

April 6, 2018

VIA ELECTRONIC DELIVERY

Martha Lynn Jarvis
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina

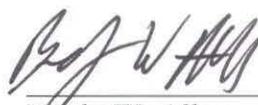
RE: Ms. Deb Van Staalduinen and Marshall and Joann Lilley's Motion to Request
Rulings and Motion for Continuance in Docket No. EMP-93, Sub 0

Dear Mrs. Jarvis:

Please find enclosed the above referenced document to be filed in Docket No.
EMP-93, Sub 0.

Thank you for your assistance in this matter.

Sincerely,


Brady W. Allen

Enclosure

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

In the Matter of)	Motion to Request Rulings of
Application of Wilkinson Solar LLC)	Lilley’s Motion for Reconsideration
for a Certificate of Public Convenience)	and Deb Van Staalduinen’s
and Necessity to Construct a 74-MW)	Petition to Intervene
Solar Facility in Beaufort County,)	and Motion for Continuance
North Carolina)	

Ms. Deb VanStaalduinen and **Marshall and Joann Lilly** (hereinafter “Petitioners”), by and through its undersigned attorneys, respectfully asks this Commission to grant the Petition for Intervention of Deb Van Staalduinen and the Lilleys, and to issue an Order continuing the scheduled evidentiary hearing to a later date to be determined as appropriate by this Commission. In support of this Motion, Petitioner shows the Commission the following:

1. On March 9, 2018, Petitioners filed a *pro se* petition to intervene.
2. On March 14, 2018, Petitioners filed a verified supplemental response to their petitions to intervene.
3. On March 19, 2018, at the public hearing in Beaufort County, North Carolina, Petitioner Van Staalduinen, prior to taking the stand as a public witness, affirmed her withdrawal of her Petition to Intervene. Then, Petitioner Van Staalduinen stated under oath that that decision was made out of fear and that she wanted to change her mind.¹
4. On March 26, 2018, Petitioner, with counsel, filed a petition to intervene. Also, Marshall and Joann Lilley, with counsel, filed a motion for reconsideration of the denial of their petition to intervene.

¹ The Transcript of Testimony was filed in the Docket on April 3, 2018.

5. The Commission has not yet issued a final ruling on the previous petition to intervene or motion for reconsideration, in the intervening period both Applicant and Petitioners have filed additional comments on the status of the intervention of Ms. Van Staalduinen
6. On April 5, 2018, Wilkinson Solar, LLC (“the Applicant”) filed supplemental testimonies of three additional witnesses. Wilkinson Witness Joe von Wahlde’s testimony relied on two Preliminary Jurisdictional Determination Reports, which were not provided as attachments to his testimony. Wilkinson Witness Paul Theinpont relied on a geotechnical engineering study, which also was not provided as an attachment to his testimony.
7. In order to proceed with its case, the Petitioners need the opportunity to review the studies and reports relied upon by the Applicant. Due to the late timing of the Applicant’s supplemental testimony, which was filed less than a week before the evidentiary hearing, and due to the fact that Petitioners still await ruling on their intervention, Petitioners are unable to properly prepare for the hearing in the event that their intervention is granted.
8. Under N.C. Gen. Stat. § 1A-1 Rule 26(a) parties may obtain discovery by production of documents. Under N.C. Gen. Stat. § 1A-1 Rule 34(a), parties may serve on any other party a request to produce any document which contains matters within the Scope of N.C. Gen. Stat. § 1A-1 Rule 26(b).²

² The scope of Rule 26(b) allows parties to obtain discovery regarding any matter, not privileged, which is relevant to subject matter involved in the pending action. Here, the discoverable studies and reports were alluded to in response to issues raised at the Public Hearing in Washington, NC. Therefore, the relevance is incontrovertible.

9. Petitioners have provided as an attachment to these motions a data request that they wish to serve on Applicant. However, because the intervention remains in limbo, Petitioners reasonably anticipate that the Applicant will not respond to the data request until intervention is granted.³
10. The Petitioners have established a substantial interest in this proceeding. Justice requires that they be given a fair opportunity to present their case, and issue data requests for any and all studies that the Applicant wishes to rely upon in its case in chief.

WHEREFORE, Petitioners respectfully request that the Commission enter an order allowing Petitioners to intervene and fully participate in the above-captioned proceeding, and to otherwise exercise all statutory rights provided to Intervenors under North Carolina law, and the Petitioners respectfully request that the Commission issue an Order Continuing Hearing for a minimum of two weeks after the data responses have been served on intervenors in order to allow the intervenors to the opportunity to perform discovery on testimony that the Applicant has filed a mere six days before the scheduled evidentiary hearing.

Respectfully submitted, this ____ day of _____, 2018

³ Petitioner recognizes that customarily parties to Commission Dockets do not provide data requests to the Commission, but in this case it is necessary to show the importance of the requested documents to the Petitioner's case, as well as the hardship cause by the late filing of the Applicant's supplemental testimony.

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

*Attorneys for Ms. Van Staalduin 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 6th day of April, 2018.

By 

Brady W Allen

Wilkinson Solar, LLC
Docket No. EMP-93, Sub 0
Intervenor's Data Request No. 1

Date Sent: April 6, 2018
Requested Due Date: April 16, 2018

Deb Van Staalduinen's Legal Contact: Brady W. Allen
Phone #: (919) 838-5175
Email: brady.allen@theallenlawoffices.com

***** Please provide any available responses electronically. If in Excel format, please include all working formulas.**

1. Please provide the Preliminary Jurisdictional Determination Report, along with all working papers, conclusions, calculations, and materials gathered in creating such determination, that was performed by Cardno, Inc. on approximately 700 acres surrounding the siting of the Wilkinson Solar Facility Project in Beaufort County, North Carolina that was performed on May 16 and 17, 2017 as referenced in Wilkinson Solar, LLC's supplemental testimony of Joe Von Wahlde on page 3.
2. Please provide the Preliminary Jurisdictional Determination Report, along with all working papers, conclusions, calculations, and materials gathered in creating such determination, which was performed by Cardno, Inc. on approximately 200 acres south of Terra Ceia Road on December 6-8, 2018 as referenced in Wilkinson Solar, LLC's supplemental testimony of Joe Von Wahlde on page 3.
3. Please provide the geotechnical engineering study, along with all working papers, conclusions, calculations and materials gathered for the study, which was performed on or near the siting of the Wilkinson Solar Facility Project in Beaufrot County, North Carolina, as referenced in Wilkinson Solar, LLC's supplemental testimony of Paul Theinpont on page 4.