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Public Service Commission of Wisconsin
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**PUBLIC SERVICE COMMISSION OF WISCONSIN**

Application for Grant County Solar, LLC to Construct a New Solar Electric Generation Facility located near Potosi and Harrison townships, in Grant County, Wisconsin — 9804-CE-100

# FINAL DECISION

On May 7, 2020, pursuant to Wis. Stat. § 196.491 and Wis. Admin. Code chs. PSC 4 and 111, Grant County Solar, LLC (Grant County Solar) filed with the Commission an application for a Certificate of Public Convenience and Necessity (CPCN) to construct a new solar photovoltaic (PV) electric generation facility. Grant County Solar's proposed generation facility would be a wholesale merchant plant as defined by Wis. Stat. § 196.491(1)(w), and would have a generating capacity of up to 300 megawatts (MW) direct current (DC) and up to 200 MW alternating current (AC). The proposed project would be located on approximately 2,045 acres of primarily agricultural land in Grant County, Wisconsin. The major components of the proposed project include the PV panels, inverters, collection lines, and a collector substation.

The CPCN application is APPROVED subject to conditions and as modified by this Final Decision.

## Introduction

The Commission determined Grant County Solar's application was complete on June 4, 2020. (PSC REF#: 390898.) A Notice of Proceeding was issued on July 16, 2020. (PSC REF#: 393745.) Wisconsin Stat. § 196.491(3)(g) requires that the Commission take final action within 180 days after it finds a CPCN application complete unless an extension of no more than

180 days is granted by the Commission Chairperson. On October 15, 2020, the Commission Chairperson granted a 180-day extension. (PSC REF#: 398379.) The Commission must take final action on or before May 31 2021, or the application is approved by operation of law. See Wis. Stat. § 196.491(3)(g).

A Prehearing Conference was held on Friday, September 25, 2020. (PSC REF#: 396750.) Requests to intervene were granted to Grant County Intervenors,[1] RENEW Wisconsin (RENEW), American Transmission Company LLC (ATC), and Michael and Terri Langmeier (collectively, Langmeier). (PSC REF#: 395455.) The parties, for the purposes of review under Wis. Stat. §§ 227.47 and 227.53, are listed in Appendix A.

The Commission's action regarding a solar electric generation facility is considered a Type III action under Wis. Admin. Code § PSC 4.10(3). Type III actions normally do not require preparation of an environmental assessment (EA) or an environmental impact statement (EIS) under Wis. Admin. Code § PSC 4.10(3). However, an evaluation of a specific Type III proposal may indicate that the preparation of an EA or EIS is warranted for that proposal. The Commission prepared an EA for the proposed project due to the size and amount of land that would be covered by the proposed project, and the ability to use the EA process to seek public comments on the proposal.

Commission staff worked jointly with the Wisconsin Department of Natural Resources (DNR) in preparing the EA. On October 28, 2020, the Commission produced a preliminary determination that no significant environmental effects are expected to result from the proposed

[1] Grant County Intervenors is an informal organization consisting of residents, landowners and farmers of Grant County. (PSC REF#: 393285.)

project. The preliminary determination letter summarized some of the environmental impacts as well. (PSC REF# 399031.) The Commission took comments on this preliminary determination and, on November 19, 2020, issued the EA for the proposed project, which is entered as an exhibit into the record, pursuant to Wis. Stat. § 1.11 and Wis. Admin. Code chs. NR 150 and PSC 4. (PSC REF# 400274.) As a result of the EA, the Commission determined that the preparation of an EIS was not required.

The Commission issued a Notice of Hearing on January 5, 2021. (PSC REF#: 402471.) The Commission held technical hearing sessions over an audiovisual connection on February 10, 2021. At the technical sessions, expert witnesses offered testimony and exhibits on behalf of Grant County Solar, Grant County Interveners, RENEW, and Commission staff.[2] Public comment hearing sessions were held audio only on February 11, 2021. At the public hearings, the Commission accepted oral testimony from members of the public.[3] The Commission also accepted comments from members of the public through its website.[4] The Commission conducted its hearings as Class 1 contested case proceedings, pursuant to Wis. Stat. §§ 196.491(3)(b), 227.01(3)(a), and 227.44.

The issue for hearing, as agreed by the parties, was:

> Does the project comply with the applicable standards under Wis. Stat. §§ 1.11, 1.12, 196.025, 196.49, and 196.491, and Wis. Admin. Code chs. PSC 4 and 111?

Grant County Solar filed its initial brief on March 8, 2021 (PSC REF# 406383) and its reply brief on March 15, 2021. (PSC REF # 406856.) Grant County Intervenors also filed their initial (PSC REF # 406386) and reply briefs. (PSC REF # 406857.)

[2] Tr. 1-256 Party Hearing Session (PSC REF# 406353).
[3] Tr. 257-291 Public Hearing Session (PSC REF#: 406235).
[4] Ex.-PSC-Public Comments (PSC REF#: 406235).

The Commission discussed the record in this matter at its open meeting of April 29, 2021.

## Findings of Fact

1. Grant County Solar is a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC. Grant County Solar proposes to construct a solar electric generation facility as a wholesale merchant plant as defined by Wis. Stat. § 196.491(1)(w), with a generating capacity of up to 300 MW DC and 200 MW AC.

2. The proposed project is a solar electric generation facility and a "noncombustible renewable energy resource" under Wis. Stat. §§ 1.12 and 196.025 and is entitled to the highest priority of all energy generation resources under the priorities listed. It is uncontested that energy and capacity from the proposed project cannot be replaced by energy conservation and efficiency.

3. The facility design and location approved by this Final Decision are in the public interest considering alternative locations or routes, individual hardships, safety, reliability, and environmental factors. Wis. Stat. § 196.491(3)(d)3.

4. The facilities approved by this Final Decision will not have undue adverse impacts on environmental values including ecological balance, public health and welfare, historic sites, geological formations, aesthetics of land and water, and recreational use. Wis. Stat. § 196.491(3)(d)4.

5. The facilities approved by this Final Decision will not unreasonably interfere with the orderly land use and development plans for the area. Wis. Stat. § 196.491(3)(d)6.

6. The facilities approved by this Final Decision will not have a material adverse impact on competition in the relevant wholesale electric service market. Wis. Stat. § 196.491(3)(d)7.

7. A brownfield site for Grant County Solar's proposed project is not practicable. Wis. Stat. § 196.491(3)(d)8.

8. The facilities approved by this Final Decision will affect state highways and will require permits from the Wisconsin Department of Transportation.

9. The facilities approved by this Final Decision are designed to avoid direct impacts to waterways and wetlands, but will require permits from DNR for construction site erosion control and storm water handling.

10. The facilities approved by this Final Decision are not expected to affect endangered and threatened species protected by the state's endangered species law, and additional consultation with DNR Bureau of Natural Heritage Conservation is not expected to be necessary.

11. Critical proposed facilities that could be damaged by flooding are not located in the 100-year flood plain. Consequently, there is no flood risk to the project per 1985 Executive Order 73.

12. Approval of the proposed project is in the public interest.

## Conclusions of Law

1. The Commission has jurisdiction under Wis. Stat. §§ 1.11, 1.12, 44.40, 196.02, 196.025, 196.395, and 196.491, and Wis. Admin. Code chs. PSC 4 and 111, to issue a CPCN authorizing Grant County Solar to construct and place in operation the proposed electric

generation facilities described in this Final Decision and to impose the conditions specified in this Final Decision.

2. The Grant County Solar generation facility is a wholesale merchant plant, as defined in Wis. Stat. § 196.491(1)(w).

3. The proposed electric generation facility complies with the Energy Priorities Law as required under Wis. Stat. § 1.12 and 196.025(1).

4. In issuing a CPCN, the Commission has the authority under Wis. Stat. § 196.491(3)(e) to include such conditions as are necessary to comply with the requirements of Wis. Stat. § 196.491(3)(d).

5. The construction of a solar electric generation facility is a Type III action under Wis. Admin. Code § PSC 4.10(3), and typically requires neither an EIS under Wis. Stat. § 1.11 nor an EA; however, an evaluation of this specific Type III action indicated that an EA was warranted for the proposed project.

6. The Commission prepared an EA and made a finding that no significant impacts to the environment would result from construction of the solar facilities.

## Opinion

### Project Description

Grant County Solar proposes to construct a new solar electric generation facility as a wholesale merchant plant as defined by Wis. Stat. § 196.491(1)(w), with a generating capacity of up to 300 MW DC and up to 200 MW AC. The proposed project would be located in the Town of Potosi, in Grant County, Wisconsin. The major components of the proposed project include the PV panels, inverters, collector circuits, and a collector substation.

The proposed project would use either monocrystalline or thin film PV modules, the specific model of which is to be evaluated and selected closer to the time of construction. Two types of panels are being considered, ranging from 330 to 440 watts per panel, requiring from 725,000 to 750,000 total panels for the 200 MW AC. The selected panels would connect to a single-axis tracking system that would allow the PV panels to follow the sun from east to west, throughout the day. Inverters and pad-mounted transformers would be required to convert the generated DC power into AC power and step-up the voltage to 34.5 kilovolts (kV). The underground AC collector circuits would carry the power generated by the PV panels to the collector substation. The collector circuits would total approximately 31.5 miles and would converge into approximately nine total circuits as they approach the project collector substation. The solar PV array would connect to a new 34.5 kV/138 kV project collector substation. A short generator tie line would connect the new collector substation to an existing ATC substation.

Wisconsin Power and Light Company (WP&L) has proposed to purchase the Grant County Solar project. The Commission has reviewed and approved the proposed acquisition in docket 6680-CE-182. Based upon the application in this docket, WP&L will acquire the Grant County Solar project prior to the completion of construction with the assumption the Commission approves the project and other conditions precedent to closing are satisfied.

The Commission concludes that Grant County Solar's application has been appropriately reviewed and considered by this Commission as a wholesale merchant plant. While acquisition of the solar facility has been approved, as of the date of this Final Decision, there has been no sale. Therefore, it remains appropriate to evaluate the proposed project as a merchant plant. This is consistent with previous Commission decisions authorizing the transfer of a merchant

CPCN to a public utility prior to completion of construction of the project.[5] Further, nothing in Wis. Stat. § 196.491 prohibits the transfer of rights granted under a CPCN.

As a wholesale merchant plant, the Commission's review in this docket was appropriately limited to those statutory criteria applicable to merchants. The fact that a project may be acquired by a public utility at some point in the future does not transform the project into a non-merchant plant, nor does it require that the potential would-be buyers be co-applicants.

The Commission has considered several applications for the construction of a utility-scale solar facility, and the evaluation of technical and complex projects, such as the one proposed in this docket, is an area in which the Commission has special expertise. Since 1907, the Commission has regulated public utilities to ensure that "reasonably adequate service and facilities" are available to the public at rates that are "reasonable and just." Wis. Stat. § 196.03(1). The Commission's expertise in administering Wis. Stat. § 196.491 to determine what proposed projects are appropriate additions and in the public interest has long been recognized by Wisconsin courts. *Wisconsin Power & Light Co. v. Pub. Serv. Comm'n of Wisconsin*, 148 Wis. 2d 881, 888, 437 N.W.2d 888, 891 (Ct. App. 1989); *see also Clean Wisconsin, Inc. v. Public Service Commission of Wisconsin*, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768 (recognizing the Commission's expertise in reviewing proposed construction projects under Wis. Stat. § 196.491).

[5] *See Application of Wisconsin Power and Light Company and Sheboygan Power, LLC for a Certificate of Public Convenience and Necessity for Construction of an Electric Generation Facility to be Located in Sheboygan County*, docket 6680-CE-168; *Application of Wisconsin Power and Light Company for Approval of Affiliated Interest Agreements Comprising a Leased Generation Contract with Sheboygan Power, LLC*, docket 6680-AE-108, May 18, 2005; *Application for Certificate of Public Convenience and Necessity of Two Creeks Solar, LLC to Construct a Solar Electric Generation Facility to be Located in Manitowoc and Kewaunee Counties, Wisconsin*, docket 9696-CE-100, April 18, 2019; (PSC REF#: 364423); *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 9697-CE-100, April 18, 2019 (PSC REF#: 364425).

Determining whether a proposed project is in the public interest often requires a high degree of discretion, judgment, and technical analysis. Such decisions involve intertwined legal, factual, value, and public policy determinations. The Commission, as the finder of fact, is charged with evaluating all of the information and applying the statutory criteria to reach a well-reasoned decision. In doing so, the Commission uses its experience, technical competence, and specialized knowledge to determine the credibility of each witness and the persuasiveness of the highly technical evidence presented on each issue.

**Interconnection of the Facility to the Existing Electric Transmission System**

The transmission interconnection facilities requirements for the proposed project are being determined through the Midcontinent Independent System Operator, Inc. (MISO) Generator Interconnection Queue study process. Grant County Solar filed an interconnection request with MISO, completed the definitive planning phase study cycle, and executed a Generator Interconnection Agreement on April 3, 2020.

**Energy Priorities Law**

When reviewing a CPCN application, the Commission considers Wis. Stat. §§ 1.12 and 196.025(1), known as the Energy Priorities Law, which establishes the preferred means of meeting Wisconsin's energy demands. The Energy Priorities Law creates the following priorities:

> **1.12 State energy policy. (4)** PRIORITIES. In meeting energy demands, the policy of the state is that, to the extent cost-effective and technically feasible, options be considered based on the following priorities, in the order listed:
> (a) Energy conservation and efficiency.
> (b) Noncombustible renewable energy resources.
> (c) Combustible renewable energy resources.

(cm) Advanced nuclear energy using a reactor design or amended reactor design approved after December 31, 2010, by the U.S. Nuclear Regulatory Commission.

(d) Nonrenewable combustible energy resources, in the order listed:

1. Natural gas.
2. Oil or coal with a Sulphur content of less than 1%.
3. All other carbon-based fuels.

In addition, Wis. Stat. § 196.025(1) declares that the Commission shall implement these priorities in making all energy-related decisions to the extent they are cost-effective, technically feasible, and environmentally sound.

The Commission has an obligation to consider these priorities in all energy-related decisions, including construction of new electric generation facilities.[6] The Energy Priorities Law instructs the Commission to implement the energy priorities to the extent they are environmentally sound, and the Commission must assess the environmental impacts of a wholesale merchant plant under Wis. Stat. § 196.491(3)(d)3.

The proposed project will be a new solar electric generation facility. As such, it is a "noncombustible renewable energy resource" and is entitled to the highest priority of all energy generation resources under the Energy Priorities Law. Grant County Intervenors' assertion that the project does not comply with the Energy Priorities Law due to alleged inefficiencies associated with conversion between DC and AC and the interconnection limit misses the mark. While there are some losses associated with the conversion between DC and AC which is necessary for the facility to operate and interconnect to the transmission system, these are not issues of energy efficiency which, focuses on customer behavior or equipment improvements.

[6] Wis. Stat. § 196.025(1)(ar) provides:

> To the extent cost-effective, technically feasible and environmentally sound, the commission shall implement the priorities under s. 1.12(4) in making all energy-related decisions and orders, including advance plan, rate setting and rule-making orders.

As this is a merchant plant, Grant County Solar is not providing energy directly to retail customers. Further, it is uncontested that energy and capacity from the proposed project cannot be replaced by energy conservation and efficiency, the highest priority alternative. The EA for the proposed project concluded that "approval and construction of this project is unlikely to have a significant impact on the human environment." (PSC REF#: 400274 at 52.) Additionally, the objective of the law[7] is to deploy environmentally preferable options first when meeting Wisconsin's energy needs, not require that measures such as conservation or energy efficiency displace a project if not obviously technically feasible or more cost-effective. This project aligns with that objective. Therefore, the proposed project satisfies the requirements of the Energy Priorities Law.

**Siting**

The Commission must consider alternative locations when determining whether a proposed generation facility is in the public interest. Wis. Stat. § 196.491(3)(d)3. A CPCN application must describe the siting process, identify the factors considered in choosing the alternative sites, and include specific site-related information for each site. Wis. Admin. Code § PSC 111.53(1)(e)-(f). The Grant County Solar CPCN application complies with these requirements. It explains the "macro-siting" process used to screen areas in Wisconsin based upon the solar resource, land area, and access to electric transmission infrastructure. It also describes how specific solar siting areas were selected and how Grant County Solar confirmed the suitability of these locations. The record reflects examination of each of the solar siting

[7] See also Wis. Stat. §§ 1.12(3)(b) and 196.377.

areas. In addition, Grant County Solar identified and provided information regarding 25 percent more siting areas on leased properties within the project area that meet all of its siting criteria.

The Commission's standard for reviewing proposed siting areas is to determine whether each proposed site is "reasonable," i.e., is it a feasible location for the project that would not directly conflict with any of the statutory criteria for granting a CPCN, and whether the sites are sufficiently distinct to offer different packages of benefits that present the Commission with a choice. The Wisconsin Supreme Court affirmed this standard in *Clean Wisconsin et al. v. Public Service Commission of Wisconsin and Wisconsin Department of Natural Resources*, 2005 WI 93, ¶¶ 66-70.

In a previous docket concerning a wind farm,[8] the Commission found that the project applicant met the requirement to offer site alternatives by identifying 25 percent more turbine locations than it proposed to develop. On appeal, the Dodge County Circuit Court affirmed this method of offering site alternatives for a wind farm.[9] In previous solar electric generation dockets, the Commission has applied a similar analysis, concluding that an applicant complies with this requirement by providing 25 percent additional siting areas with the proposed project as an alternative.

The preferred and alternative siting areas that Grant County Solar has identified meet both of these standards. The areas provide differing environmental and participant impacts, and the alternative areas offer more than 25 percent additional possible solar siting areas.

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[8] *Application of Forward Energy LLC for a Certificate of Public Convenience and Necessity to Construct a Wind Electric Generation Facility and Associated High Voltage Electric Transmission Facilities, to be Located in Dodge and Fond du Lac Counties*, docket 9300-CE-100 (July 14, 2005).

[9] *Horicon Marsh Systems Advocates and Joe M. Breaden v. Public Service Commission of Wisconsin and Forward Energy LLC*, Dodge County Case No. 05-CV-539; *"Memorandum Decision and Order" of Circuit Judge John R. Storck* (March 23, 2006).

Grant County Solar provided descriptions of the variables used to arrive at the selection of the project preferred and alternative array sites. The list of the site variables evaluated consists of:

- transmission and injection capacity;
- solar resource;
- landowner and customer interest and community support;
- constructability, topography;
- environmental factors, site suitability;
- cultural and historic resources, site suitability.

As part of its application, Grant County Solar provided 25 percent more solar siting areas than required to construct the proposed project to its maximum capacity. The Commission requires these additional siting areas for two reasons:

- To provide flexibility such that, in the event that during the Commission's review some of Grant County Solar's preferred siting areas become undesirable or unusable, those areas may be avoided and alternative siting areas be used instead.
- To resolve unforeseen problems that could arise during the construction process, such as: protecting social, cultural, or environmental resources; avoiding unanticipated sub-surface conditions; accommodating governmental requests; addressing concerns that a landowner may have during the course of construction; taking advantage of opportunities to minimize construction costs; or, improving the levels of electric generation.

The ability to construct more efficient arrays led to the proposed array sites. The alternative array sites meet most siting requirements, but would be less efficient due to their layout, increased construction costs, and potential environmental impacts.

**Authorized Project Site**

The Commission authorizes Grant County Solar to use any of the primary and alternative solar array sites. The proposed sites meet the siting criteria of Wis. Stat. §§ 196.491(3)(d)3. or 4. and would not cause undue individual hardships or adverse impacts on the environment. The primary site is preferred by Grant County Solarbecause of its more compact layout and less underground collection lines than the alternative site. The primary site provides a more cost-effective layout and is likely to be more energy efficient. However, the alternative site provides additional flexibility for placement of the solar facilities during construction with similar, limited environmental impacts. The Commission finds it reasonable to allow the Grant County flexibility to use the proposed sites (primary and alternative) as needed, provided that the project size shall remain at the maximum nameplate capacity approved in this order, to accommodate environmental, technical, and landowner issues as they arise during construction of the project. If the situation arises where Grant County Solar elects to use an alternative array area, Grant County Solar shall provide advance written notice to the Commission identifying such alternative arrays.

The relevant inquiry is whether the proposed project site will cause undue individual hardships or undue adverse impact on other environmental values. The Commission appreciates the expressed concerns of some landowners, in particular the concerns related to the transfer of land use from farming to solar electric generation. Many other comments the Commission

received from landowners are addressed by the conditions the Commission intends to adopt. As the remainder of this Final Decision demonstrates, the Commission conducted a robust analysis of the potential impacts both to the surrounding landowners and community and to the environment. Grant County Solar committed to a number of requirements to address landowner impacts such as implementing a complaint process, conducting noise studies, and minimizing communication and broadcast disruptions. Further, the conditions recommended by Commission staff that the Commission intends to adopt will mitigate or address the majority of environmental concerns identified, including decommissioning plans, conducting stray voltage testing, and other requirements addressed below. The Commission finds the design and location is in the public interest considering alternatives and its assessment of individual hardship and environmental impacts. To the extent there are some impacts, these impacts can be mitigated through the conditions to be imposed by the Commission and further discussed below.

**Brownfield Sites**

Wisconsin Stat. § 196.491(3)(d)8. provides that a CPCN generation project must be sited in a brownfield area "to the extent practicable." The proposed project requires over 465 acres of nearly contiguous developable land in close proximity to existing transmission facilities. There were no brownfield sites identified in Wisconsin that met the siting requirements. Grant County Intervenors speculated that multiple brownfield sites could accommodate the amount of land needed for the project. However, Grant County Intervenors present no evidence to show its suggestion is practicable. Based upon the practicalities of siting a solar electric generating project of this size and the results of the brownfields review that was conducted by Grant County Solar which identified no site that would provide a practicable alternative to the site, the

Commission therefore finds that the proposed project satisfies the requirement under Wis. Stat. § 196.491(3)(d)8.

**Material Adverse Impact on the Wholesale Electric Market**

Under Wis. Stat. § 196.491(3)(d)7., the Commission may only issue a CPCN for a project that "will not have a material adverse impact on competition in the relevant wholesale electric service market." The proposed project would inject additional energy into the wholesale market and is anticipated to have a positive impact on the market. As a wholesale merchant plant, concerns regarding horizontal market power are not at issue. When the solar facility is purchased by a Wisconsin utility, the concern remains unchanged as capacity and energy from the project would be subject to market mitigation measures and oversight of MISO's independent market monitor that restricts any ability to raise prices above competitive levels. As such, the Commission finds that the proposed project meets the requirements of Wis. Stat. § 196.491(3)(d)7.

**Land Use and Development Plans**

Wisconsin Stat. § 196.491(3)(d)6. requires that a proposed generation facility not "unreasonably interfere with the orderly land use and development plans for the area involved." A utility infrastructure project will have some impact on land use and development plans for the area involved. The question is whether the project will "unreasonably interfere" and must also take into account the benefits of the proposed project. Grant County does not have specific zoning requirements or limitations for solar generating facilities. The land where the proposed project would be constructed is classified as Farmland Preservation in local land use plans and the proposed project qualifies as an allowable use in farmland preservation zoning districts.

Comments were received from members of the public that discussed the impacts to farmland as a result of the proposed project. The Commission takes seriously that areas within the fenced solar arrays would be taken out of agricultural production for the life of the project but must balance those concerns with the right of individual landowners to use their properties in the manner they choose.

Grant County Solar is not a public utility and does not possess statutory eminent domain authority. Grant County Solar must and has secured long-term lease agreements with landowners in the project area to acquire the property for the generation facility. The changes to land use are agreed to by the landowners who have signed leases with Grant County Solar, and after decommissioning, the land may return to agricultural land use. Further, as noted by Grant County Solar and according to the most recent Farmland Information Center survey, there are approximately 14,568,926 acres of agricultural land in Wisconsin. The Commission recognizes that the proposed project will create impacts on the land use in the project area but finds that the proposed project will not unreasonably interfere with the orderly land use and development plans of the project area, and will have an extremely minimal impact on agricultural land in the state as a whole.

**Public Health and Welfare**

As the Wisconsin Supreme Court has declared, issuing a CPCN is a legislative determination involving public policy and statecraft. *Clean Wisconsin, Inc. v. Pub. Serv. Comm'n of Wisconsin*, 2005 WI 93, ¶ 35, 282 Wis. 2d 250, 700 N.W.2d 768. Wisconsin Stat. § 196.491 assigns to the Commission the role of weighing and balancing many conflicting factors. In order to determine whether construction of a new electric generating facility is

reasonable and in the public interest, the Commission must not just apply the priority list in Wis. Stat. § 1.12(4), but also must examine the conditions written into that law and consider the purpose of the legislation.

These statutes require that when the Commission reviews a CPCN application for a wholesale merchant plant generating facility, it must consider alternatives, individual hardships, safety, reliability, a environmental factors, any interference with orderly local land use and development plans, and potential impacts to wholesale electric competition. Ultimately, the Commission must determine whether granting or denying a CPCN will promote the public health and welfare.

In preparing the EA for this project, Commission staff reviewed the information from Grant County Solar's CPCN application, responses to Commission staff data requests, maps, geographic information system data, aerial imagery, and reports from consultants. Commission staff assessed information from other sources including comments from individuals, state and federal agency information, local officials, field visits, and scientific literature. Commission staff also coordinated review with DNR to assess wetland, waterway, and endangered resource impacts. Grant County Solar agreed to incorporate recommendations from the Commission and DNR into its project to mitigate environmental impacts, and the Commission imposes additional conditions as described in this decision.

It is expected that if these facilities are decommissioned in the projected 30- to 50-year life span of the project, such land could be returned to agricultural use. Because of the passive nature of solar, operations activities at the site will be minimal. The facilities can be operated with, in addition to remote monitoring, three full-time equivalent employees on-site. The

proposed project will not require any unique fire, police, or rescue services. There are no additional impacts to public health or welfare associated with the solar facilities identified in the record that are not otherwise mitigated or addressed by the conditions of this Final Decision such as noise studies, stray voltage testing, and other conditions.

On the other hand, approval of the proposed project will provide 200 MW of noncombustible renewable energy to the state of Wisconsin. The Commission has previously held that renewable generation projects promote public health and welfare by generally avoiding most of the impacts created by other types of electric generation.

Grant County Solar identified in its application the benefits to the local economy. In addition to the payments to the local communities made pursuant to Wis. Stat. § 79.29, Grant County Solar stated that approximately 250-350 workers will be needed to complete the project and indicated in its application that the majority of the workforce is expected to come from local sources, depending on the labor market and their availability at the time of construction. Comments from Wisconsin Laborer's District Council provided recommendations to the Commission to encourage greater use of local laborers where feasible and to provide more transparency with respect to the employment impacts of utility projects.

The Commission finds it reasonable to include a quarterly reporting requirement on Grant County Solar's efforts, and the efforts of their contractors, to recruit Wisconsin residents to fill employment opportunities created by the construction.

Commissioner Nowak dissents and writes separately (see attached).

After weighing all of these factors and all of the conditions it is imposing, the Commission finds, for the reasons set forth in this Final Decision and administrative record

developed for this proceeding, that issuing a CPCN for the proposed project promotes the public health and welfare and is in the public interest.

**Conditions Related to Project Construction**

Commission staff reviewed the proposed project and developed suggested order conditions related to the proposed project construction. For the reasons discussed below, the Commission finds that many of these conditions are reasonable and in the public interest.

**Decommissioning Plan**

Grant County Solar stated that at the end of the project's useful life, the project will cease operation, and the facilities will be decommissioned and the site restored to pre-construction condition. Grant County Solar included a preliminary discussion of its decommissioning plan in its application materials and testimony. The discussion provided details regarding how decommissioning would be triggered, the actions and sequence of decommissioning, and the actions expected to restore the site to pre-construction condition. Grant County Solar testified that a final decommissioning plan will be developed prior to the commencement of construction to fully address anticipated decommissioning procedures. In the final decommissioning plan, Grant County Solar will provide non-binding estimated decommissioning cost information on a confidential basis. In addition, in order to demonstrate its financial viability, Grant County Solar will provide security in the form of a surety bond, letter of credit, parent/corporate guarantee, or other financial instrument in the amount of the non-binding estimated decommissioning cost upon the commencement of operation of the generation facility.

During proceedings of the case, Grant County Intervenors proposed modifications to the specifics of Grant County Solar's decommissioning plans that the Commission finds unnecessary

to implement for the approval of this project. No memorandum of understanding or joint development agreement was executed between Grant County Solar and any of the local government entities at the time of this Final Decision. To clarify its expectations regarding decommissioning, the Commission finds it reasonable to impose the requirement of a final decommissioning plan, to be provided prior to commencement of construction, which shall include the following items:

- Planned actions for decommissioning, including a description of environmental impacts and permits needed;
- Estimated costs of decommissioning, both including and omitting any salvage values;
- A requirement that Grant County Solar provide, at a minimum, financial assurance to cover the costs of decommissioning posted prior to commencement of construction; and
- Periodic independent assessments of the ratio of salvage values to decommissioning costs and the posting of a financial assurance in the case of an assessment where costs exceed value.

Grant County Solar shall notify the Commission of any changes to the decommissioning plan after approval.

**Electric Code Compliance**

In general, the National Electrical Code (NEC) applies to non-supply facilities owned by non-utility entities, and the National Electrical Safety Code (NESC) applies to supply facilities owned by utilities. Based on response from testimony by Paul Callahan for Grant County Solar,

the project will comply with NEC or NESC, as appropriate. (Rebuttal-Grant County Solar-Callahan-3, PSC REF#: 402530.) Previous Commission final decisions, including for Glacier Hills Wind Park,[10] Badger Hollow Solar,[11] Two Creeks Solar,[12] Point Beach Solar,[13] Badger State Solar,[14] and Paris Solar[15] have included language with compliance of NEC or NESC, as appropriate.

The Commission finds it reasonable to require Grant County Solar to construct, maintain, and operate all applicable project facilities to comply with NEC or NESC and Wis. Admin. Code ch. PSC 114, as appropriate. In case of conflict or overlap between code requirements, Grant County Solar shall construct, maintain, and operate all applicable project facilities to comply with the more stringent code requirement. This will ensure public safety. Absent such a condition, as a wholesale merchant facility the applicable codes and enforcement necessary to ensure public safety would be unclear. Further, this condition will ensure when WP&L does purchase the facilities, such facilities will not require additional code upgrades that could be an unnecessary cost.

**Stray Voltage Testing**

Specific concerns about stray voltage were raised in previous Commission-authorized utility-scale solar CPCN dockets, specifically dockets 9696-CE-100, 9697-CE-100, 9800-CE-100, and 9802-CE-100. Wisconsin Admin. Code § PSC 128.17 deals with stray voltage testing associated with wind energy systems, but the Commission has also employed the

[10] See docket 6630-CE-302.
[11] See docket 9697-CE-100.
[12] See docket 9696-CE-100.
[13] See docket 9802-CE-100.
[14] See docket 9800-CE-100.
[15] See docket 9801-CE-100.

language of the code to address stray voltage concerns in utility-scale solar CPCN dockets. Previous Commission final decisions, including those for: Glacier Hills Wind Park,[16] Badger Hollow Solar,[17] Two Creeks Solar,[18] Point Beach Solar,[19] and Badger State Solar[20] have included language requiring stray voltage testing. Stray voltage has the potential to cause adverse impacts on agricultural property. Commission staff suggested that any final decision language requiring pre- and post-construction stray voltage testing be consistent with Wis. Admin. Code § PSC 128.17 and previous Commission decisions on solar electric generation facilities. These previous decisions required that stray voltage testing be offered to agricultural properties with confined animal operations within a half-mile of project facilities.

To ensure public safety and to facilitate possible mitigation of any impacts from stray voltage on agricultural animals, the Commission finds it reasonable to require Grant County Solar to conduct pre- and post-construction stray voltage testing at any agricultural facility located within 0.5 miles of the project site, consistent with Wis. Admin. Code § PSC 128.17, and in coordination with the local distribution utility and Commission staff.

**Post-Construction Noise Study**

There has been long-standing Commission precedent of requiring pre- and post-construction noise studies for any new proposed electric generation facility, for both renewable and conventional electric generation resources. Previous Commission decisions have

[16] See docket 6630-CE-302.
[17] See docket 9697-CE-100.
[18] See docket 9696-CE-100.
[19] See docket 9802-CE-100.
[20] See docket 9800-CE-100.

included language that required noise studies by a project developer. Grant County Solar completed and submitted an initial pre-construction noise study report.

The Commission finds it reasonable that Grant County Solar perform pre- and post-construction noise studies as described in the most current version of the Commission's Noise Measurement Protocol. This will ensure that any noise created by the solar facilities will be identified and mitigated in accordance with the Commission's standards. In the event of a substantial change to the proposed facility layout, Grant County Solar should confer with Commission staff to determine whether a new pre-construction noise study must be completed. Grant County Solar shall file a copy of the post-construction noise study report with the Commission.

**Environmental Review**

The proposed electric generation project was reviewed by the Commission for environmental impacts. Wisconsin Admin. Code ch. PSC 4, Table 3, identifies construction of a solar-powered electric generation facility as a Type III action. However, Wis. Admin. Code § 4.10 specifically provides that while Type III actions do not normally require preparation of an EA or an EIS, "[a]n evaluation of a specific Type III proposal, however, may indicate that preparation of an EA or EIS is warranted for that proposal."

An EA was prepared for the proposed project due to the size and amount of land that would be covered by the proposed project. The environmental review focused primarily on impacts to wildlife, including rare or endangered species, aesthetics, historic resources, wetlands and waterways, and local landowner impacts. The EA concluded that "approval and construction of

this project is unlikely to have a significant impact on the human environment." (PSC REF#: 400274 at 52.)

**Archeological and Historic Resource Review**

A review of the Wisconsin Historical Society's Wisconsin Historic Preservation database and information from the National Register of Historic Places identified 13 archaeological sites within one mile of the project study area, with one site being located within the 2,057-acre project study area. A field investigation revealed an additional four sites within the project study area and one new archaeological site abutting the project study area. Three of the five sites within the project study area were determined not to meet the minimum requirements for listing in the National Register of Historic Places. Two of the five sites within the project study area (an historic burial site and an archaeological site), and the single site abutting it, were recommended to be avoided with a minimum 50-foot setback. Grant County Solar stated that construction would avoid these sites.

A review of the Wisconsin Historic Preservation database for above-ground resources identified nine resources within one mile of the project study area and are associated with a farmstead. None of these structures are eligible for the National Register of Historic Places. Grant County Solar stated that the project would not affect any cultural resources.

No human burial sites would be affected by the project. Therefore, no Burial Site Disturbance Authorization/Permit is required from the Wisconsin Historical Society. If Grant County Solar encounters grave markers or human skeletal remains during construction, all activities in the area would cease and the State of Wisconsin Burial Sites Preservation Office would be contacted for further instructions. Based upon this survey and subsequent

investigation, the Commission finds that construction of the proposed facilities is not expected to affect any historic properties under Wis. Stat. § 44.40.

**Local Landowner Impacts**

Some non-participating landowners voiced concerns regarding the potential impacts of the facility being constructed in their area. The potential for changes in property values, increased noise, glare from the panels, and the change of land use from a rural farmed landscape to many acres of panels and fencing were discussed in comments provided by landowners.

While some landowners expressed concerns that construction of the proposed project would reduce their property values, these concerns were not substantiated with credible evidence. As discussed in the EA, noise and visual impacts could negatively impact property value. However, unlike fossil-fueled electric generation facilities, the proposed facilities would have no emissions and minimal anticipated noise impacts to adjacent land uses during operations. The EA also indicated that a review of the literature found no research specifically aimed at quantifying impacts to property values based solely on the proximity to utility-scale solar facilities. For these reasons, the EA concluded that "[w]idespread negative impacts to property values are not anticipated." (PSC REF#: 400274 at 37.)

As noted previously, Grant County Solar conducted pre-construction ambient noise studies. The studies were conducted in accordance with the Commission's Noise Measurement Protocol. The studies recorded noise levels that would be typical for a rural environment, with sources including vehicular traffic and farm machinery during daytime periods and insect noise during nighttime periods. As a result, the studies concluded that construction and operation of the proposed project would not result in any significant adverse noise impacts. The EA reviewed

and confirmed these findings, noting that "the worst-case sound level at a modeling receptor is 39 dBA,"[21] which is less than the Commission's 45 dBA standard for wind turbines. (PSC REF#: 400274 at 43.)

Grant County Solar also performed a glint and glare analysis for the proposed project. The results showed no predicted glare from the solar arrays for aircraft making approaches at any of the nearby airport, airstrip, or heliport, and none for cars with an estimated viewing height of five feet, large trucks with an estimated viewing height of nine feet, or residents with an estimated second-story viewing height of 25 feet. The EA also noted that the solar panels are designed to absorb light and have an anti-reflective coating that reduces the risk of glint or glare to vehicles or residents. (PSC REF#: 400274 at 45.)

**Complaint Process**

Grant County Solar did not provide a detailed complaint resolution process in its application. Grant County Intervenors requested an order condition requiring a complaint process. Grant County Solar stated that in the case of noise complaints it would investigate noise levels, and if found to be in violation of permit requirements, work with stakeholders in an attempt to address complaints. The Commission finds that a more detailed complaint process is not necessary, in that many of the concerns associated with the proposed project can be mitigated through the conditions imposed under this Final Decision and through existing procedures available to the public to bring complaints before the Commission. Further, the Commission already has a robust set of processes by which the public can bring complaints regarding utility practices before the Commission. See Wis. Admin. Code § PSC 113.0407; see also Wis. Stat.

[21] "dBA" stands for A-weighted decibels.

§ 196.26. As this facility will ultimately be owned by a public utility, these complaint procedures will be available to the public. Further, the Commission has a formal and informal process for bringing complaints before the Commission under Wis. Admin. Code. §§ PSC 2.07 and 2.08. These latter procedures can be used by the public to address any failure by the developer to abide by the requirements of the CPCN or otherwise act in a way contrary to the public interest.

The Commission finds that adding yet another procedure to bring complaints before the Commission is unnecessary in light of the likely future ownership by Wisconsin utilities. Although the Commission is not requiring Grant County Solar to develop a specific complaint resolution process, the Commission stresses the importance of communication between Grant County Solar and the community in and around the project area.

**Aesthetics and Fencing**

Grant County Solar will have some impact to the aesthetics of the area with the addition of hundreds of acres of solar panels, grouped in arrays that are fenced off for security requirement. Grant County Solar proposed eight-foot deer fencing (otherwise known as agricultural fencing) with no barbed wire to surround the array sites. The use of this type of fencing would mitigate the change to the aesthetics of the area, is less hazardous to wildlife than barbed wire, and meets the necessary requirements of electric codes under both NEC and NESC for the array sites. Grant County Solar proposed that seven-foot chain link fence, including one foot of barbed wire on top, would still be necessary around the collector substation to meet applicable code requirements. The Commission finds the dimensions and types of fencing proposed by Grant County Solar to be reasonable for approval.

Grant County Intervenors proposed that the Commission should order Grant County Solar to conduct a study on wildlife interactions with fencing at the project facility to mitigate concerns about fencing impacts to wildlife in the area. The specifics and details of what such a study would include was not substantially developed in the record for this docket. At this time, the Commission does not find it necessary to order Grant County Solar to conduct a study on this topic at this facility.

**Threatened and Endangered Species Review**

A certified Endangered Resources (ER) Review was conducted for the proposed project, which included a review of DNR's Natural Heritage Inventory database for endangered and threatened species, and species of special concern. The Natural Heritage Inventory database is updated regularly and as construction of the proposed project would not start until after a year from the date of the ER Review. The Commission finds it reasonable to require Grant County Solar to conduct an updated review closer to the construction start date, and no more than one year prior to commencement of construction.

The ER Review determined there are several endangered, threatened, and special concern species located within the search buffer of the proposed project. However, an assessment of habitat found in the impacted project area indicated there is no area of suitable habitat for any of the species found in the review. The construction of the proposed facilities as described in the application and subsequent data requests is not expected to affect any endangered or threatened species under Wis. Stat. § 29.604(6r).

**Vegetation Management**

Grant County Solar provided the Commission with a vegetation management plan as part of the application. This plan describes the seed mixes, establishment phase, and ongoing plans for managing vegetation on the solar array sites.

**Other Wildlife Impacts**

Large-scale solar facilities are a relatively new addition to the landscape and research is ongoing to determine impacts to wildlife. Most research on the impacts of solar facilities on wildlife has occurred in different habitats than are found in Wisconsin. At some of these facilities, there have been observations of bird fatalities with impact trauma that indicates the birds may have collided with the solar panels.

Commission staff recommended an order condition that would require Grant County Solar to develop and conduct a post-construction avian mortality study. Grant County Solar objected to the imposition of this condition primarily on the grounds of cost, and being duplicative due to the approved avian mortality study for Badger Hollow Solar (docket 9697-CE-100). Grant County Solar proposed to instead implement a Wildlife Response and Reporting System for detecting and reporting wildlife incidents as they are discovered.

Given the previously ordered studies regarding avian mortality associated with solar facilities in Wisconsin, the Commission finds it unnecessary to require Grant County Solar to work with the Commission and DNR to develop and conduct a post-construction avian mortality study. However, the Commission does find it reasonable to require Grant County Solar to provide annual reports from the project's Wildlife Response and Reporting System.

**Heat Island Effect**

Some studies, briefly discussed in the EA, have found that solar panels can create a heat island effect, which alters the temperature of the air near and around the panels. However, no studies have examined the heat island effect in the environment of the Upper Midwest. Therefore, it is unknown whether this effect will occur and to what degree it will change the local temperature near the facility. RENEW raised suggestions in the record as to how a possible heat island study could be conducted in Wisconsin, but did not support the idea of Grant County Solar conducting such a study at the Grant County project location. (PSC REF#: 402495.) The Commission finds that there is insufficient evidence in the record to require Grant County Solar to conduct a third-party study of the heat island effect at this facility.

**Wetlands and Waterways**

DNR participated in the review process with the Commission as required under Wis. Stat. § 30.025. As part of its review, DNR determines whether the proposed project is in compliance with applicable state water quality standards (Wis. Admin. Code chs. NR 102, 103, and 299). If the project is found to be in compliance with state standards and necessitates one, DNR issues a waterway permit to Grant County Solar, as promulgated under Wis. Stat. ch. 30, and/or a wetland permit, as promulgated under Wis. Stat. § 281.36.

Due to the project being designed to completely avoid direct disturbance to wetlands and waterways, it is anticipated that the project would not require permit coverage under Wis. Stat. § 30.025 or Wis. Stat. § 281.36. However, due to their proximity to the project area and amount of soil disturbance at the nearby sites, DNR staff testified that these resources may still be at risk to indirect impacts of construction. Therefore, DNR staff described and recommended that

specific best management practices (BMP) regarding wetlands and waterways be required by the Commission for implementation by Grant County Solar during construction. (PSC REF#: 401329.) Grant County Solar suggested minor modifications to this language to adhere more to its existing vegetation management plan. However, the Commission finds it reasonable to approve all BMPs as testified by DNR staff where applicable and practical.

**Federal, State, and Local Permits**

Under Wis. Stat. § 196.491(3)(e), before issuing a CPCN, the Commission must determine that DNR can grant the permits that have been identified under Wis. Stat. § 196.49(3)(a)3.a. as required for the construction or operation of the facility. The Commission has no jurisdiction over DNR permits, but it remains aware of the status of DNR permits that are required before any construction may begin and those that are of significant importance to the ability of the plant to operate if it receives a CPCN. As described in the EA, DNR participated in the environmental review of this project, and it is anticipated that this project, as currently proposed, would not require wetland or waterway permits.

A list of all anticipated permits is included in the application and the EA. The Commission frequently requires in final decisions authorizing construction projects that the applicants obtain all necessary federal, state, and local permits prior to commencement of construction. Commission staff suggested a similar condition in this docket, and the Commission finds it reasonable to include such a condition in any final decision authorizing the proposed project, with modified language requiring permits prior to commencement of construction on the portion of the project requiring the permit."

**Pre-Construction Meeting**

There are a number of topics that require additional documentation subsequent to the Commission's decision, including the final design layout, the status of any permit conditions, and the provision of construction plan details. Final engineering for projects often will establish the details of construction and mitigation methods that will actually be instituted by the applicants. Grant County Solar agreed to meet with Commission and DNR staff once project designs and construction plans are complete, and prior to construction, in order to review planned actions and ensure its compliance with permit and order conditions. The Commission finds it reasonable to require Grant County Solar and its selected contractor to participate in a pre-construction meeting with Commission and DNR staff to discuss construction plans and/or final site designs, permits, and associated requirements, and BMPs. Plans shall be provided to Commission and DNR staff before the meeting to allow time for review, a minimum of 14 days prior to the meeting.

**Minor Siting Flexibility**

The Commission recognizes that detailed engineering is not complete prior to it authorizing the project, and that minor siting flexibility may be needed to accommodate the final design of the project. Situations may be discovered in the field that were not apparent based on the information available to Grant County Solar in development of the proposed project or to the Commission in making its decision. When Grant County Solar identifies such situations, it shall consult with Commission staff familiar with the project to determine whether the change rises to the level where Commission review and approval is appropriate. If Commission review is

appropriate, Grant County Solar shall request Commission authorization. A request for minor siting flexibility shall take the form of a letter to the Commission describing:

1. The nature of the requested change;
2. The reason for the requested change;
3. The incremental difference in any environmental impacts;
4. Communications with potentially affected landowners regarding the change;
5. Documentation of discussions with other agencies regarding the change; and
6. A map showing the approved route and the proposed modification, property boundaries, relevant natural features such as grasslands, wetlands, waterways, and other sensitive areas.

These requests will be reviewed by Commission staff knowledgeable about the project. Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis.

The requested change may be granted if the proposed change:

1. Does not affect new landowners who have not been given proper notice and hearing opportunity;
2. Does not impact new resources or cause additional impacts that were not described in the EA; and,
3. Is agreed to by affected landowners, and agreement is affirmed in writing.

Changes that do not meet all three of the criteria listed above would require reopening of the docket.

For any minor siting change, the Commission typically also requires that the applicant:

- Obtain all necessary permits;
- Comply with all requirements included in agreements with local units of government, such as joint development agreements;
- Comply with all landowner agreements;
- Avoid of any part of the project area that the Commission finds unacceptable; and,
- Comply with the applicant's own environmental siting criteria.

The Commission finds that it is reasonable that Grant County Solar be granted minor siting flexibility. The Commission spends considerable time reviewing and selecting areas for a generation project layout, and it is therefore of utmost importance that if the chosen project layout must be changed, the Commission must receive appropriate notification. Grant County Solar shall follow the described process to obtain authorization for any minor siting changes.

**Compliance with the Wisconsin Environmental Protection Act**

Under Wis. Stat. § 196.491(3)(d)3., the Commission must find that the proposed project is in the public interest considering environmental factors. Similarly, under Wis. Stat. § 196.491(3)(d)4., before issuing a CPCN, the Commission must find that the proposed project will not have an undue adverse impact on environmental values.

The Commission finds that no EIS is required and that the environmental review conducted in this proceeding complies with the requirements of Wis. Stat. § 1.11 and Wis. Admin. Code ch. PSC 4.

**Project Construction Schedule**

Grant County Solar provided a construction schedule as part of its application, which is summarized as follows:

| Activity | Estimated Start | Estimated Completion |
|---|---|---|
| Construction Begins | Q4 2021 | Q4 2023 |
| Mobilization | Q1 2022 | Q2 2022 |
| Site Preparation and Road Construction | Q2 2022 | Q2 2023 |
| Drive Posts | Q4 2021 | Q3 2023 |
| Install Racking | Q2 2022 | Q3 2023 |
| Install Inverters | Q2 2022 | Q3 2023 |
| Install Modules | Q4 2022 | Q4 2023 |
| Construct Project Substation | Q2 2023 | Q4 2023 |
| Construct Gen-Tie Line | Q2 2023 | Q4 2023 |
| Commissioning | Q3 2023 | Q4 2023 |
| In-Service Date | | December 1, 2023 |

## Certificate

The Commission grants Grant County Solar a CPCN for construction of the proposed solar PV electric generation facility, as described in the application and as modified by this Final Decision.

## Order

1. Grant County Solar is authorized to construct the proposed solar PV electric generation facility, as described in the application and as modified by this Final Decision.

2. Should the scope, design, or location of the project change significantly, Grant County Solar shall notify the Commission within 30 days of becoming aware of possible

changes. Grant County Solar shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, and location of the approved project.

3. If the situation arises where Grant County Solar elects to use an alternative array area, Grant County Solar shall provide advance written notice to the Commission identifying any such alternative arrays.

4. If Grant County Solar cancels the project or enters into any arrangement with another party (other than WP&L) regarding ownership or operation of the proposed facilities, Grant County Solar shall provide prior notice to the Commission.

5. Grant County Solar shall obtain all necessary federal, state, and local permits prior to commencement of construction on the portion of the project requiring the permit.

6. Grant County Solar shall conduct an updated ER Review closer to the start date of construction (no more than one year prior to construction start).

7. Grant County Solar and its selected contractor shall participate in a pre-construction meeting with DNR and Commission staff to discuss construction plans and/or final site designs, permits, and associated requirements, and BMPs. Materials must be provided to DNR and Commission staff 14 days prior to the meeting date to allow time for review.

8. Beginning with the quarter ending June 30, 2021, and within 30 days of the end of each quarter thereafter and continuing until the authorized facilities are fully operational, Grant County Solar shall submit quarterly progress reports to the Commission that include all of the following:

a. The date that construction commences;

b. Major construction and environmental milestones, including permits obtained, by agency, subject, and date;

c. Summaries of the status of construction, the anticipated in service date, and the overall percent of physical completion;

d. The date that the facilities are placed in service.

9. The CPCN is valid only if construction commences no later than one year after the latest of the following dates:

a. The date the Final Decision is served;

b. The date when Grant County Solar has received every federal and state permit, approval, and license that is required prior to commencement of construction by construction spread under the CPCN;

c. 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. (b.);

d. The date when Grant County Solar 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. (b.).

10. If Grant County Solar has not begun on-site physical construction of the authorized project within one year of the effective date of this Final Decision, the Certificate authorizing the approved project for which construction has not commenced shall become void unless Grant County Solar:

a. files a written request for an extension of time with the Commission before the effective date on which the Certificate becomes void, and

b. is granted an extension by the Commission.

11. If Grant County Solar 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, Grant County Solar shall inform the Commission of those facts within 20 days after the date on which the Certificate becomes void.

12. Grant County Solar may propose minor adjustments in the approved project layout for the protection of social, cultural, or environmental resources, but any changes from the approved layout may not affect resources or cause impacts not discussed in the EA, nor may they affect new landowners who have not been given proper notice and hearing opportunity. Grant County Solar shall consult with Commission staff regarding whether the change rises to the level where Commission review and approval is appropriate. For each proposed adjustment for which Commission review is appropriate, Grant County Solar 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 potentially affected landowners regarding the change; documentation of discussions with other agencies regarding the change; and, a map showing the approved route and the proposed modification, property boundaries, relevant natural features such as grasslands, 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.

13. Grant County Solar shall develop and implement a formal decommissioning plan for the project and submit the plan to the Commission for review and approval prior to the start of construction. The decommissioning plan shall include:

a. Planned actions for decommissioning, including a description of environmental impacts and permits needed;

b. Estimated costs of decommissioning, both including and omitting any salvage values;

c. A requirement that Grant County Solar provide, at a minimum, financial assurance to cover the costs of decommissioning posted prior to commencement of construction;

d. Periodic independent assessments of the ratio of salvage values to decommissioning costs and the posting of a financial assurance in the case of an assessment where costs exceed value.

14. Grant County Solar shall notify the Commission of any changes to the decommission plan after approval.

15. Grant County Solar shall perform post-construction noise studies as described in the current version of the PSC Noise Measurement Protocol. When the project is operational and in accordance with the steps described in the Protocol, Grant County Solar shall repeat the noise measurements conducted as the pre-construction noise study, shall measure the maximum noise created at the solar facility with all equipment and inverters on and while the panels auto-rotate, and shall measure the noise at the site with all units off. Grant County Solar shall report its findings to the Commission using the same format as the pre-construction noise studies.

16. Grant County Solar shall conduct pre-construction and post-construction stray voltage testing at any agricultural facility located within 0.5 miles of the project site consistent with Wis. Admin. Code § PSC 128.17, and in coordination with the local distribution utility and Commission staff.

17. Grant County Solar shall comply with NEC or NESC and Wis. Admin. Code ch. PSC 114, as appropriate. In case of conflict or overlap between code requirements, Grant County Solar shall comply with the more stringent code requirement.

18. Grant County Solar shall provide an annual report of any records from its Wildlife Response and Reporting System to Commission and DNR staff to build information on impacts associated with these facilities.

19. Grant Count shall implement the following measures to avoid and/or minimize impacts to wetlands and waterways:

a. Prior to construction, install signage at wetland and waterway boundaries to alert construction crews to not work within or access across these areas.

b. 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.

c. Implement a construction sequencing plan that minimizes the amount of land disturbed or exposed (susceptible to erosion) at one given time across the project.

d. 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 need to be installed if working adjacent to wetlands and waterways.

e. Prepare and implement a contingency plan to address the containment and clean-up of inadvertent releases of drilling fluid, or frac-outs, in waterways. This should include having the appropriate materials on-site at all times to contain and clean up any frac-outs that may occur.

f. Revegetate disturbed areas and areas of exposed soil as soon as possible and seed with a cover crop and/or native seed mix to minimize erosion potential and prevent the establishment of invasive species.

g. Prepare and implement an invasive species management plan that identifies knows areas of invasive species populations and includes specific protocols to minimize the spread of invasive species.

20. Grant County Solar shall publicly report to the Commission on a quarterly basis its efforts, and the efforts of its construction contractors, to recruit Wisconsin residents to fill employment opportunities created by the construction of the proposed project.

21. All commitments made by Grant County Solar in its application, subsequent filings, and the provisions of this Final Decision shall apply to Grant County Solar, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project.

22. The transfer of rights and obligations under this CPCN to a third party does not confer either additional rights or obligations upon that third party than what is afforded to Grant

County Solar 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).

23. This Final Decision takes effect one day after the date of service.

24. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 14th day of May, 2021.

By the Commission:



Steffany Powell Coker
Secretary to the Commission

SPC:BAC:cmb:jlt:DL: 01793615

Attachments

See attached Notice of Rights

Docket 9804-CE-100

PUBLIC SERVICE COMMISSION OF WISCONSIN
4822 Madison Yards Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

*PETITION FOR REHEARING*

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

*PETITION FOR JUDICIAL REVIEW*

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.[22] The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

[22] *See Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

## APPENDIX A

**PUBLIC SERVICE COMMISSION OF WISCONSIN**
(Not a party but must be served per Wis. Stat. § 227.53)
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Docket 9804-CE-100

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**PUBLIC SERVICE COMMISSION OF WISCONSIN**

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| Application for Grant County Solar, LLC to Construct a New Solar Electric Generation Facility located near Potosi and Harrison townships, in Grant County, Wisconsin | 9804-CE-100 |

**DISSENT OF COMMISSIONER ELLEN NOWAK**

I write to dissent from the Commission's decision to issue an order point requiring the applicant, Grant County Solar, to publicly report to the Commission on a quarterly basis its efforts and the efforts of their construction contractors to recruit Wisconsin residents to fill employment opportunities created by the proposed construction.

While I voted to grant the Certificate of Public Convenience and Necessity (CPCN), I believe this condition is unnecessary and oversteps this Commission's boundaries as it pertains to issuance of CPCN's.

Grant County Solar indicated that it anticipates 250-350 jobs will be available with two to three full-time equivalent jobs available once the Project is in operation. (PSC REF#: 406383.)

The Wisconsin Laborers District Council (WLDC) filed public comments on the project that focused on Grant County Solar's employment claims. (PSC REF#: 404996.) The WLDC asked the Commission to require more disclosures by Grant County Solar about how it will source local labor and requested verification of local employment benefits. WLDC justified its request, and thus the Commission's authority to seek the information, under the guise of it being necessary to fully evaluate the public benefits of the Project. (*Id*.)

WLDC made the same request in the Badger Hollow Solar Farm acquisition docket (docket 5-BS-234). (PSC REF#: 383490.) The Commission declined to adopt WLDC's

recommendation. Even though WLDC did not provide any more evidence in this docket than they did in docket 5-BS-234, the Commission decided that was appropriate and that substantial evidence existed to grant the condition in this proceeding. This inconsistent decision-making from the Commission will only frustrate applicants and provide greater regulatory uncertainty. Adopting an overly-broad interpretation of the public interest under Wis. Stat. §196.491 could have a chilling effect on Wisconsin as a potential site for further renewable energy development.

Further, I reject unnecessarily burdensome regulation that ultimately increases ratepayer cost and makes renewable energy less competitive.

By adopting this condition, the Commission has expanded its jurisdiction to include requiring information about hiring practices of applicants and their contractors. I am concerned that this is just the first step and, in the future, the Commission will order specific hiring practices for projects, a measure that is beyond this Commission's area of expertise and an unreasonable interpretation of the public interest standard.

These concerns represent a few of the reasons this Commission has traditionally, and as a matter of law, transparently collected evidence about the impacts of conditions on the project in question and our regulatory environment.

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