



Wisconsin
Laborers'
District Council

LIUNA!

February 6, 2020

VIA ELECTRONIC RECORDS FILING SYSTEM

Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

Re: Joint Application of Madison Gas and Electric Company and Wisconsin Electric Power Company for Approval to Acquire Ownership Interests in the Badger Hollow II Solar Electric Generating Facility, Docket No. 5-BS-234

Dear Secretary to the Commission:

Pursuant to the memorandum by Commission staff in the above referenced case, please find the comments of the Wisconsin Laborers' District Council.

Sincerely,

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BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Madison Gas and Electric and)
Wisconsin Electric Power Company for Approval)
to Acquire Ownership Interests in the Badger)
Hollow II Solar Electric Generating Facilities)

Docket: 5-BS-234

COMMENTS OF THE WISCONSIN LABORERS' DISTRICT COUNCIL

I. INTRODUCTION

In response to the Commission memorandum dated January 29, 2020 concerning the Joint Application of Madison Gas and Electric Company (“MGE”) and Wisconsin Electric Power Company (“WEPCO”) (collectively, “Joint Applicants”) for approval to acquire ownership interests in the Badger Hollow II Solar Electric Generating Facility in Docket No. 5-BS-234, the Wisconsin Laborers’ District Council (“WLDC”) offers these comments for consideration.

WLDC is comprised of five local Laborer Unions representing approximately 9,000 construction craft laborers who work and reside in Wisconsin. The Laborers are the most diverse trade in the construction industry servicing employers in building, sewer and water, transportation infrastructure, utility distribution, demolition, asbestos removal, and related sectors. The Laborers are dedicated to protecting and improving the lives of construction workers through family supporting wages and benefits, as well as through programs and services designed to make WLDC members the safest, most skilled, and productive workers in the industry. The union members represented by WLDC, together with their families, have an interest in affordable, safe, and reliable electric delivery services. Furthermore, WLDC members are employed by construction contractors who build and maintain energy facilities, including renewable generation projects in Wisconsin. WLDC members are also employed by contractors who build and maintain coal and natural gas powered electric generation facilities, and are impacted by the changing energy resource mix in the state.

The Joint Applicants have proposed to purchase 150MW of solar photovoltaic capacity from Badger Hollow Solar Farm, LLC, an affiliate of Invenergy, LLC at a cost of \$207.6 million,

including allowance for funds used during construction. Approval of the acquisition will transfer the remaining Certificate of Public Convenience and Necessity (“CPCN”) rights approved by the Commission in Docket Nos. 9697-CE-100 and 9697-CE-101 to construct the 300MW Badger Hollow solar facility in the towns of Montfort and Cobb in Iowa County. The Commission previously approved acquisition of 150MW of solar capacity by MGE and Wisconsin Public Service Corporation (“WPSC”) for Badger Hollow I in Docket No. 5-BS-228.

II. DISCUSSION

Renewable energy projects like Badger Hollow I and II have the potential to support hundreds of good family supporting, blue-collar jobs for local workers. Indeed the Joint Applicants state that construction of Badger Hollow would require managers, heavy equipment operators, licensed journeymen electricians, and laborers. At peak construction, Joint Applicants estimate that 500 workers will be on site, and five workers will be permanently employed.¹ Because the economic benefits created by employment opportunities for renewable energy facilities are on the construction side, special attention should be paid to the quality of these construction jobs, and whether local workers are employed in these jobs. Furthermore, without an account of actual employment opportunities created for Wisconsin residents, the Commission lacks the ability to not only verify employment claims made in Invenenergy’s CPCN application or the Joint Applicants’ Certificate of Authority application, but the Commission, staff, intervenors, and the public is missing critical information needed to evaluate the full public interest benefits of public utility projects.

WLDC’s participation in this case has revealed the gaps in accounting of full economic benefits for Badger Hollow I and II. In response to data requests by WLDC to ascertain how Badger Hollow II will boost employment during construction as stated by Joint Applicants in support of the acquisition, and the extent to which employment opportunities will be filled by Wisconsin residents in comparison to out-of-state workers, Joint Applicants responded that: 1) staffing is the responsibility of Invenenergy and Invenenergy does not have a policy regarding residency status of employees;² 2) the information on the residency status of the construction

¹ Joint Application of Madison Gas and Electric and Wisconsin Electric Power Company for Approval to Acquire Ownership Interests in the Badger Hollow II Solar Electric Generating Facilities, Docket No. 5-BS-234, PSC REF# 373357 (August 1, 2019) (“Joint Application”) at p. 8.

² Response of WEPCO to WLDC 1-8, PSC REF# 379124 (November 8, 2019).

workforce was unknown because significant construction had not yet begun;³ and 3) any and all economic impact analysis was performed by Invenergy in its “Economic Impact and Land Use Analysis of the Badger Hollow Solar Farm” that was filed as part of the Commission’s approval of the CPCN in Docket No. 9697-CE-1000.⁴

A review of Invenergy’s analysis in Docket No. 9697-CE-1000 found that the economic impacts touted in the report were predicated on *local* job creation. For example, the report states that “422 new local jobs” will be created for Iowa County, and “500 new local jobs” will be created for the State of Wisconsin. These local jobs will generate over “\$20.2 million in new local earnings during construction for Iowa County” and “over \$27.6 million in new local earnings during construction for the State of Wisconsin.”⁵

The information reported in Invenergy’s analysis, relied upon by the Commission in approving a CPCN for Invenergy in Docket No. 9697-CE-1000,⁶ and referenced by the Joint Applicants in this proceeding directly conflicts with direct observation of the construction site. Most of the workers on Badger Hollow’s construction site are not local workers. In fact, WLDC estimates that only 22% of construction workers are Wisconsin residents.⁷ Chart 1 summarizes WLDC observations:

³ Response of WEPCO to WLDC 1-9, PSC REF# 379125 (November 8, 2019).

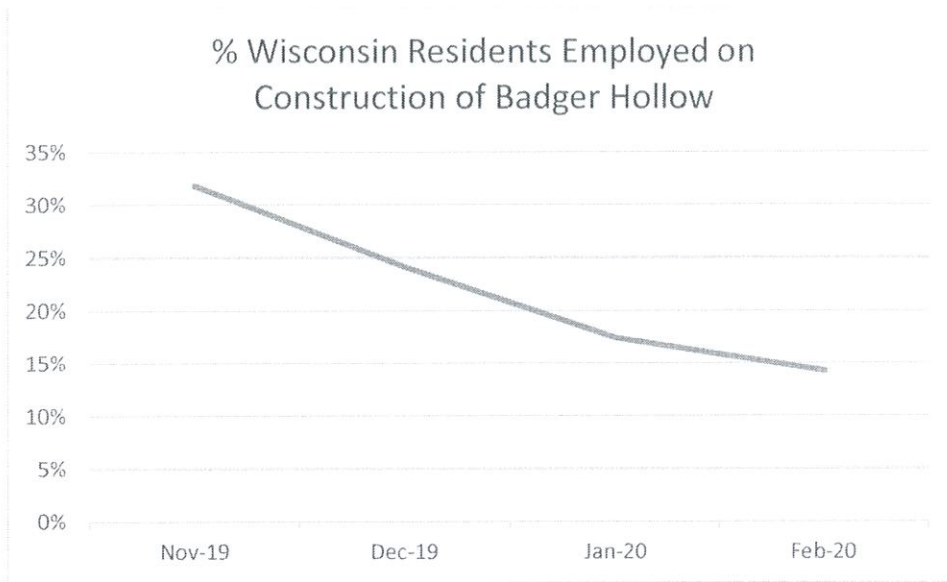
⁴ Response of WEPCO to WLDC 1-10, PSC REF# 379126 (November 8, 2019).

⁵ “Economic Impact and Land Use Analysis of the Badger Hollow Solar Farm,” Docket No. 9697-CE-1000, PSC REF# 353532 (November 20, 2018).

⁶ For example, the Commission’s Final Decision states: “While certain intervenors have objected to the proposed project, many others testified in support and the record contains evidence as to significant economic benefits the proposed project will bring to local residents and the communities. (PSC REF#: 359028) Local farmers will financially benefit from lease payments which are projected to be greater than the revenues that could be generated through agricultural use. New job growth is also anticipated, with 400 new local jobs during construction and seventeen new local long-term jobs once the facility is operational.” See, Final Decision, Application for a Certificate of Public Convenience and Necessity of Badger Hollow Solar Farm, LLC to Construct a Solar Electric Generation Facility, to be Located in Iowa County, Wisconsin, Docket No. 9697-CE-1000, PSC REF# 364425, at p. 20.

⁷ Based on direct observation of the Badger Hollow construction site on Vickerman Road, in Cobb, Wisconsin from November 2019 to February 2020.

Chart 1: Observed Rate of Badger Hollow Workforce that are Wisconsin Residents



WLDC believes this information is relevant for several reasons: 1) in granting any CPCN, the Commission must determine if a project will promote public health and welfare;⁸ 2) approval of this acquisition is a transfer of those CPCN rights from Invenergy to Joint Applicants; 3) the Joint Applicants will also acquire all “contracts relating to the ownership, leasing, licensing, construction, operation and maintenance (O&M) of Badger Hollow II; books and records; and any causes of action relating to Badger Hollow II;”⁹ and 4) the Commission must determine that this acquisition is consistent with the public interest. The fact that this investigation is being held without a hearing does not preclude the Commission from imposing any term, condition, or requirement necessary to protect the public interest.

It is obvious that when a majority of local workers are employed on a utility construction project, the local benefits are greater than if a majority of out-of-state workers are employed on the project. When a worker is a local resident, it can be expected that they will spend most of their paycheck locally. Local workers pay local property taxes, pay state income taxes, pay local utility bills, and pay local sales taxes. These taxes support vital services in the state and the local

⁸ See, Final Decision, Application for a Certificate of Public Convenience and Necessity of Badger Hollow Solar Farm, LLC to Construct a Solar Electric Generation Facility, to be Located in Iowa County, Wisconsin, Docket No. 9697-CE-1000, PSC REF# 364425, at p. 23.

⁹ Memorandum, Joint Application of Madison Gas and Electric Company and Wisconsin Electric Power Company for Approval to Acquire Ownership Interests in the Badger Hollow II Solar Electric Generating Facility, Docket No. 5-BS-234, PSC REF # 383006, (January 29, 2020) (“Memorandum”).

community. A local worker's health insurance benefits support local hospitals and health care providers. When a local worker retires, their banked retirement income will continue to support the local economy.

In comparison, non-local workers are employees of the contractor who travel with the contractor from jobsite to jobsite across the country. These workers are referred to as "travelers" in the industry. Travelers usually reside in temporary housing while on a project, and leave as soon as the project is complete. In the experience of WLDC, travelers limit their spending to the daily per diem rate of \$75 to \$100. Therefore, comparing the wages and benefits of a local worker to a traveler's local spending of up to \$100 a day means that the local community, and the state of Wisconsin receives significantly greater benefit from the employment of local workers. There may be cases where a contractor cannot build a project with local workers because the local workforce is not qualified to build that project. However, in this case, because WLDC members and other craft unions have experience building utility scale projects, and the infrastructure available to train local workers in relevant construction tasks, that argument does not apply. LIUNA Local 464 that services Iowa County is located an hour away from the Badger Hollow construction site.

Alliant Energy's Riverside expansion project is a prime example of how utility infrastructure can provide both cost-effective energy solutions, as well as enhance any public benefits through the employment of local workers. The Commission's Final Decision in that case acknowledged that providing significant economic benefits to Wisconsin's citizens and businesses was among the applicant's considerations for the project.¹⁰ The \$700 million project has created significant construction employment opportunities for local workers. Alliant Energy estimates that the project has supported more than 1,000 total construction jobs per year between 2017 and 2020 with total economic benefits during construction of more than \$250 million.¹¹ The Riverside project has employed a mostly unionized, majority local workforce, as well as many local contractors.¹² Because the workers are unionized, they and their families have private health

¹⁰ Final Decision, Application of Wisconsin Power and Light Company for a Certificate of Public Convenience and Necessity to Build an Approximately 650 Megawatt Natural Gas-Fueled Power Plant at its Riverside Energy Center Facility in the Town of Beloit, Rock County, Wisconsin, Docket No. 6680-CE-176, PSC REF # 285783 (May 6, 2016).

¹¹ <https://www.alliantenergy.com/OurEnergyVision/GenerationProjects/WestRiversideEnergyCenter>

¹² For example, Boldt Construction out of Appleton, Wisconsin is a contractor on the project.

insurance, they earn family-supporting wages, they have access to high quality training, and they have a retirement benefit that will allow them to age with dignity. Most importantly, because these workers also live in the community or neighboring area, they immediately and directly reinvest their earnings back to the local and state economies.

The public reaction to Foxconn's failure to deliver on job promises should signal that Wisconsin residents take seriously any developer's local job claims, and want regulators to hold companies accountable. The Commission cannot enable developers and applicants to pay lip service to economic impacts. The Commission should not on the one hand, cite those economic benefits in approval of applications, and then on the other hand, remain silent when asked to confirm those economic benefits. Whether local workers are employed on a utility project directly affects the public interest, and therefore requires Commission attention to this matter.

III. Recommendations

The Commission can condition the issue of a certificate or approval of an acquisition on the adoption of policies and practices that the Commission finds necessary to maximize such benefits to ensure that the project is in the public interest.¹³ WLDC believes that the Commission can and should exercise its authority to encourage greater use of local labor where feasible, and to provide more transparency with respect to the employment impacts of utility projects.

First, the Commission can consider the extent to which the project can be expected to create high-quality employment and training opportunities for local workers based on the evidence in the record, potentially including any local construction hiring commitments made by the applicant or its developer as well as evidence concerning past hiring practices on projects built by the applicant or its developers, or by contractors selected or under consideration to build the facility. The Commission can further weigh the project's anticipated local employment and training benefits against any negative impacts that could occur if the project "crowds out" competing development opportunities. For example, WEPCO's own modeling in this case found that the purchase of capacity from the Riverside facility *and* solar facilities were part of the least-cost plan for WEPCO's capacity need.¹⁴ The fact that the Riverside facility employs a majority local workforce

¹³ The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wisconsin Statute §§ 196.02, 196.395, and 196.49.

¹⁴ Memorandum, at p. 13.

compared to the observed low rate of employment of Wisconsin workers at the Badger Hollow site should also be a consideration in resource decisions. Applicants should take a step further, and provide data comparing the total economic benefits of resource options including local employment impacts so the Commission can comprehensively evaluate a project's public interest value. To evaluate options based primarily on a price per kilowatt hour alone is insufficient.

Second, the Commission can require successful applicants to submit regular reports during construction on the employment of local and non-local workers in order to better inform future Commission decisions and provide greater public transparency regarding the degree to which promised benefits of projects actually materialize and are made available to local residents. Both of these steps fall clearly within the Commission's legal authority and both could strengthen public confidence in the development and permitting of energy facilities.

Other states have seen this need and have responded. Minnesota's Public Utilities Commission has taken action in both areas. In late 2018, Minnesota's Commission began requiring successful applicants for permits to build or retrofit wind energy facilities to submit quarterly reports on number of Full-Time Equivalent ("FTE") workers or hours worked by local workers -- including both Minnesota residents and residents of neighboring states living within 150 miles of the project -- and non-local workers.¹⁵

Minnesota's Commission recognized that it made little sense to require collection of detailed information on species and other environmental impacts, but no information on how many local residents were eventually employed on projects that purported to create hundreds of new construction jobs. Permits have been issued for several wind energy construction projects since the Minnesota Commission began requiring local hire reporting.

In December of 2018, Minnesota's Commission also made employment of local construction workers an explicit consideration in a case where the Commission referred applications for a Certificate of Need and Site Permit to contested case hearings based on concerns over expected

¹⁵ There are multiple recent orders by the Minnesota Public Utilities Commission that require applicants to file quarterly reports with the Commission that detail efforts by the applicant and the applicant's contractor to hire Minnesota workers, and provide an account for the number of hours worked by Minnesota residents. Please see Minnesota dockets: PT-6499/WS-05-1707; IP-6903/WS-18-179; and IP-6964/WS-17-597.

reliance of non-local construction labor.¹⁶ The proposed project was subsequently sold to a different developer and is expected to create many more employment opportunities for local workers.

In conclusion, the Commission has the opportunity to demonstrate to utilities and developers that it takes seriously a project's full public interest value by requiring applicants to substantiate claimed local economic benefits. Should the Commission approve the acquisition, WLDC encourages the Commission to Support Staff alternative # 2 – Approve the proposed transaction with *all* of the conditions identified by staff in the memorandum. In addition, WLDC recommends that the Commission include the following conditions in this case:

- 1) The Joint Applicants will publicly report on a quarterly basis the number of FTEs and hours worked by Wisconsin residents and out-of-state workers during construction of the Badger Hollow II project.
- 2) The Joint Applicants will publicly report on a quarterly basis efforts made by them, Invenergy, and Invenergy's construction contractors to recruit Wisconsin residents to fill employment opportunities created by the construction of the Badger Hollow II project.

¹⁶ As an example of the Minnesota Commission's recognition of the importance of having a full record, including a project's socioeconomic benefits, when assessing a Certificate of Need and Site Permit application, please see Minnesota Docket No. IP-6984/CN-17-676, where the Commission referred the case to a formal evidentiary proceeding in order to address the socioeconomic consequences of the applicant's labor practices.