

980 CMR: ENERGY FACILITIES SITING BOARD

980 CMR 1.05: Intervention

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(1) Parties.

(a) Any person who desires to intervene as a party in any proceeding shall file a written petition to intervene as a party.

(b) If a petitioner desires to intervene pursuant to M.G.L. c. 30A, § 10, the petition shall state the name and address of the petitioner, the manner in which the petitioner is substantially and specifically affected by the proceeding, the representative capacity, if any, in which the petition is brought, and shall state the contention of the petitioner and the purpose for which intervention is requested.

(c) If ten or more persons desire to intervene pursuant to M.G.L. c. 30A, § 10A, the petition shall state the names and addresses of the petitioners, the representative capacity, if any, in which the petition is brought, and the damage to the environment as defined in M.G.L. c. 214, § 7A that is or might be at issue. Intervention pursuant to M.G.L. c. 30A, § 10A shall be limited to the issue of damage to the environment and the elimination or reduction thereof in order that any decision in such proceeding shall include the disposition of such issue.

(d) Each petitioner under M.G.L. c. 30A, § 10A shall file an affidavit stating the intent to be part of the group and to be represented by its authorized representative.

(e) In accordance with M.G.L. c. 30A, § 10A, an intervenor pursuant to M.G.L. c. 30A, § 10A may introduce evidence, present witnesses and make written or oral argument, excepting that the Presiding Officer may exclude repetitive or irrelevant material.

(f) The Presiding Officer shall rule on the petitions to intervene as a party under M.G.L. c. 30A, §§ 10 and 10A, and may condition any allowance of a petition on such reasonable terms as he or she may set or as otherwise required by law.

(g) Persons who are granted leave to intervene as a party must comply with all requirements of 980 CMR 1.00 and with all directives of the Presiding Officer. In addition, parties may be required to respond to discovery by the Presiding Officer and by other parties if allowed by the Presiding Officer after motion.

(h) Generally, the rights of a person who is granted leave to intervene as a party include the right to present witnesses, the right to cross-examine witnesses, the right to file a brief, the right to file comments on a tentative decision and the appellate status as a party in interest who may be aggrieved by any final decision. In addition, persons who are granted leave to intervene as a party may also be afforded an opportunity to issue discovery and to present oral or written comments regarding a tentative decision under such conditions as the Board may provide.

(i) Except for an individual appearing pro se, all parties to a proceeding shall be represented by an attorney in good standing. The Presiding Officer may grant a waiver for good cause shown. A request for a waiver shall include:

1. an affidavit stating the good cause and naming a duly authorized representative; and
2. an affidavit by the duly authorized representative accepting the appointment and certifying that he or she will abide by the procedural rules set forth in 980 CMR and the Presiding Officer's directives.

(2) Participation.

(a) Any person who desires to participate as a limited participant in any proceeding shall make a written request for such status. Every request to participate as a limited participant shall describe the manner in which the petitioner is interested and his or her representative capacity, if any, and it shall state the contention of the petitioner and the purpose for which participation is requested.

(b) The Presiding Officer may grant leave to a person to participate as a limited participant and may condition any grant on such reasonable terms as he or she may set.

(c) Unless otherwise provided for in 980 CMR 1.00 or directed by the Presiding Officer, a limited participant's rights shall be limited to filing a brief and to filing comments on a tentative decision pursuant to 980 CMR 1.08(2). A limited participant may be afforded an opportunity to present oral comments regarding a tentative decision under such conditions as the Board may provide.

(d) Limited Participants Are Not Parties. Therefore, a grant of leave to participate as a limited participant in a proceeding, unless so stated, does not confer status as a party in interest who may be aggrieved by any final decision.