BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of Frasier Solar Project, LLC for a Certificate of Environmental Compatibility and Public Need to Construct a Solar-Powered Electric Generation Facility in Knox County, Ohio	)))))	Case No. 23-796-EL-BGN

BRIEF OF ETHAN ROBERTSON CONTRA APPLICATIONS FOR REHEARING

Dated: August 4, 2025

Trent Dougherty (Bar No. 0079817)
HUBAY DOUGHERTY
1391 Grandview Ave. #12460
Columbus, Ohio 43212
Telephone: (614) 330-6752
trent@hubaydougherty.com

Matthew Eisenson (PHV-26622-2025)
SABIN CENTER FOR CLIMATE CHANGE LAW, COLUMBIA LAW SCHOOL
435 W. 116th Street, Room 528
New York, New York 10027
Telephone: (212) 853-4938
matthew.eisenson@law.columbia.edu

Counsel for Ethan Robertson

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PRELIMINARY STATEMENT

Ethan Robertson, a participating landowner in the Frasier Solar Project (the "Project"), submits this Brief in opposition to both of the applications for rehearing pending in this proceeding (the "Applications for Rehearing"), namely: the July 25, 2025 Application for Rehearing filed by Preserve Knox County Ohio and its members (collectively "PKCO"); and the July 28, 2025 Application for Rehearing filed by Knox Smart Development and Jared Yost (collectively "KSD"). In short, the Ohio Power Siting Board's June 26, 2025 Opinion and Order (the "Opinion") granting a Certificate of Environmental Compatibility and Public Need to the Project was lawful and reasonable, and the Applications for Rehearing should be denied.

ARGUMENT

The Board lawfully and reasonably concluded, after weighing arguments and evidence from both sides, that the Project satisfies the statutory criteria for approval specified in R.C. 4906.10(A). As described below, the Applications for Rehearing primarily rehash arguments from post-hearing briefs, which the Board has already addressed and declined to adopt. The Board has recently denied a motion for rehearing under similar circumstances. *See* Entry on Rehearing, *In re Oak Run Solar*, Case No. 22-549-EL-BGN (Aug. 22, 2024) ¶ 33 (denying rehearing when "the bulk of Opposing Parties' arguments are identical to those raised in post-hearing briefing"). Here, there are vanishingly few new arguments in front of the Board, and those new arguments are uniformly immaterial. More importantly, neither PKCO nor KSD has identified any basis to conclude that the Board's previous assessment of the arguments and evidence was "manifestly against the weight of the evidence, or otherwise unlawful or unreasonable." *See id.* Therefore, the Board should deny the Applications for Rehearing.

I. PKCO's Application for Rehearing Should Be Denied

PKCO's Application for Rehearing primarily rehashes arguments that the Board lawfully and reasonably rejected and does not identify errors that warrant rehearing. In its July 25, 2025 filing, PKCO argued that the Board acted unlawfully and unreasonably by not accepting PKCO's previous arguments regarding:

(1) opposition from local residents, *see* PKCO's Rehearing App. at 8-20 (repeating arguments from PKCO's Initial Br. at 6-18 and PKCO's Reply Br. at 3-16);

(2) concerns about the sufficiency of measures to mitigate visual impacts, *see* PKCO's Rehearing App. at 20-30 (repeating arguments from PKCO's Initial Br. at 18-27 and PKCO's Reply Br. at 16-19);

(3) concerns about loss of agricultural land, *see* PKCO's Rehearing App. at 30-32 (repeating arguments from PKCO's Initial Br. at 28-29 and PKCO's Reply Br. at 20);

(4) concerns about impacts to roads, *see* PKCO's Rehearing App. at 32-35 (repeating arguments from PKCO's Initial Br. at 30-32 and PKCO's Reply Br. at 21-23);

(5) concerns about flooding and impacts to drainage, *see* PKCO's Rehearing App. at 35-39 (repeating arguments from PKCO's Initial Br. at 35-38 and PKCO's Reply Br. at 27); and

(6) concerns about impacts to wildlife, *see* PKCO's Rehearing App. at 39-47 (repeating arguments from PKCO's Initial Br. at 38-48 and PKCO's Reply Br. at 28-31).

The Board previously considered and addressed each of these arguments in its Opinion, including the relevance, extent, and existence of opposition from local residents (*see, e.g.*, Opinion ¶¶ 174-88), concerns about the sufficiency of measures to mitigate visual impacts (*see, e.g.*, Opinion ¶¶ 171-72, 186), concerns about loss of agricultural land (*see, e.g.*, Opinion ¶¶ 164-67, 176, 187), concerns about impacts to roads (*see, e.g.*, Opinion ¶¶ 42-43, 57, 106, 140, 158), concerns about flooding and impacts to drainage (*see, e.g.*, Opinion ¶¶ 58, 83, 115, 117, 141, 168-70, 176, 182, 186), and concerns about impacts to wildlife (*see, e.g.*, Opinion ¶¶ 22, 59, 125-32, 135-37). *See also In re Application of Harvey Solar I, L.L.C.*, Slip Opinion No. 2025-Ohio-

1503, ¶¶ 18-39 (rejecting challenges to the Board's assessment of visual impacts, flooding and drainage, and wildlife, among other topics).

In addition to rehashing its previous arguments, PKCO makes a new argument that the Board should ignore Knox County Commissioner Bill Pursel's support for the Project when assessing local sentiment, due to the fact that Commissioner Pursel was not up for reelection in 2024. *See* PKCO's Rehearing App. at 18. There is no precedent, however, for the proposition that the Board should only give weight to the views of the most recently elected local officials and ignore the views of others. Moreover, this argument is immaterial. The basic fact, which PKCO cannot avoid, is that the Knox County Commission has not taken an official stance on the Project, and this would remain true even if the Board were to ignore Commissioner Pursel's voting history. Ultimately, PKCO has failed to identify any basis to conclude that the Board's assessment of public interest—or any other factor—was so manifestly against the weight of evidence as to justify a rehearing.

II. KSD's Application for Rehearing Should Be Denied

KSD's Application for Rehearing suffers the same defects. In its July 28, 2025 filing, KSD argues that the Board acted unlawfully and unreasonably by not accepting its previous arguments regarding:

(1) the possibility that the PILOT program will not move forward, *see* KSD's Rehearing App. at 4-9 (repeating arguments from KSD's Initial Br. at 9-13);

(2) the effect and relevance of the decisions by Knox County and Clinton Township to remain neutral toward the Project, *see* KSD's Rehearing App. at 9-15 (repeating arguments from KSD's Initial Br. at 7-8 and KSD's Reply Br. at 3-5);

(3) concerns about aviation safety, *see* KSD's Rehearing App. at 15-16 (repeating arguments from KSD's Initial Br. at 15-17); and

(4) concerns about impacts on noise on church services, *see* KSD's Rehearing App. at 16-18 (repeating arguments from KSD's Initial Br. at 17-19);

Again, the Board previously considered and addressed each of these arguments in its Opinion, including the possibility that payments from a PILOT program will not issue (*see, e.g.*, Opinion ¶ 163), the effect and relevance of the neutrality of Knox County and Clinton County toward the Project (*see, e.g.*, Opinion ¶¶ 176, 179-80, 183, 188), concerns about aviation safety (*see, e.g.*, Opinion ¶¶ 148-54), and concerns about the impact of noise on church services (*see, e.g.*, Opinion ¶¶ 104, 107).

To the extent KSD makes any new arguments, none of those new arguments provides any basis to conclude that the Board's Opinion was unlawful or unreasonable. Rather, KSD's new arguments rely on vague hypotheticals that the Board had no reason to address, including concerns about the possibility that lease agreements may expire, *see* KSD Rehearing App. at 18-19, and concerns that noise during construction may affect *weekday* services of churches, *see id.* at 17-18.

With respect to lease agreements, KSD argues that the Board, in deciding to issue a Certificate, relied on Staff's determination that the Project will generate $61.5 million in lease payments. *Id.* at 19. KSD further argues that, "[s]hould a single lease expire prior to the start of construction, the information relied on by the Board will be irrevocably changed." *Id.* at 18. KSD provides no basis, however, for the implication that the Project would not meet statutory criteria for approval pursuant to R.C. 4906.10(A) if lease payments were not precisely $61.5 million. Indeed, lease payments were just one of many factors the Board considered in deciding to approve the Project.

With respect to weekday noise, KSD reads too much into the Board's observation that "the Church of God that KSD identifies should not experience significant noise impacts during weekend services." *Id.* at 18 (quoting Opinion ¶ 107). There is no basis to conclude, as KSD

suggests, that the Board "finds it acceptable for religious institutions to experience noise impacts, significant or otherwise, during weekday activities." *Id.* at 18. Rather, the Board was simply noting that the Stipulation limits pile-driving to business hours on Monday through Friday, which helps to avoid construction noise on weekends.

CONCLUSION

For the foregoing reasons, the Applications for Rehearing should be denied.

Dated: August 4, 2025

Respectfully submitted,

/s/ Trent Dougherty

Trent Dougherty (Bar No. 0079817)
HUBAY DOUGHERTY
1391 Grandview Ave. #12460
Columbus, Ohio 43212
Telephone: (614) 330-6752
trent@hubaydougherty.com

Matthew Eisenson (PHV-26622-2025)
SABIN CENTER FOR CLIMATE CHANGE LAW, COLUMBIA LAW SCHOOL
435 W. 116th Street, Room 528
New York, New York 10027
Telephone: (212) 853-4938
matthew.eisenson@law.columbia.edu

Counsel for Ethan Robertson

CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing will be electronically served via the Ohio Power Siting Board's e-filing system and via electronic mail on all parties referenced in the service list of the docket.

Dated: August 4, 2025

/s/ Trent Dougherty
Trent Dougherty

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Summary: Brief Brief of Ethan Robertson Contra Applications for Rehearing electronically filed by Mr. Trent A. Dougherty on behalf of Robertson, Ethan.