IN THE COURT OF COMMON PLEAS OF MCKEAN COUNTY, PENNSYLVANIA

2026 APR 22 PM 2:57

MCKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

LINDA BUSH,

Plaintiff.

v.

TOWNSHIP OF SERGEANT, MCKEAN COUNTY, PENNSYLVANIA,

Defendant.

Civil Division

No. 198-CD-2026

RWE SOLAR DEVELOPMENT, LLC'S PETITION TO INTERVENE

Filed on behalf of Petitioner/Proposed Intervenor,

RWE Solar Development, LLC

Counsel for this party:
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IN THE COURT OF COMMON PLEAS OF MCKEAN COUNTY, PENNSYLVANIA

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RWE SOLAR DEVELOPMENT, LLC'S PETITION TO INTERVENE

AND NOW COMES RWE Solar Development, LLC ("RWE" or "Petitioner"), by and through its undersigned counsel, and respectfully submits this Petition to Intervene in the above-captioned matter:

I. BACKGROUND

1. This matter involves a Solar Energy System Permit Application submitted to and approved by the Township of Sergeant, McKeen County, Pennsylvania ("Township") pursuant to Sergeant Township Ordinance No. 27 ("Solar Ordinance").

2. On February 2, 2026, Petitioner submitted an application to the Sergeant Township Board of Supervisors ("Application") seeking approval for the development of a solar energy facility ("Solar Facility") to be located in the Township on properties identified as Tax Parcel Nos. 29-002-100; 29-001-104; 29-003-100; and 29-002-300 ("Subject Property").

3. On March 4, 2026, the Sergeant Township Board of Supervisors ("Board") held a public meeting.

4. RWE attended that meeting in order to present its Application to the Board and outline its reasons for seeking approval thereof.

5. Plaintiff, Linda Bush, was also present at that meeting and presented her argument in opposition to Petitioner's Application.

6. On March 4, 2026, the Board approved that Application subject to a number of conditions. Such approval and conditions were outlined in a letter sent to Petitioner signed by Chairman Carlyle Conn on behalf of the Board, dated March 5, 2026.

7. The Plaintiff commenced this action on or about April 1, 2026.

8. The Plaintiff's Complaint alleges, among other things, that the Township did not follow certain procedures allegedly set forth in the Solar Ordinance.

9. Plaintiff also references the Sunshine Act and argues that the agenda for the meeting was not properly posted and that the approval of the Application and issuance of the Permit is not valid for a number of reasons.

10. Plaintiff seeks a declaration that the Permit is "not an effective final permit".

11. The validity of the Permit and reliance thereon is critically important to the Petitioner.

12. Petitioner has invested significant funds thus far in the development of the Solar Facility and in obtaining the Permit.

13. Thus, Petitioner has a legally enforceable interest in the approval of its Application and issuance of the Permit, both of which were proper.

14. Plaintiff seeks to void that enforceable legal interest by asking this Court to nullify the Permit.

15. Accordingly, with this Petition, RWE respectfully requests that this Court permit it to intervene as a defendant in this matter for the purpose of defending the Township's approval of the Application and issuance of the Permit.

16. Pursuant to Pa. R.C.P. 2328, Petitioner has attached to this Petition, as **Exhibit A**, a copy of its Preliminary Objections as the pleading it intends to file if intervention is permitted.

II. STANDARD

17. Rule 2327 of the Pennsylvania Rules of Civil Procedure permits a party to intervene in an action, "[at] any time", if, among other things, the determination of the action "may affect any legally enforceable interest" of the party "whether or not such [party] may be bound by a judgment in the action." Pa. R.C.P. 2327(4).

18. If a party is "within one of the classes described in Rule 2327, the allowance of intervention is mandatory, not discretionary, unless one of the grounds for refusal under Rule 2329 is present." *Innovation Ridge Partners, LP v. Marshall Twp. Bd. of Supervisors*, 302 A.3d 1272 (Pa. Commw. Ct. 2023).

19. Pursuant to Pennsylvania Rule of Civil Procedure 2329, an application for intervention *may* be refused, if:

> (1) the claim or defense of the petitioner is not in subordination to and in recognition of the propriety of the action; or
>
> (2) the interest of the petitioner is already adequately represented; or
>
> (3) the petitioner has unduly delayed in making application for intervention or the intervention will unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.

Pa. R.C.P. 2329.

20. Moreover, as applicable to the facts here, where a plaintiff brings a Sunshine Act violation claim related to an agency decision, an owner/developer is entitled to intervene where the owner/developer has a direct interest in defending the agency's decision, the validity of which is put in question by the Sunshine Act claim. *See, e.g., Society Hill Civic Ass'n v. Philadelphia Bd. of License & Inspection Review*, 905 A.2d 579 (2006).

III. ANALYSIS

21. The Petitioner is within the categories of parties which are permitted to intervene pursuant to Rule 2737 because Petitioner has a legally enforceable interest in the validity of the Permit at issue.

22. Petitioner, who properly submitted the Application at issue which was ultimately approved resulting in the issuance of the Permit, would undoubtedly be adversely affected should this Court grant the Plaintiff's requested relief and declare that the Permit is "not an effective final permit".

23. Indeed, the Petitioner has a legally enforceable interest in upholding the Board's approval of the Permit.

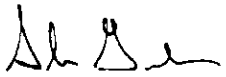
24. There are no grounds, in Rule 2329 or otherwise, such that the Court should exercise its discretion to deny this Petition.

WHEREFORE, the Petitioner respectfully requests that it be permitted to intervene in this case.

Respectfully submitted,

Dated: April 21, 2026

BUCHANAN INGERSOLL & ROONEY PC



Shawn N. Gallagher (PA ID No. 88524)
Brendan P. Lucas (PA ID No. 314300)
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Attorneys for RWE Solar Development, LLC

Docusign Envelope ID: 0C98272A-245E-4FF4-B74F-65D3E31967A0

VERIFICATION

I, Jason Dagger, as the Authorized Representative for RWE Solar Development, LLC, hereby verify that the statements made in this Petition to Intervene are true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.A. § 4904 relating to unsworn falsification to authorities.

DocuSigned by:
Jason Dagger
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Dated: April 20, 2026

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

Dated: April 21, 2026

BUCHANAN INGERSOLL & ROONEY PC



Shawn N. Gallagher (PA ID No. 88524)