BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION

Sandersville Railroad Company Hancock County, Georgia **In re: Sandersville Railroad Company's Petition for Approval to Acquire Real Estate by Condemnation**	Docket No.: 45045

SUPPLEMENT TO VERIFIED APPLICATION FOR LEAVE TO INTERVENE OF MARVIN SMITH, JR. AND PATRICIA SMITH

On May 2, 2023, Marvin Smith, Jr., and Patricia Smith (together, the "Smiths") timely filed an application to intervene in these proceedings pursuant to O.C.G.A. §§ 46-2-59 and 50-13-14 and Rule 515-2-1-.06 of the Georgia Public Service Commission. The Smiths own a parcel of land that is targeted for eventual acquisition by Sandersville Railroad Company in its Petition for Approval to Acquire Real Estate by Condemnation that is the subject of the proceeding. The Smiths have interests of the highest order—the preservation of their family property—and they thus fit the criteria for intervention set forth in Georgia statutes and this Commission's administrative provisions.

On May 18, 2023, Hearing Officer Nancy Gibson filed a Procedural and Scheduling Order and Notice of Hearing ("Scheduling Order"). The Scheduling Order provides that intervening party applications must (1) "identify other intervening Parties or intervening party applicants whose interests are similar to the applicant along with an explanation of why the identified intervening Parties or intervening Party applicant will not adequately represent the applicant's interest," Scheduling Order 1(b), and (2) "state the applicant's present intention to submit direct testimony and by whom and on what subject." Scheduling Order 1(b)(2). To comply with these requirements,

the Smiths add the following supplemental paragraphs to their May 2, 2023 application to intervene in these proceedings:

23. The Smiths' status as the owners of the Marvin and Pat Smith Tract deserves vigorous legal protection. To be sure, other property owners whose property is targeted for condemnation by Sandersville Railroad, and who have applied or may apply to intervene in the Proceedings, have similar interests to the Smiths in that their property, too, will be taken against their will by Sandersville Railroad. However, that is where the similarity ends. Every piece of real property is unique. *See Cobb Cnty. Bd. of Tax Assessors v. Sibley*, 244 Ga. 404, 404, 260 S.E.2d 313 (1979) (finding that the uniqueness of land affects its value). *See also Focus Ent. Int'l, Inc. v. Partridge Greene, Inc.*, 253 Ga. App. 121, 127, 558 S.E.2d 440, 446 (2001) (finding that "[l]and, under Georgia law, is deemed sufficiently unique that it is entitled to equitable remedies" to protect interests in land). Because land is unique, physical and environmental impact to each parcel may vary parcel by parcel, and condemnation of adjacent parcels of land can result in varying diminution of value for different properties and their owners. *See Gilmore v. Sandersville R. Co.*, 149 F. Supp. 725, 727 (M.D. Ga. 1955) (finding that the diminution of value to adjacent parcels varied, where various plaintiff landowners challenged a railroad's attempt to condemn their land in order to build a spur track that would run six miles from an existing track to terminate at a kaolin plant).

24. The Smiths are the sole owners of the unique Marvin and Pat Smith Tract. The railroad's impact on the Marvin and Pat Smith Tract will be unique as compared to the Garrett Parent Tract, or the other properties targeted for condemnation by Sandersville Railroad. Furthermore, no other parties have an incentive to adequately protect the Smiths' interests. Because no other intervening party or applicant intervening party has incentive to protect the

Smiths' interests as vigorously as the Smiths, the Smiths should be permitted to intervene and participate fully in the Proceedings.

25. The Smiths intend to submit direct testimony on the subject of the unique features of the Marvin and Pat Smith Tract, how the Smiths use the Marvin and Pat Smith Tract, and the potential impact to the Marvin and Pat Smith Tract by Sandersville Railroad's condemnation.

DATED this 28th day of June, 2023.

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Signed digitally pursuant to O.C.G.A. § 10-12-7

**Pro hac vice* applications pending

BEFORE THE
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VERIFICATION OF SUPPLEMENT TO APPLICATION FOR LEAVE TO INTERVENE

Grant E. McBride personally appeared before the undersigned Notary Public and stated under oath that he is an authorized representative of Marvin Smith, Jr. and Patricia Smith in this matter and the facts contained in the foregoing *Supplement to Verified Application to Intervene* are true and correct to the best of his information, knowledge and belief.

This 28th day of June, 2023.

Grant E. McBride

Counsel for Intervenors
Marvin Smith, Jr. and Patricia Smith

Sworn to and subscribed
before me this 28th day
of June, 2023.

Shannon DuCray
Notary Public
My Commission Expires: 6/12/2026

SHANNON DUCRAY NOTARY PUBLIC HENRY COUNTY, GEORGIA My Comm. Expires June 12, 2026


SHANNON DUCRAY
NOTARY
My Comm. Expires
June 12, 2026
HENRY COUNTY, GEORGIA
PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of June, 2023, a copy of the foregoing *Supplement to Verified Application for Leave to Intervene* has been served via electronic mail and U.S. First-Class Mail on the following pursuant to GA. COMP. R. & REGS. 515-16-16-.02; 515-2-1-.04(4)(b), (3):

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Director, Electric Unit of the Public Service Commission

DATED this 28th day of June, 2023.

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Signed digitally pursuant to O.C.G.A. § 10-12-7