

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP-93, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Wilkinson Solar) LLC for a Certificate of Public Convenience) and Necessity to Construct a 74-MW Solar) Facility in Beaufort County, North Carolina)	MOTION TO DENY SECOND PETITION TO INTERVENE OF DEB VANSTAALDUINEN
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NOW COMES WILKINSON SOLAR LLC (“Wilkinson”), by and through its counsel, and respectfully requests the Commission deny the petition to intervene filed in the above-referenced docket. In support of this motion, Wilkinson shows the following:

1. On October 11, 2017, the Commission issued an Order granting Wilkinson a Certificate of Public Convenience and Necessity to construct a 74-MW Solar Facility in Beaufort County, North Carolina.
2. On November 29, 2017, Wilkinson filed a site layout amendment.
3. On February 7, 2018, the Commission issued an Order scheduling further hearings, which required that other persons having an interest in the proceeding and desiring to become formal participants and parties of record to file verified petitions to intervene on or before March 9, 2018.
4. On March 9, 2018, an unverified Petition to Intervene was filed by Deb VanStaalduinen (the “Petition to Intervene”).
5. In a separate pleading on March 14, 2018, Ms. VanStaalduinen filed a response to Wilkinson’s March 12, 2018 motion to deny petitions (the “Response”). The Response included a “verification” page which was signed by the notary, Kayla Fox, but was not signed by Ms. VanStaalduinen.

6. On March 16, 2018, the Commission issued an order on the petitions to intervene, and ordered that Ms. VanStaalduinen's Petition to Intervene was granted "on the condition that Ms. VanStaalduinen files, a complete, executed, and notarized verification form as a supplement to her petition to intervene on or before March 19, 2017 (sic)." *See* Order on Petitions to Intervene, p. 5.

7. In the order, the Commission acknowledged that the Response included a verification. *See id.* at 4 ("... her verified reply to the Applicant's response . . .").

8. Ms. VanStaalduinen did not file a verification form as a supplement to her Petition to Intervene on or before March 19, 2018, as required by the March 16, 2018 Commission order.

9. Ms. VanStaalduinen attended the public hearing on March 19, 2018. At the public hearing, Ms. VanStaalduinen acknowledged she had not filed a verification, as required by the Commission order. In addition, Ms. VanStaalduinen affirmatively stated that she wished to withdraw her Petition to Intervene, and confirmed the withdrawal when asked by the Commission after her public hearing statement.

10. On March 26, 2018, a week after she had withdrawn her Petition to Intervene and over two weeks after the March 9, 2018 intervention deadline, Ms. VanStaalduinen filed another petition to intervene (the "Second Petition to Intervene").

11. In the Second Petition to Intervene, Ms. VanStaalduinen argued that the verification included in the Response on March 14, 2018 was sufficient to fulfill the condition that she file a verification to the Petition to Intervene included in the Commission's March 16, 2018 order. As stated above, the Commission acknowledged

the Response verification in its order, but still required that Ms. VanStaalduinen file a separate verification to the Petition to Intervene.

12. Commission Rule R1-5(d) requires that all “pleadings and amendments thereto shall be signed in ink and verified by one of the parties thereto who is acquainted with the facts.”

13. The Response was a separate pleading from the Petition to Intervene and was required to be separately verified. Ms. VanStaalduinen’s argument in the Second Petition to Intervene that the Response verification should relate back to the Petition to Intervene does not meet the verification requirements of Rule R1-5(d), nor does it meet the specific condition in the Commission’s March 16, 2018 order that Ms. VanStaalduinen file a complete, executed, and notarized verification form as a supplement to her Petition to Intervene.

14. Further, the “verification” filed with the Response is not a complete, executed, and notarized verification form sufficient to meet the requirements of Rule R1-5(d). As stated above, the verification was not signed by one of the parties to the pleading. It was signed by Kayla Fox, the notary who notarized the form. Ms. VanStaalduinen did not execute the Response verification form.

15. Finally, Ms. VanStaalduinen’s Second Petition to Intervene is untimely. Rule R1-19(b) allows that a petition to intervene “which for good cause shown was not filed within the time herein limited . . . ” may be allowed or denied in the presiding official’s discretion. No good cause has been shown as to why this untimely Second Petition to Intervene should be allowed. Ms. VanStaalduinen filed a timely Petition to

Intervene, which she voluntarily withdrew on March 19, 2018. Granting the Second Petition to Intervene would not serve justice.

WHEREFORE, Wilkinson Solar LLC respectfully requests that the Commission enter an order denying Ms. VanStaalduinen's Second Petition to Intervene in the above-referenced docket.

Respectfully submitted this the 2nd day of April, 2018.

WILKINSON SOLAR LLC

/s/ Henry C. Campen, Jr.

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CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the foregoing Motion to Deny Second Petition to Intervene of Deb VanStaalduinen on the below parties of record in this proceeding or their attorneys of record and to the petitioners by causing a copy to be deposited in the United States Mail, postage prepaid, properly addressed to each or by electronic delivery upon agreement from the parties:

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This the 2nd day of April, 2018.

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