

PUBLIC SERVICE COMMISSION OF WISCONSIN

Minutes and Informal Instructions of the Open Meeting of
Thursday, March 2, 2023

The Public Service Commission of Wisconsin (Commission) met as noticed. Present were Chairperson Valcq and Commissioner Huebner.

Minutes

The Commission approved the minutes of the open meeting of Tuesday, February 28, 2023.

6680-AF-104 - Request of Wisconsin Power and Light Company for Deferral of Incremental Pre-Certification Costs and To Begin Accruing Allowance for Funds Used During Construction on Pre-Construction Costs Associated with the Development of a Battery Energy Storage System Project at the Edgewater Generating Station Site

The Commission approved the Notice of Investigation and directed it to be signed by the Secretary to the Commission.

6690-EI-114 - Request of Wewerka Group, LLC for a Temporary Waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding Individual Electric Meters

The Commission approved the Notice of Investigation and directed it to be signed by the Secretary to the Commission.

5450-PW-101 - Application of Village of Shorewood Hills, Dane County, Wisconsin, as a Water Public Utility, for Authority to Adjust Water Rates Through its Purchased Water Adjustment Clause

The Commission approved the Notice of Proceeding and directed it to be signed by the Secretary to the Commission.

6680-AU-122 - Application of Wisconsin Power and Light Company for Authority to Enter into a Combined \$1 Billion Credit Facility, Together with Alliant Energy and Interstate Power and Light Company

The Commission approved the application of Wisconsin Power and Light Company (WP&L) for authority to enter into a combined \$1 billion credit facility, together with Alliant Energy and Interstate Power and Light Company, as an affiliated interest agreement under Wis. Stat. § 196.52, subject to all conditions identified by Commission staff in its memorandum dated February 17, 2023.

The Commission directed the Division of Energy Regulation and Analysis to draft an order consistent with its discussion.

6680-SB-143 - Application of Wisconsin Power and Light Company for Authority to Enter into a Combined \$1 Billion Credit Facility, Together with Alliant Energy and Interstate Power and Light Company

The Commission approved the application of WP&L for Certificate of Authority to enter into a combined \$1 billion credit facility, together with Alliant Energy and Interstate Power and Light Company, subject to all conditions identified by Commission staff in its memorandum dated February 17, 2023.

The Commission directed the Division of Energy Regulation and Analysis to draft an order consistent with its discussion.

9810-CE-100 - Application for a Certificate of Public Convenience and Necessity of Portage Solar, LLC to Construct a Solar Electric Generation Facility in the Towns of Grant and Plover, Portage County, Wisconsin

The Commission reviewed the application for a Certificate of Public Convenience and Necessity (CPCN) of Portage Solar, LLC (applicant) to construct a solar electric generation facility and battery energy storage system (BESS) in the Towns of Grant and Plover, Portage County, Wisconsin (project), and made the following determinations:

1. The Commission accepted the uncontested alternatives identified in the Final Decision Matrix.
2. The project complies with Wis. Stat. § 196.491(3)(d)6. and would not unreasonably interfere with the orderly land use and development plans for the area involved.
3. All of the proposed and alternative solar array sites, except Alternative Array A6, meet the siting criteria of Wis. Stat. § 196.491(3)(d)3. The applicant is precluded from using Alternative Array area A6 for siting.
4. All of the following general conditions are necessary for the approval of this project:
 - a. The applicant is authorized to construct the proposed solar PV electric generation and BESS facilities, as described in the application and data request responses and as modified by the Final Decision.
 - b. The applicant shall work with the applicable distribution utility to make available stray voltage testing at each agricultural confined animal operation within one half-mile of the project area, prior to construction and after the project is energized. The applicant shall work with the distribution utility and farm owner to rectify any stray voltage problem arising from the construction or operation of the project, in

- compliance with the Commission's stray voltage protocol. Prior to testing, the applicant shall work with the applicable distribution utility and Commission staff to determine where and how it will conduct the stray voltage measurements. The applicant shall report the results of its testing to Commission staff in writing.
- c. The applicant and its selected contractor shall participate in a pre-construction meeting with Commission and Department of Natural Resources (DNR) staff to discuss construction plans and/or final site designs, permits, and associated requirements and Best Management Practices. The materials list must be provided to Commission and DNR staff 14 days prior to the meeting date to allow time for review.
 - d. Should the scope, design, or location of the project change significantly, the applicant shall notify the Commission within 30 days of becoming aware of possible changes. The applicant shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, or location of the approved project.
 - e. If the applicant cancels the project or enters into any arrangement with another party regarding ownership or operation of the proposed facilities, the applicant shall provide prior notice to the Commission.
 - f. All commitments made by the applicant in its application, subsequent filings, and the provisions of the Final Decision, shall apply to the applicant, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project.
 - g. The transfer of rights and obligations under this CPCN to a third party does not confer either additional rights or additional obligations upon that third party than what is afforded to the applicant at the time of application and as specified in this Final Decision. If a successor, assign, or future owner or operator of the project is a public utility, this CPCN is conditional upon the public utility waiving any rights it may otherwise have under Wis. Stat. §§ 32.02 and 32.075(2) for the project. This CPCN does not confer any "right to acquire real estate or personal property appurtenant thereto or interest therein for such project by condemnation" under Wis. Stat. §§ 32.02 or 32.075(2) as otherwise provided under Wis. Stat. § 32.03(5)(a).
 - h. The applicant shall obtain all necessary federal, state, and local permits prior to commencement of construction on the portion of the project requiring the permit.
 - i. The applicant shall perform pre- and post-construction noise studies as described in the most current version of the PSC Noise Measurement Protocol. The applicant shall work with Commission staff to determine appropriate locations and conditions for the noise measurements. In the event of a substantial change to the proposed facility layout, the applicant shall confer with Commission staff to determine if a new pre-construction noise study must be completed. The applicant shall file a copy of the post-construction noise study report with the Commission.
 - j. The applicant shall construct, maintain, and operate all applicable project facilities to comply with NEC or the National Electrical Safety Code and Wis. Admin. Code § PSC 114, as appropriate. In case of conflict or overlap between code requirements,

- the applicant shall construct, maintain, and operate all applicable project facilities to comply with whichever code has the more stringent requirements.
- k. The applicant shall conduct an updated Endangered Resources Review closer to the start date of construction (no more than one year prior to construction start).
 - l. The applicant shall mitigate impacts to line-of-sight communications and landowners who can show disruption to broadcast communications post-construction.
 - m. Beginning with the quarter ending on a date to be determined by the Commission in the Final Decision, and within 30 days of the end of each quarter thereafter and continuing until the authorized facilities are fully operational, the applicant shall submit quarterly progress reports to the Commission that include all of the following:
 1. The date that construction commences;
 2. Major construction and environmental milestones, including permits obtained, by agency, subject, and date;
 3. Summaries of the status of construction, the anticipated in-service date, and the overall percent of physical completion; and
 4. The date that the facilities are placed in service.
 - n. The CPCN is valid only if construction commences no later than one year after the latest of the following dates:
 1. The date the Final Decision is served;
 2. The date when the applicant has received every federal and state permit, approval, and license that is required prior to commencement of construction by construction spread under the CPCN;
 3. The date when the deadlines expire for requesting administrative review or reconsideration of the CPCN and of the permits, approvals, and licenses described in par. (2.); and
 4. The date when the applicant receives the Final Decision, after exhaustion of judicial review, in every proceeding for judicial review concerning the CPCN and the permits, approvals, and licenses described in par. (2.).
 - o. If the applicant has not begun on-site physical construction of the authorized project within one year of the time period specified by this Final Decision, the Certificate authorizing the approved project for which construction has not commenced shall become void unless the applicant:
 1. Files a written request of an extension of time with the Commission before the effective date on which the Certificate becomes void; and
 2. Is granted an extension by the Commission.
 - p. If the applicant has not begun on-site physical construction of the authorized project and has not filed a written request for an extension before the date that this Certificate becomes void, the applicant shall inform the Commission of those facts within 20 days after the date on which the Certificate becomes void.
 - q. The Final Decision takes effect one day after the date of service.
 - r. Jurisdiction is retained.

5. The following project-specific conditions are necessary for the approval of this project:
 - a. The applicant shall construct, maintain, and operate the BESS facilities to follow good utility practice for ensuring battery fire safety.
 - b. The applicant shall provide the Commission with final detailed engineering plans for the project, including the final designs and equipment plans for both the solar and BESS portion of the proposed project. If Commission staff identifies safety or reliability issues upon review of these plans, when considering safety and reliability, final location, individual hardships, and environmental factors, then the matter shall be returned to the Commission.:
 - c. The applicant may use the proposed or alternative array sites, except for Alternative Array A6, as needed to accommodate environmental, technical, and landowner issues as they arise during construction of the project, provided however, that the project size shall remain at the maximum nameplate capacity of 252 megawatts (AC). If the situation arises where the applicant elects to use an alternative array site, the applicant shall provide written notice to the Commission identifying such alternative array sites within 30 days of the decision to use the alternative array sites.
 - d. The applicant may propose minor adjustments to the approved locations of Solar Project facilities for the protection of environmental resources, landowner requests, or technical design changes that arise during final stages of engineering (up to the authorized nameplate capacity of each solar facility stated in the application), but any changes from the approved layout may not affect a type of resource not discussed in the EA, nor may they affect new landowners who have not been given proper notice and hearing opportunity or affect landowners who were given proper notice and hearing opportunity in a significantly different manner than was originally approved, nor may they include a unique occurrence not discussed in the EA of, for example, a particular human burial, archaeological site, or protected species. The applicant shall consult with Commission staff regarding whether a proposed change rises to the level at which Commission review and approval is appropriate. For each proposed adjustment for which Commission review is appropriate, the applicant shall submit for Commission staff review and approval a letter describing: the nature of the requested change; the reason for the requested change; the incremental difference in any environmental impacts; communications with all potentially affected landowners regarding the change; documentation of discussions with other agencies regarding the change; and a map showing the approved layout and the proposed modification, property boundaries, relevant natural features such as woodlands, wetlands, waterways, and other sensitive areas. Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis with advice and consent from the Administrator of the Division of Digital Access, Consumer, and Environmental Affairs.

- e. The following project-specific conditions are necessary to help mitigate indirect impacts to wetlands and waterways during construction:
 - 1. Prior to construction, the applicant shall install signage at wetland and waterway boundaries to alert construction crews to avoid work within or access across these areas.
 - 2. Site-specific sediment and erosion control measures and devices should be installed prior to any construction activity and be inspected and maintained daily through all construction and restoration phases.
 - 3. The applicant shall provide copies of all plans and environmental documents to construction crews and inspectors. Plans should clearly label the locations of wetlands and waterways and include language stating vehicle access, storage of materials, grading, and all other construction activities are not permissible within these areas. Plans should also clearly label where sediment and erosion control measures and devices should be installed to reduce the likelihood of sediment entering the resources.
 - 4. The applicant shall implement a construction sequencing plan that minimizes the amount of land disturbed or exposed (susceptible to erosion) at one given time across the project.
 - 5. The applicant shall establish vegetative cover prior to land disturbance activities.
 - 6. The applicant shall leave existing vegetative buffers in place, where practicable.
 - 7. Disturbed areas and areas of exposed soil should be vegetated as soon as possible and seeded with a cover crop and/or native seed mix to minimize erosion potential and prevent the establishment of invasive species.
 - 8. The applicant shall prepare and implement an invasive species management plan that identifies known areas of invasive species populations and includes specific protocols to minimize the spread of invasive species.
 - 9. The applicant shall avoid the use of herbicide in wetlands and near waterways, or use herbicides approved for use in aquatic environments.
- f. The applicant shall work with and provide notice of construction to all properties adjacent to the project prior to the commencement of construction. The notice shall include the contact information for a dedicated contact person to answer questions about construction. In addition, the applicant shall clearly post contact information at construction site entrances.
- g. Prior to mowing within the fenced array areas between May 15 and August 1, the applicant shall consult with DNR staff, and if necessary, engage a qualified avian biologist to conduct walking surveys to identify ground-nesting birds present. Any areas found to contain nests shall be excluded from mowing operations.

Data collected during the ground-nesting bird surveys shall be summarized in the Wildlife Protection Plan annual reporting. If, while mowing operations are underway, an operator discovers a ground-nesting bird nest, or flushes a bird from its nest, the area shall be flagged and excluded from mowing.

- h. The applicant shall raise the height of the permanent array fencing proposed in the application a minimum of six inches off of the ground, or shall provide larger openings, of at least 7 inches by 12 inches, at 50 to 100-foot intervals throughout the perimeter fence, to accommodate small animal movement for specific areas in or adjacent to habitat areas where small wildlife is likely to be found, as determined in consultation with DNR and Commission staff to reduce impacts and barriers to small-animal movement in those proposed project areas.
 - i. The applicant shall:
 1. remove all non-native, aggressive species, specifically fescues and *Poa compressa/pratensis/trivialis*, from the Low Grow Native/Non-native graminoid seed mix proposed in its vegetation management strategy, and replace those species with less-aggressive species AND;
 2. increase the number of native forb/flowering species in the Low Grow Native/Non-Native Graminoid seed mix.
 - j. The applicant shall report to the Commission on a quarterly basis:
 1. Its efforts, and the efforts of its contractors, to recruit Wisconsin residents to fill employment opportunities created by the construction of the proposed project;
 2. Its efforts to collaborate with state registered apprenticeship programs; and
 3. The actual number of Wisconsin residents and out-of-state workers employed on-site to construct the proposed project
6. The proposed project will not have undue adverse impact on other environmental values as provided under Wis. Stat. § 196.491(3)(d)4.
 7. The Commission grants a Certificate of Public Convenience and Necessity for the proposed project, with conditions.

The Commission directed the Division of Energy Regulation and Analysis to draft an order consistent with its discussion.

The Commission adjourned the meeting at 11:06 a.m.

A handwritten signature in black ink, appearing to read "Cru Stublely". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Cru Stublely
Secretary to the Commission

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