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October 10, 2025

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: Pennsylvania Public Utility Commission v. Wellsboro Electric Company;  
Docket No. R-2025-3054392**

Dear Secretary Homsher:

Attached for filing with the Pennsylvania Public Utility Commission ("Commission") is the Motion to Strike the Main Brief of Kelly Road Solar, LLC, Lancaster Avenue Solar, LLC, and Twilight Renewables, LLC ("Solar Projects").

**As requested in the attached Motion, Wellsboro Electric Company ("Wellsboro") respectfully requests that the Commission order the Solar Projects to file an Answer to this motion within seven (7) days.**

If you have any questions regarding the attached documents, please feel free to contact the undersigned. As shown by the attached Certificate of Service, the parties to this proceeding are being duly served with a copy of this filing. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

Adeolu A. Bakare  
MCNEES WALLACE & NURICK LLC

Counsel to Wellsboro Electric Company

c: Mary D. Long, Administrative Law Judge (via e-mail)  
Certificate of Service

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Adeolu A. Bakare  
Counsel to Wellsboro Electric Company

Dated this 10th day of October, 2025, in Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2025-3054392  
 :  
 Wellsboro Electric Company :

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**NOTICE TO PLEAD**

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To: Kelly Road Solar, LLC, Lancaster Avenue Solar, LLC, and Twilight Renewables, LLC

PER 52 PA. CODE § 5.103(C), YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

Respectfully submitted,



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Matthew L. Garber (Pa. I.D. No. 322855)  
Rebecca Kimmel (Pa. I.D. No. 335097)  
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Dated: October 10, 2025

Counsel to Wellsboro Electric Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2025-3054392
	:	
Wellsboro Electric Company	:	

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**MOTION TO STRIKE MAIN BRIEF OF KELLY ROAD SOLAR, LLC, LANCASTER AVENUE SOLAR, LLC, AND TWILIGHT RENEWABLES, LLC**

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**TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Wellsboro Electric Company ("Wellsboro"), hereby files, pursuant to the Pennsylvania Public Utility Commission's ("Commission") regulations at 52 Pa. Code § 5.103, this Motion to Strike the Main Brief of Kelly Road Solar, LLC, Lancaster Avenue Solar, LLC, and Twilight Renewables, LLC (collectively, "Solar Projects") ("Motion to Strike"). In support thereof, Wellsboro states as follows:

**I. BACKGROUND**

1. On April 30, 2025, Wellsboro filed a proposed base rate increase request. Wellsboro filed proposed Supplemental No. 162 to Tariff Electric Pa. P.U.C. No. 8 ("Supplemental No. 162"), containing proposed changes in rates, rules and regulations calculated to produce \$2.9 million (22.0%) in additional annual revenues.
2. Wellsboro's filed proposed base rate increase request is docketed with the Commission at Case Number R-2025-3054392 ("Wellsboro Rate Case").
3. Zachary and Ashley Wattles filed a Formal Complaint in this proceeding on May 5, 2025.
4. The Office of Consumer Advocate ("OCA") filed a Formal Complaint in this proceeding on May 12, 2025.

5. The Office of Small Business Advocate ("OSBA") filed a Formal Complaint in this proceeding on May 14, 2025.

6. The Bureau of Investigation & Enforcement ("I&E") filed a Notice of Appearance in this proceeding on May 15, 2025.

7. Valley Energy, Inc. ("Valley") and Citizens' Electric Company of Lewisburg, PA ("Citizens") also filed base rate increase requests.<sup>1</sup> Valley's filed proposed base rate increase request is docketed with the Commission at Case Number R-2025-3054393 ("Valley Rate Case"). Citizens' filed proposed base rate increase request is docketed with the Commission at Case Number R-2025-3054394 ("Citizen's Rate Case") (collectively with the Wellsboro Rate Case and the Valley Rate Case, the "Rate Cases").

8. By order of the Commission dated May 22, 2025, the Wellsboro Rate Case was assigned to the Commission's Office of Administrative Law Judge. Administrative Law Judge ("ALJ") Mary D. Long subsequently issued a prehearing conference order (the "Prehearing Conference Order") dated May 22, 2025, which, *inter alia*, notified interested parties of the deadlines to file interventions for each rate case and advised that "your rights as an active party of record include the ability to present your own testimony and to cross-examine other witnesses at the formal hearings...." Prehearing Conference Order at 3.

9. On May 21, 2025, the Solar Projects filed a Petition to Intervene in only the Citizens' Rate Case.

10. On June 2, 2025, the Solar Energy Industries Association ("SEIA") and the Coalition for Community Solar Access ("CCSA") (collectively, "Solar Advocates") filed a Joint Petition to Intervene in the Citizens' and Wellsboro Rate Cases.

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<sup>1</sup> Wellsboro, Citizens', and Valley are collectively referenced as the "Companies."

11. On June 3, 2025, the ALJ convened a joint Prehearing Conference for the Wellsboro Rate Case, Citizens' Rate Case, and Valley Rate Case.

12. At the Prehearing Conference, the ALJ granted the Petition to Intervene filed by the Solar Projects with respect to the Citizens' Rate Case only. The Petition to Intervene filed in both Citizens' and Wellsboro's Rate Cases by the Solar Advocates was held in abeyance pending a written response by the Companies.

13. On June 5, 2025, ALJ Long issued a Prehearing Order applicable to all three Rate Cases (the "Prehearing Order"). The Prehearing Order memorialized the ALJ's approval of the Solar Projects' Petition to Intervene for the Citizens' Rate Case and the pending written response to the Solar Advocates' Petition to Intervene in the Citizens' and Wellsboro Rate Cases. Prehearing Order at 3.

14. The Prehearing Order also consolidated the Rate Cases for purposes of discovery and litigation. Prehearing Order at 3. However, under the Prehearing Order, "each rate increase request must be supported by its own record." Id. at 3. Further, the Prehearing Order stated that "[i]t is the responsibility of each party to ensure that pre-served testimony, and any other proposed evidence is clear as to which company the testimony is directed." Id.

15. On June 23, 2025, Wellsboro and Citizens' filed a Joint Answer opposing the Joint Petition to Intervene of the Solar Advocates.

16. On July 7, 2025, the ALJ issued an Initial Decision and Order denying the Petition to Intervene of the Solar Advocates in both the Citizens' and Wellsboro Rate Cases.

17. On July 30, 2025, Wellsboro and Citizens' filed a Joint Motion to Strike Portions of Solar Projects' Statement No. 2, the Direct Testimony of Kevin Lucas. The Joint Motion to Strike requested that certain references to Wellsboro be stricken from Mr. Lucas' Direct Testimony as not relevant to Citizens' Rate Case.

18. On August 7, 2025, the Solar Projects filed an Answer of Kelly Road Solar, LLC, Lancaster Avenue Solar, LLC, and Twilight Renewables, LLC's to the Joint Motion to Strike of Wellsboro Electric Company and Citizens' Electric Company of Lewisburg, PA.

19. On August 12, 2025, the ALJ denied Wellsboro and Citizens' Joint Motion to Strike.

20. On August 19, 2025, two Telephonic Public Input Hearings were convened by the ALJ.

21. On August 21, 2025, two in-person Public Input Hearings were convened by the ALJ in Wellsboro, Pennsylvania.

22. Relevant to this proceeding, on September 2, 2025, the parties to the Wellsboro Rate Case notified the ALJ that they had reached a unanimous settlement in principle on all issues in the Wellsboro Rate Case.

23. Additionally on September 2, 2025, the parties to the Citizens' Rate Case notified the ALJ that all parties, except for the Solar Projects, had reached a non-unanimous settlement in principle on all issues in the Citizens' Rate Case. The Solar Projects indicated they opposed the Citizens' settlement.

24. On September 4, 2025, the ALJ convened an evidentiary hearing and the Parties stipulated that all Parties waived cross-examination of all witnesses in the Wellsboro Rate Case. Wellsboro, I&E, OCA, and OSBA each moved for the admission of their Direct, Rebuttal, and Surrebuttal Testimony. All testimony was admitted into the record without objection.

25. Also on September 4, 2025, the Solar Projects cross-examined Citizens' witnesses Howard Gorman and Nathan Johnson. Citizens' cross-examined the Solar Projects' witnesses Brett Nolt and Kevin Lucas. Cross examination was waived for the remaining witnesses in the Citizens' Rate Case, and each party moved for the admission of their written testimony and exhibits into the record.

26. On September 9, 2025, the ALJ issued an Interim Order Setting Procedure for Settlement in the Wellsboro Rate Case ("Interim Settlement Order"), and ordered that on or before October 17, 2025,

the parties shall file a joint petition for settlement and statements in support. Further, any party wishing to object to the proposed settlement must file their objections in writing with the Commission's Secretary's Bureau and provide a copy to the ALJ and the parties named on the service list so that they are received on or before 4:00 p.m. on Monday, October 27, 2025 and that unless ordered otherwise, the record shall close on October 28, 2025. The Interim Order in the Wellsboro Rate Case additionally stated that if any party fails to follow these instructions in the smallest detail that party's position will not be considered, regardless of where the record may support it or the position of any other party to this proceeding.

27. On September 10, 2025, the ALJ issued an Interim Order in the Citizens' Rate Case, and ordered that main briefs, the non-unanimous settlement and accompanying statements in support shall be filed on or before September 26, 2025. The Interim Order additionally ordered that reply briefs and objections to the non-unanimous settlement for the Citizens' Rate Case only shall be filed on or before October 17, 2025, and that unless ordered otherwise, the record shall close on October 28, 2025.

28. On September 26, 2025, the Solar Projects filed a Main Brief ("SP Main Brief") in the dockets for both the Citizens' Rate Case and the Wellsboro Rate Case, despite the fact that the Solar Projects are not a party in the Wellsboro Rate Case, the Solar Projects have not sought admission of any evidence in the Wellsboro Rate Case, and there has been no briefing order issued in the Wellsboro Rate Case.

## **II. MOTION TO STRIKE**

29. The SP Main Brief should be stricken as a matter of law on the grounds that (a) it violates the existing procedural order governing the disposition of this proceeding; (b) it relies almost exclusively on evidence not admitted to Wellsboro's evidentiary record; (c) the Solar Projects do not have party status in the Wellsboro Rate Case; and (d) acceptance of a brief from a non-party at this late hour would violate due process for Wellsboro and all other parties.

**a. The Solar Projects' Main Brief violates the existing procedural order governing the disposition of this proceeding.**

30. The Solar Projects' filing of a Main Brief in the Wellsboro Rate Case blatantly disregards the ALJ's Interim Settlement Order which did not include a briefing schedule for this proceeding.

31. The ALJ's Interim Settlement Order issued on September 9, 2025, suspended the briefing schedule in light of the settlement-in-principle reached by all active Wellsboro Rate Case parties.

32. The Interim Settlement Order provides that "on or before October 17, 2025, the parties shall file a joint petition for settlement and statements in support," and provides that objections to the settlement should be filed in writing with the Commission's Secretary's Bureau on or before Monday, October 27, 2025. Interim Settlement Order at 3. The Interim Settlement Order provided no instructions for briefs.

33. In contemplation of the Interim Settlement Order, Wellsboro has not prepared a Main Brief. No party to the Wellsboro Rate Case has filed a brief.

34. The Solar Projects' Main Brief as filed in the Wellsboro Rate Case is in direct contravention of ALJ Long's Interim Settlement Order. Therefore, the Solar Projects' position presented in the Main Brief should not be considered, consistent with the ALJ's express consequences for failing to follow the Interim Order instructions. Interim Settlement Order at 3.

**b. The Solar Projects' Main Brief relies almost exclusively on evidence not admitted to Wellsboro's evidentiary record.**

35. 52 Pa. Code § 5.401 governs the admissibility of evidence in a proceeding before the Commission. Pursuant to 52 Pa. Code § 5.401, only "relevant and material" evidence is admissible in a proceeding before the Commission, subject to objections on other grounds.

36. 52 Pa. Code § 5.401 does not define the terms "relevant evidence" or "material evidence." However, the Pennsylvania courts have informed the Commission to observe the essential principles

governing the admissibility or exclusion of evidence set forth in the Pennsylvania rules of evidence. *See Pittsburgh & L.E.R. Co. v. Pennsylvania Public Utility Commission*, 85 A.2d 646, 653 (Pa. Super. 1952).

37. Here, when observed in accordance with 225 Pa. Code Rule 401, the analysis and arguments set forth in SP Main Brief, pertaining to the Wellsboro Rate Case, are inadmissible as a matter of law, because they rely almost exclusively on evidence not admitted to the record in the Wellsboro Rate Case.

38. Specifically, the evidence relied upon in the SP Main Brief has been admitted only in the Citizens' Rate Case. The testimony of Solar Projects' witnesses Mr. Lucas and Mr. Nolt have not been admitted into the record in the Wellsboro Rate Case. Nor has the testimony of Nathan Johnson, the primary Citizens' witness on the topics addressed by the Solar Projects.

39. Even though there was limited discussion of Wellsboro in Mr. Lucas' Direct Testimony in Citizens' rate case, the Solar Projects offered none of Mr. Lucas' testimony into evidence in the Wellsboro Rate Case and did not seek party status in that proceeding.

40. While the Rate Cases were combined for administrative efficiency and joint proceedings, the ALJ clearly limited the consolidation to procedural matters and explicitly required parties to develop independent evidentiary records for each Rate Case docket. Prehearing Order at 3. The Solar Projects repeatedly cite to the record in the Citizens' Rate Case throughout the SP Main Brief, which is in direct conflict with the ALJ's instruction regarding independent evidentiary records. The ALJ's observation of common questions of law between the Citizens' and Wellsboro Rate Cases does not supersede the clear directive to maintain separate dockets and evidentiary records for each Rate Case. Prehearing Order at 3.

**c. The Solar Projects lack party status in the Wellsboro Rate Case.**

41. Further, the Solar Projects lack party status in this matter. The Solar Projects did not file a petition to intervene in the Wellsboro Rate Case, pursuant to 52 Pa. Code § 5.71. et. seq. Nor did the Solar

Projects file a formal complaint in the Wellsboro Rate Case, pursuant to 52 Pa. Code § 5.32.

42. In the Prehearing Conference Order, three options were given for parties to proceed in the Wellsboro Rate Case: (1) Do nothing and be treated as an inactive party; (2) testify at a public input hearing; or (3) become a party of record. Prehearing Conference Order at 3.

43. As a party of record, a participant has a right to present testimony and to cross-examine other witnesses at formal hearings, and to file exceptions to the presiding officer's recommended decision. Prehearing Conference Order at 3. A party of record is also expected to become familiar with the Commission's rules of practice and comply with the instructions and deadlines imposed by the orders of the presiding ALJ. Prehearing Conference Order at 4.

44. In contrast, inactive parties do not participate in discovery, testify at the evidentiary hearing, cross-examine witnesses, or receive copies of the hearing exhibits or briefs filed by the active parties. Prehearing Conference Order at 3.

45. As stated, the Solar Projects are not a party to the Wellsboro Rate Case and are thus neither an active party nor an inactive party. Two in-person public input hearings and two telephonic public input hearings were held for the consolidated rate cases, yet the Solar Projects did not testify regarding any issues in the Wellsboro Rate Case. Thus, the Solar Projects did not avail themselves of any options to participate in the Wellsboro Rate Case.

**d. Acceptance of a brief from a non-party at this late hour would violate Wellsboro's due process rights.**

46. The Solar Projects' filing of a Main Brief in this proceeding violates Wellsboro's due process rights.

47. The Commission's Regulations provide instructions on the filing of briefs. Specifically, the Regulations state that, in a rate proceeding, a "main brief may be filed by a **party** except as provided by agreement or by direction of the presiding officer." 52 Pa. Code § 5.502(d)(1) (emphasis added). Similarly,

"A **party** may file a reply brief to a main brief regardless of whether the party filed a main brief." 52 Pa. Code § 5.502(d)(2) (emphasis added).

48. The Commission's Regulations also govern intervention of parties. Specifically, the Regulations state that, other than exception applicable to statutory advocates, "intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances." 52 Pa. Code § 5.74(c). Neither the Commission's Regulations nor the ALJ's Interim Settlement Order provide authority for the Solar Projects' brief.

49. Wellsboro engaged in good faith settlement discussions with other parties to the Wellsboro Rate Case. Based on these good faith settlement discussions, the ALJ was informed that all Wellsboro Rate Case parties had reached a settlement-in-principle.

50. Wellsboro was provided no notice that the Solar Projects would be filing a Main Brief in this proceeding because all parties of record signed on to the unanimous settlement.

51. More significantly, Wellsboro was not afforded an opportunity to present rebuttal evidence against the Solar Projects' claims, because the Solar Projects did not intervene, did not present testimony, and did not even participate in Public Input Hearings in the Wellsboro Rate Case. Consequently, Wellsboro has not been afforded a reasonable opportunity to rebut the claims made by the Solar Projects in their Main Brief.

52. The Public Utility Code and the Commission's Regulations are designed to protect due process, providing instructions on intervention, notice, complaints, answers, timing, presentation of evidence, and more. *See, e.g.*, 66 Pa. C.S. §§ 332-33; 52 Pa. Code §§ 5.14, 5.21, 5.61, 5.71, 5.401, 5.501.

53. A Main Brief filed by a non-party, relying primarily on evidence not admitted to the record, is a violation of Wellsboro's due process rights.

### III. CONCLUSION

WHEREFORE, Wellsboro Electric Company respectfully requests that the Pennsylvania Public Utility Commission:

- A. Order the Solar Projects to answer this Motion to Strike within seven (7) days;
- B. Strike the Solar Projects' Main Brief that was filed in the above captioned proceeding because the Main Brief violates the ALJ's procedural order governing the disposition of this proceeding, the Main Brief relies almost exclusively on evidence not admitted to the record in the Wellsboro Rate Case, the Solar Projects do not have party status in the Wellsboro Rate Case, and acceptance of a brief from a non-party at this late hour would violate due process for Wellsboro; and
- C. If the Motion to Strike is denied, grant Wellsboro twenty (20) days to file a Reply Brief.

Respectfully submitted,



Adeolu A. Bakare (PA I.D. No. 208541)  
Matthew L. Garber (Pa. I.D. No. 322855)  
Rebecca Kimmel (Pa. I.D. No. 335097)  
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Dated: October 10, 2025

*Counsel to Wellsboro Electric Company*