

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

In the Matter of)
Application of Wilkinson Solar LLC) JOANN AND MARSHALL
for a Certificate of Public Convenience) LILLEY’S MOTION FOR
and Necessity to Construct a 74-MW) RECONSIDERATION OF ORDER
Solar Facility in Beaufort County,) DENYING PETITION TO INTERVENE
North Carolina)

Mr. and Mrs. Marshall and Joann Lilley (hereinafter “Petitioners”), by and through its undersigned attorneys, respectfully moves that the North Carolina Utilities Commission (the Commission) reconsider its Order on Petitions to Intervene pursuant to N.C.G.S. § 62-80 and Rule R1-19 of the Rules and Regulations of the Commission and issue an Order allowing Petitioners leave to participate fully as a party in this docket. In support of this Motion, Petitioners shows the Commission the following:

1. Petitioners are land owners in Terra Ceia, North Carolina, having inherited property located at 3352 Terra Ceia Rd., Pantego, NC 27860.
2. Petitioners’ home address is located at 1001 Free Union Church Rd., Pinetown, NC 27865.
3. Petitioners’ counsel in this proceeding, to whom all notices, pleadings and other documents related to this proceeding should be directed is

The Allen Law Offices, PLLC
Dwight W. Allen
Britton H. Allen
Brady W. Allen
1514 Glenwood Ave, Suite 200
Raleigh, NC 27608
Telephone: (919)-838-5175

4. On February 7, 2018, Wilkinson Solar, LLC’s (hereinafter “Applicant”) November 29, 2017 letter and revised site plan was construed as an

application to amend the CPCN previously granted in this docket, pursuant to the Commission's Order Rescheduling Further Hearings, Requiring Filing of Testimony, Establishing Procedural Guidelines and Requiring Public Notice (hereinafter "Commission's Rescheduling Order").

5. The Commission's Rescheduling Order allowed persons having an interest in this proceeding and desiring to become formal participants and parties of record to file verified petitions to intervene stating such interest on or before March 9, 2018.
6. On March 9, 2018, Petitioners filed a Petition to Intervene *pro se*, alleging that Marshall and Joann Lilley are "willed" homeowners in the Terra Ceia Community, where the proposed utility scale solar electric merchant plant, as amended, will have negative impacts, including, lowering the value of their property, creating potential hazards for water contamination, and electric and fire hazards. The Petition was not verified.
7. On March 12, 2018, the Applicant filed an Objection to the Petition to Intervene of the Petitioners, among others, arguing that none of the petitioners showed a sufficient interest in the proceeding to warrant intervention. Applicant, in responding to the *pro se* Petition to Intervene argued that Petitioners failed to show a sufficient interest in the proceeding to warrant intervention. However, the map provided in the Petitioners' Joint Response to Motion to Deny shows the Petitioners' property as being adjacent to the amended facility siting area.

8. On March 14, 2018, Petitioners filed a Joint Response to Wilkinson's Objection to their intervention, which was sworn to before a notary in Beaufort County, NC. Petitioners' response stated that they had been willed a house and land located adjacent to the amended solar facility. Furthermore, Petitioners provided a map showing the exact proximity of their property to the amended facility
9. On March 15, 2018, the Commission issued its Order on Petitions to Intervene. The Presiding Commissioner acknowledged that the map provided by the Petitioners in their reply to Wilkinson Solar's Objection to their Petition to Intervene identifies their property as a parcel adjacent to the site of the facility and next to Intervenor VanStaalduinen's property, who was deemed to have a sufficient interest in the proceeding due to her property's proximity to the amended facility site.
10. Nonetheless, the Commission denied the Petitioners' intervention based on the justification that a mere expectation of inheriting this property is not a sufficient interest to justify allowing intervention to this proceeding. The Commission noted that a will takes effect as if it had been executed immediately before the death of the testator, and is not effective to pass title to real property unless properly probated.
11. While probate is an important process in the administration of estates, title to the real estate passes to the devisee at the death of the decedent, subject to subsequent payment of debts. Thus, the Commission's conclusion appears to be based on a mistaken fact if not an incorrect application of the law. Joann

Lilley's inheritance in the property vested when her mother, Johanna Van Staalduinem, the testator, passed on January 9, 2018.

12. In their Petition to Intervene, filed *pro se*, the Lilly's stated the property was "willed" to them.¹ The past tense of "willed" was intended by the Petitioners to signify that real property had in fact been devised and the will executed upon the passing of the decedent.
13. Currently, the decedent's estate is in probate, while the notice period expires in June 2018, pursuant to N.C. Gen. Stat. § 28A-12-1. Even if a creditor were to challenge the Petitioners' inheritance, the Petitioners' hold a right to be made necessary parties in a hearing before any sale of their property pursuant to N.C. Gen. Stat. § 28A-17-4.
14. In any event, the question of whether the Petitioners have an interest to this property is known with absolute certainty, and their intervention should be allowed.

WHEREFORE, Petitioners respectfully requests that the Commission reconsider its ordering denying the Petition to Intervene of the Petitioners and enter an order allowing Petitioners to intervene and fully participate in the above-captioned proceeding, including the right to discovery, and to otherwise exercise all statutory rights provided to Intervenors under North Carolina law.

Respectfully submitted, this 26th day of March, 2018

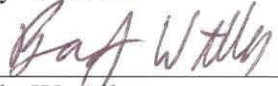
¹ It's recognized that the Petition to Intervene, filed *pro se*, was not a model of clarity in describing the status of the decedent. However, the public interest requires that in dealing with *pro se* Petition, the Commission should grant some degree of leeway to a petitioning citizen, particularly when the adverse party is represented by counsel.

ALLEN LAW OFFICES, PLLC

Dwight W. Allen

Britton H. Allen

Brady W. Allen

By:  _____

Brady W. Allen

1514 Glenwood Ave., Suite 200

Raleigh, NC 27608

Ph: 919-838-5175

brady.allen@theallenlawoffices.com

Attorney 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 26th day of March, 2018.

By 

Brady W Allen

VERIFICATION

STATE OF NORTH CAROLINA)	
)	DOCKET NO. EMP-93, Sub 0
COUNTY OF BEAUFORT)	

PERSONALLY APPEARED before me, Marshall Lilley and Joann Lilley, after first being duly sworn, said she has read the foregoing *Petition to Intervene* and knows the contents thereof; and that the same are true and correct to the best of his knowledge, information, and belief.

Marshall Lilley
Marshall Lilley

Joann Lilley
Joann Lilley

Sworn to and subscribed before me this 26 day of March, 2018.

Kayla V Fox
Notary Public

My Commission expires: 4-14-2018

