited, it supports a greater setback, not a lesser one. And although Ground I of the Intervenor's Application demonstrates that Exhibit B's analyses are not reliable, even taking the report's own arithmetic at face value its nearest-distance results run negative: the matched pair at roughly 300 feet showed -6% (771 Craney Island Road), and the lot the report describes as directly adjoining a solar farm indicated -10% before the report blended it away (Intervenor's Application ¶¶ 4, 7). Reducing the setback by a third would move every affected home deeper into the band where the record's studies measure the largest losses. The same evidence disposes of the Applicant's description of the setback's benefit as “marginal” and confined to “the initial several-year window in which required vegetative screening is maturing” (Applicant's Application at 9): in the record's principal

study, the loss for homes with no view of the panels (7.2%) is nearly the loss for homes with a view (7.9%) (§ 2 above) — an injury that neither arrives with visibility nor leaves when the screening matures.

4. **The “construction noise” theory rests on a clerical cross-reference the Intervenor have already asked the Board to correct.** The Applicant reads measure 21 as a construction-noise measure because the Order’s noise discussion cites “mitigation measures 19 through 21” (Order at 16), and argues that a permanent setback cannot rest on construction noise when operational noise will have “little to no effect” on area residences (Order at 15). But what page 16 describes — construction hours and the time, manner, and suppression of pile driving — is the substance of measures 18 and 19; with measure 20’s noise notification, the Order’s noise measures are 18 through 20. The “19 through 21” cite is one of several Appendix A cross-references that are off by one, which the Intervenor have already asked the Board to conform (Intervenor’s Application ¶ 29(f)). Measure 21 instead implements the Order’s setback determinations (Order at 24–28), which rest on the Board’s finding that the legislature’s purpose is “to protect property owners,” “including scenic surroundings and property values,” and that the statutes are to be “liberally construed” (Order at 24). The Applicant’s reading would convert the certificate’s central protective condition into a temporary construction rule on the strength of a single misaligned citation.
5. **The lost-opportunity narrative fails on the record.** The Applicant argues that the Board’s consultant “did not recommend a 500-foot setback or otherwise indicate the setbacks proposed by Crab Run were inadequate,” and that it would otherwise have “prepared analysis and further evidence for presentation at the Formal Hearing” (Applicant’s Application at 5). But the consultant recommended no distance at all: its property-value reviewer concluded, in general terms only, that proximity “will have a neutral impact on the adjoining property value when the set back and buffer screening is in place” (Consultant Final Report § 3.3.10, quoting Attachment B), and the same report noted that Crab Run’s motion to deviate from the statutory 2,000 feet “will be ruled on in the final order” (id. § 3.3.8) — the distance was an open question expressly reserved to the Board. The Board then asked the question itself: at the hearing, Mr. Jennings was asked directly how the Project would be impacted by a 450- or 500-foot setback, and answered that Crab Run “would have to account for that” by “removing some of the panels that we had planned to do” or by shrinking the “distance between each row of panels to kind of consolidate the amount of space used” (Apr. 28 Hr’g ~3:23–3:24); Mr. Ivy, asked whether such a setback would cause problems, answered that the stormwater design “would likely be the same” and that “the biggest change would just be” the added vegetated buffer (~3:35–3:36). Witnesses who described workable adjustments under oath cannot be recast, on rehearing, as having lacked notice or opportunity to address the question.
6. **Nor does KRS 278.400 admit the capacity analysis now offered.** By the Applicant’s own account, its witness “analyzed this question generally post-hearing”; and “[i]f rehearing is permitted, Crab Run will introduce additional evidence” of reduced capacity (Applicant’s Application at 8). KRS 278.400 permits additional evidence on rehearing only where it “could not with reasonable diligence have been offered” earlier. This analysis answers a question the Board posed at the hearing itself. The Applicant had until the May 11, 2026 close of post-hearing filings to develop it, and instead asserted the

conclusion in its brief — a “forced reduction of maximum capacity” — without proof (Applicant’s Post-Hearing Brief at 5). Nor did it lack the means: asked in Item 2 of Staff’s post-hearing information request only for a table of distances, the Applicant found room to volunteer, “[f]or purposes of clarification,” an unrequested defense of its neighborhood-identification methodology and an objection to the fourth residential neighborhood proposed in the Intervenor’s Post-Hearing Brief (Crab Run Responses to Staff’s Post-Hearing Request for Information, May 11, 2026, Item 2). The opportunity to prove the claim was given, and it was declined; it has passed. Rehearing exists to receive evidence that could not have been offered, not evidence a party chose not to offer. Even now, the Application offers no figure for the claimed reduction — not a megawatt, not an acre. Its Exhibit A does not fill the gap: alongside the residence circles its text describes, the map overlays a “500’ Setback From Adjacent Parcel Lines” around the entire Project perimeter — a uniform ring found nowhere in this case. The Order requires 100 feet from exterior property lines; the Intervenor’s Post-Hearing Brief requested 300 feet from non-participating parcels; and the measurement question addressed in Section II concerns the parcel boundaries of the residences comprising a residential neighborhood, not every boundary of the site. The impression of an unbuildable site rests on an overlay broader than anything the Order imposes or any party has requested.

7. **Even a proven capacity reduction would not carry the balance.** The next link, that reduced capacity “would in turn decrease some of the benefits of the Project” (Applicant’s Post-Hearing Brief at 6), is equally unproven: the operations-phase benefits in this record (3.34 jobs; \$342,841.93 in annual labor income; under the proposed PILOT, a negotiated \$66,953 upfront payment and \$2,649 annually in occupational taxes (Applicant’s Application at 6–7)) do not move with a marginal change in panel count; Mr. Jennings’s consolidation answer (§ 5 above) shows a revised layout need not lose capacity at all; and the protective measures the Applicant resists are themselves construction activity — planting, screening, and site work — the very category of local spending its construction-phase analysis counts as a Project benefit. The “relocation of various components” the Application forecasts (Applicant’s Application at 8) is relocation on paper: nothing has been built, and the Applicant’s own witnesses testified that the layout is “preliminary” and “likely to change” once its still-outstanding geotechnical and hydrology studies are complete (Apr. 28 Hr’g ~3:41; see also ~3:28; Consultant Final Report § 3.3.7). Its closing balance — “resulting harms to the Marion County community” that “well outweigh the marginal benefit” of the setback (Applicant’s Application at 9) — restates the unproven chain as a conclusion: no harm on that side of the scale is quantified anywhere in this record, and the “benefit” on the other is addressed at § 3 above. The asymmetry deserves notice: the Applicant demands record evidence isolating 500 feet while resting its own request for 335 on an analysis that is not in the record at all.
8. **The Board’s precedents do not require a smaller number.** The Applicant acknowledges “the Board’s authority to consider projects on a case-by-case basis” (Applicant’s Application at 7), and its own principal comparator proves the point: in Summer Shade Solar, by the Applicant’s telling, the Board imposed a 400-foot setback and denied reconsideration of it (Applicant’s Application at 7–8). Where the Board has credited a “no impact” property-value conclusion, it has done so expressly because of “the large setback from the property line” (AEUG Madison Solar, Case No. 2020-00219;

see Intervenor's Application ¶ 9). The record here — the defects in Exhibit B set out in Ground I of the Intervenor's Application, the proximity findings of the record's university studies, and the Board's own finding that the vegetative screening will take "at least five years ... to completely shield" the affected homes (Order at 27) — supports this Board's project-specific judgment that 500 feet is the floor, not the ceiling.

9. **A certificate is not a capacity guarantee, and constructability is the Applicant's risk, not a statutory criterion.** The Applicant argues that it would be "inconsistent" for the Board to grant a certificate "while imposing a setback condition that significantly adversely impacts whether the Project can actually be constructed" (Applicant's Application at 8). There is no inconsistency unless the certificate is read as a promise of a particular layout or output — and it is not. The Board does not select the site or design the Project; the Applicant does, at its own business risk. The Board's role, when it grants a deviation from the 2,000-foot statutory setback, is to impose mitigation sufficient to meet the statutory goals, and the Applicant's rate of return is not among them: KRS 278.710(1)(c) directs the Board to weigh the facility's economic impact on the affected region and the state, not the developer's margins, and the operations-phase benefits to Marion County do not move with a marginal change in panel count (¶ 7 above). Nothing in the statutes asks neighboring owners to absorb property-value losses so that a merchant facility may reach its maximum capacity; the Order reads the statutes to precisely the opposite effect — to protect those owners (¶ 4 above; Order at 24).
10. **The Applicant's own filings show that distance is a design choice.** Its lease with the Project's participating landowner waives setbacks outright: if the placement of the system "is limited or restricted by any private agreements, Encumbrances or Laws (including any setback requirements), Lessor (1) hereby waives enforcement" of them (Crab Run Response to Siting Board Staff's First Request, Attachment A [lease] § 7.3, at 11). Crab Run was therefore free to place panels at any distance whatever from the one home whose owner had agreed. It chose 718 feet — the distance its own table reports from the "Participating Landowner" residence at 830 Arthur Mattingly Road to the nearest panel (id., Attachment D) — and its Exhibit A here depicts that residence enjoying a panel-free 500-foot radius. The same table puts the nearest panel to a non-participating home at 335 feet, measured to 3250 Frogtown Road, the residence of Intervenor Susan Spalding (id.). The household that had waived every protection in writing received more than twice the distance, in a layout designed before the Order imposed any condition; the households that never waived anything are told that 335 feet must suffice. The "thoughtfully-designed, compact layout" the Application invokes — "only approximately 245 acres" of infrastructure within the 412-acre project area (Applicant's Application at 3) — confirms the pattern rather than answering it: the unused acreage was not placed between the panels and the objecting neighbors, whose minimum distances remain 73 feet to a non-participating parcel line and 335 feet to a non-participating home; the design's generosity appears where the participating landowner lives. (The distances in the Applicant's table run from residence to nearest panel; the distinct question of measure 21's measurement endpoint is addressed in Section II below.) A design that affords one home 718 feet where nothing requires it can meet the Order's 500-foot condition for the homes the statute protects.

II. THE MEASUREMENT POINT SHOULD BE RESOLVED AS THE INTERVENORS HAVE REQUESTED.

11. The Applicant's request that the 500-foot setback be measured to residential structures (Applicant's Application at 4 & n.2) confirms what the Intervenor's Application demonstrates: the Order does not state the measurement endpoint, and the answer is outcome-determinative. Footnote 2 of the Applicant's Application cites no order for its account of the Board's practice. The Intervenor will not repeat Ground III of their Application here (Intervenor's Application ¶¶ 18–24); it is enough to note that the governing construction principle is the Order's own — the protective purpose of the siting statutes, liberally construed (Order at 24) — and that KRS 278.708(3)(c) directs evaluation of "potential changes in property values and land use" for property owners adjacent to the facility, which is a parcel concept, not a dwelling concept. The Board should state the endpoint, and it should state it as the Intervenor has requested: the parcel boundary.

III. THE OPERATIVE PROPERTY-LINE SETBACK IS 100 FEET — AT MINIMUM.

12. Measure 21 first provides that the Board "approves 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 then recites "25 feet from non-participating adjoining parcels" in the very next sentence. Both parties have identified the conflict (Intervenor's Application ¶ 29(b); Applicant's Application at 4, 9). The Applicant styles its request as "clarification," but its interest is concrete: it discloses that "the distance from the nearest panel to a non-participating property line in Crab Run's Application was 73 feet" (Applicant's Application at 4 n.3) — a distance lawful only if the 25-foot figure controls. Resolving a drafting conflict in favor of the lower figure would read the measure's operative sentence — the sentence in which the Board "approves" the distances — out of the certificate, and would reward the conflict rather than resolve it.
13. The Intervenor has asked the Board to resolve the same conflict by adopting the 300-foot non-participating-parcel setback requested in their Post-Hearing Brief, or at minimum by confirming the 100-foot distance the measure already approves (Intervenor's Application ¶ 29(b)). The property-line distance is not a technicality: where this Board has accepted a "no impact" property-value conclusion, it has tied that acceptance to "the large setback from the property line" (see ¶ 8 above). Whatever distance the Board confirms on rehearing, it should not be less than the 100 feet its Order already approves.

IV. MEASURES 12 AND 13 SHOULD BE RETAINED; MEASURE 17 SHOULD BE DELETED AS A DUPLICATE.

14. The Applicant asks the Board to eliminate measures 12, 13, and 17 outright. As to measure 17, the Intervenor agrees: it is a verbatim duplicate of measure 13, and the Intervenor has already asked the Board to conform the duplication (Intervenor's Application ¶ 29(f)). As to measures 12 and 13, elimination is the wrong remedy. Together they are the only screening conditions that operate after construction: if components of the facility remain visible to neighboring homes once built, measure 12 requires the Applicant to assess the feasibility of a screening plan, consulting the affected neighbors and filing notice of that consideration with the Board; and measure 13 requires that any owner's waiver of a visual buffer be documented in a written consent submitted to the Board. Eliminating them would make visibility a one-time, pre-construction

question and would remove the written record that protects the owners and the Applicant alike.

15. The Applicant's stated concerns — a potentially open-ended consultation, an owner who declines to engage, uncertainty about how feasibility is determined (Applicant's Application at 11–12) — are drafting objections, and they can be met with drafting. If the Board shares them, the Intervenor's do not oppose conforming measure 12 to a defined procedure: an assessment of visibility from each non-participating residence with a line of sight to Project components, completed and filed with the Board within a fixed period after commercial operation begins; consultation with the affected owner where components are visible; and a provision that an owner's failure to respond within thirty days of written notice is noted in the filing and discharges the consultation obligation as to that owner. The Applicant's interpretive questions, however, do not justify eliminating the neighbors' only post-construction screening protections.
16. It bears noting that the Applicant states it does not object to measure 14 — which requires supplemental vegetative buffers "to the reasonable satisfaction of the affected adjacent property owners" — or to measure 16's more robust screening plan (Applicant's Application at 10–11). Measures 12 and 13 are the mechanisms by which visibility, satisfaction, and consent are ascertained and documented. Retaining the obligations while eliminating the mechanisms would make the conditions the Applicant accepts harder to administer, not easier.

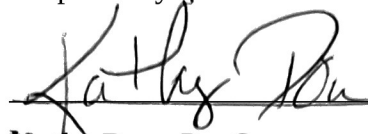
V. THE CLERICAL ITEMS BOTH PARTIES HAVE IDENTIFIED CAN BE RESOLVED AS THE INTERVENORS HAVE REQUESTED.

17. The Applicant's filing independently confirms two of the corrections the Intervenor's requested: that the Board's consultant of record for this Project is Elliot Engineering, not Wells (Applicant's Application at 5 n.4; Intervenor's Application ¶ 29(g)), and that the Order recites the construction-phase economic statistics in describing operations (Applicant's Application at 6 n.9; Intervenor's Application ¶ 29(e)). Both parties have thus identified the same clerical items, and the Intervenor's Application ¶ 29 already sets out proposed text resolving each of them. The appropriate course is simply to conform the certificate — not to relax its protective conditions. One caution on the Applicant's recitation of Project benefits (Applicant's Application at 6–7): its assertion of "[n]o adverse impact on nearby property values" rests on the same Exhibit B conclusion whose defects are set out in Ground I of the Intervenor's Application — and the Order itself credits that conclusion only "as long as proper mitigation measures are implemented" (Order at 13). The mitigation measures the Order implemented include the 500-foot setback the Applicant now asks the Board to shrink; a finding conditioned on the Order's measures cannot be cited to relax them.

VI. CONCLUSION

18. For the foregoing reasons, the Intervenor's respectfully request that the Board deny the Applicant's Application for Rehearing, except that the Board should resolve the internal conflicts in measure 21 and the duplication of measures 13 and 17 as requested in the Intervenor's Application ¶ 29 — confirming a non-participating-parcel setback of no less than the 100 feet the Order approves, and a 500-foot residential-neighborhood setback measured to the parcel boundary as requested in Ground III of the Intervenor's Application — and grant such further relief as is just.

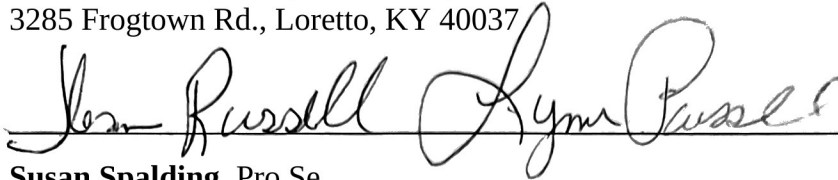
Respectfully submitted this 14th day of July, 2026.



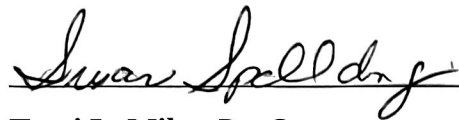
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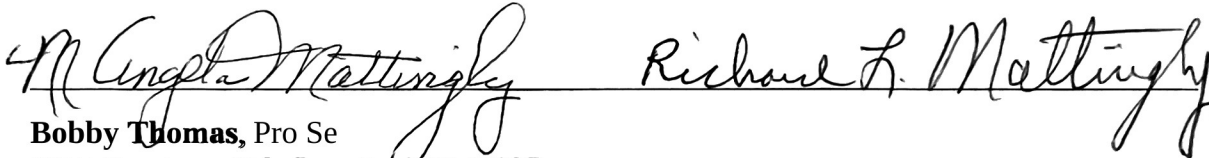
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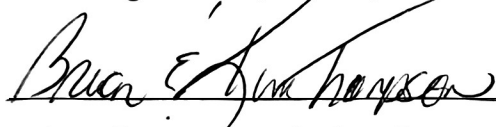
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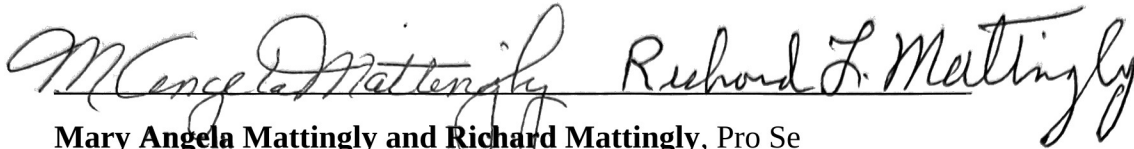
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Intervenor's Response in Opposition was filed with the Kentucky Public Service Commission through the Commission's eFiling System on this 14th 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.

Handwritten signatures of Mary Angela Mattingly and Richard L. Mattingly in cursive script, positioned above a horizontal line.

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