

PUBLIC SERVICE COMMISSION OF WISCONSIN

Minutes and Informal Instructions of the Open Meeting of
Thursday, April 7, 2022

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

Minutes

The Commission approved the minutes of the open meeting of Thursday, March 31, 2022.

6590-CW-101 - Application of the Village of Winter, as a Water Public Utility, for Authority to Construct Improvements to Well #2 and Well #3, Sawyer County, Wisconsin

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

6690-SB-145 - Application of Wisconsin Public Service Corporation for Authority to Implement a \$400 Million Five-Year Credit Facility and for Authority to Issue and Have Outstanding Short-Term Indebtedness in Amounts Not to Exceed \$400 Million

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

530-ER-105 - Application of Village of Black Earth, Dane County, Wisconsin, as an Electric Public Utility, for Authority to Adjust Electric Rates

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

3280-WR-116 - Application of the City of Madison, Dane County, Wisconsin, as a Water Public Utility, for Authority to Adjust Water Rates

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

2450-WI-101 - Investigation into the Village of Hancock, Waushara County, Wisconsin, as a Water Public Utility, into its Failure to Submit a 2020 PSC Annual Report

The Commission reviewed Hancock Municipal Water Utility's (Utility) failure to submit its 2020 PSC Annual Report and authorized Commission staff to hire an outside firm to complete the report, charging the Utility for all expenses incurred by the Commission in completing the 2020 PSC Annual Report under Wis. Stat. § 196.07(2). In addition to these costs, the Commission decided to assess a penalty against the Utility that is equal to 50 percent of the cost of preparing the 2020 PSC Annual Report.

If the Utility fails to provide or give access to the documentation necessary to prepare the Annual Report or fails to make the payments and penalties assessed relating to this matter, the Commission authorized referral of the matter to the Wisconsin Department of Justice for further investigation and assistance in obtaining compliance and to assess additional penalties as allowed under Wis. Stat. § 196.66.

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

5-EI-158 - Roadmap to Zero Carbon Investigation

The Commission reviewed the status of the Commission's investigation into a roadmap to zero carbon and decided that it will take further action through one or more additional workshops, further analysis, and requests for public comment, including to solicit stakeholder comments about workshop topics and content.

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

1-IC-536 - Application for Intervenor Compensation filed by RENEW Wisconsin, Inc to Participate in Docket 4220-TE-109

The Commission approved the request of RENEW Wisconsin, Inc. for intervenor compensation in the amount of \$20,000 for its participation in docket 4220-TE-109.

Commissioner Nowak dissented.

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

1-IC-537 - Application for Intervenor Compensation filed by RENEW Wisconsin, Inc to Participate in Docket 6680-TE-107

The Commission approved the request of RENEW Wisconsin, Inc. for intervenor compensation in the amount of \$20,000 for its participation in docket 6680-TE-107.

Commissioner Nowak dissented.

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

5-FE-104 - Quadrennial Planning Process IV

The Commission reviewed various macro policies and priorities as part of Phase I of the Commission's Quadrennial Planning Process IV (Quad IV) for the Focus on Energy program (Focus) and provided the following direction to Commission staff for incorporation into further Quad IV planning activities:

1. Focus should play a larger role in cost-effectively reducing carbon emissions and Quad IV should serve as a transitional period during which the program continues to emphasize energy savings but also seeks to make measurable progress toward a transition to greater emphasis on reducing carbon emissions.

The Commission directed the Evaluation Work Group (EWG) to develop recommendations to operationalize enhanced measurement and tracking of the program's carbon emissions reduction impacts for the purposes of program evaluation and performance tracking.

Commissioner Nowak dissented.

2. Focus shall continue not to claim savings and other benefits from directly supporting beneficial electrification where fuel switching from unregulated fuels to electricity provided by a participating utility occurs through its own programs and offerings.

Commissioner Huebner dissented.

3. Focus shall use Quad IV as a transitional period to position the program to take on a larger role in promoting beneficial electrification statewide.

Commissioner Nowak dissented.

4. The Focus Program Administrator shall develop and maintain a menu of options for utility voluntary programs to be shared with participating Focus utilities.

Commissioner Nowak dissented.

5. Focus shall maintain its current level of support for utility demand response programs.

6. The Focus program should continue to offer income-qualified programs but coordinate with the Department of Administration weatherization programs to further fill potential gaps in its low-income offerings and should additionally explore developing a community-based pilot(s) in one or more targeted communities.

The Commission directed the Focus Program Administrator to convene a stakeholder group that includes community-based organizations that work with marginalized communities to gather input on effective methods to reduce barriers in order to effectively reach these customers. The Commission further directed the Focus Program Administrator to develop Key Performance Indicators for income-qualified programs for the Commission's consideration in Phase III of the Quad IV Planning Process.

Commissioner Nowak dissented.

The Commission laid the matter over and directed Commission staff to continue to work through the Quad IV Planning Process and return to the Commission for consideration of Phase II items (micro implementation, cost effectiveness, budget and other decisional items).

9811-CE-100 - Application for a Certificate of Public Convenience and Necessity of Koshkonong Solar Energy Center LLC to Construct a Solar Electric Generation Facility in the Towns of Christiana and Deerfield, Dane County, Wisconsin

The Commission reviewed the application for a Certificate of Public Convenience and Necessity (CPCN) of Koshkonong Solar Energy Center LLC (applicant) to construct a solar electric generation facility in the Towns of Christiana and Deerfield, Dane County, Wisconsin (project), discussed the record and made the following preliminary determinations:

1. No Energy Priorities Law alternatives exist that are cost-effective, technically feasible, and environmentally sound alternatives to the proposed project.
2. The proposed project will not have a material adverse impact on competition in the relevant wholesale electric service market.
3. The project complies with Wis. Stat. § 196.491(3)(d)6. and would not unreasonably interfere with the orderly land use and development plans for the area involved.
4. No existing brownfield sites meet the siting criteria for the proposed project.
5. All of the proposed and alternative solar array sites meet the siting criteria of Wis. Stat. § 196.491(3)(d)3.
6. All of the following conditions are necessary for the approval of this project:
 - a. The applicant is authorized to construct the proposed solar PV electric generation and bulk energy storage system facilities, as described in the application, and data request responses, and as modified by the Final Decision.
 - b. The applicant may use the authorized proposed or alternative array sites as needed to accommodate environmental, technical, and landowner issues as they arise

during construction of the project, provided however, that the project size shall remain at the maximum nameplate capacity approved in this order. If the situation arises where the applicant elects to use an alternative array area, the applicant shall provide written notice to the Commission identifying such alternative arrays within 30 days of the decision to use the alternative arrays.

- c. The applicant and its selected contractor shall 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 Best Management Practices. The materials list must be provided to Commission and DNR staff 14 days prior to the meeting date to allow time for review.
- d. Should the scope, design, or location of the project change significantly, the applicant shall notify the Commission within 30 days of becoming aware of possible changes. The applicant shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, or location of the approved project.
- e. If the applicant cancels the project or enters into any arrangement with another party or parties other than Wisconsin Electric Power Company, Wisconsin Public Service Corporation, and Madison Gas and Electric Company regarding ownership or operation of the proposed facilities, the applicant shall provide prior notice to the Commission.
- f. All commitments made by the applicant in its application, subsequent filings, and the provisions of the Final Decision shall apply to the applicant, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project.
- g. The transfer of rights and obligations under this CPCN to a third party does not confer either additional rights or obligations upon that third party than what is afforded to the applicant at the time of application and as specified in this Final Decision. If a successor, assign, or future owner or operator of the project is a public utility, this CPCN is conditional upon the public utility waiving any rights it may otherwise have under Wis. Stat. §§ 32.02 and 32.075(2) for the project. This CPCN does not confer any “right to acquire real estate or personal property appurtenant thereto or interest therein for such project by condemnation” under Wis. Stat. §§ 32.02 or 32.075(2) as otherwise provided under Wis. Stat. § 32.03(5)(a).
- h. The applicant shall obtain all necessary federal, state, and local permits prior to commencement of construction on the portion of the project requiring the permit.
- i. The applicant shall perform pre- and post-construction noise studies as described in the most current version of the PSC Noise Measurement Protocol. The applicant shall work with Commission staff to determine appropriate locations and conditions for the noise measurements. In the event of a substantial change to the proposed facility layout, the applicant shall confer with Commission staff to determine if a new pre-construction noise study must be completed. The

applicant shall file a copy of the post-construction noise study report with the Commission.

- j. The applicant shall construct, maintain, and operate all applicable project facilities to comply with NEC or the National Electrical Safety Code and Wis. Admin. Code § PSC 114, as appropriate. In case of conflict or overlap between code requirements, the applicant shall construct, maintain, and operate all applicable project facilities to comply with whichever code has the more stringent requirements.
- k. The applicant shall conduct an updated Endangered Resources Review closer to the start date of construction (no more than one year prior to construction start).
- l. The applicant shall mitigate impacts to line-of-sight communications and landowners who can show disruption to broadcast communications post-construction.
- m. Beginning with the quarter ending on a date to be determined by the Commission in the Final Decision, and within 30 days of the end of each quarter thereafter and continuing until the authorized facilities are fully operational, the applicant shall submit quarterly progress reports to the Commission that include all of the following:
 - i. The date that construction commences;
 - ii. Major construction and environmental milestones, including permits obtained, by agency, subject, and date;
 - iii. Summaries of the status of construction, the anticipated in-service date, and the overall percent of physical completion;
 - iv. The date that the facilities are placed in service.
- n. The CPCN is valid only if construction commences no later than one year after the latest of the following dates:
 - i. The date the Final Decision is served;
 - ii. The date when the applicant has received every federal and state permit, approval, and license that is required prior to commencement of construction by construction spread under the CPCN;
 - iii. 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. (ii.);
 - iv. The date when the applicant receives the Final Decision, after exhaustion of judicial review, in every proceeding for judicial review concerning the CPCN and the permits, approvals, and licenses described in par. (ii.).
- o. If the applicant has not begun on-site physical construction of the applicant's authorized project within one year of the time period specified by the Final Decision, the certificate authorizing the approved project for which construction has not commenced shall become void unless the applicant:
 - i. Files a written request of an extension of time with the Commission before the effective date on which the Certificate becomes void; and

- ii. Is granted an extension by the Commission.
 - p. If the applicant has not begun on-site physical construction of the authorized project and has not filed a written request for an extension before the date that this certificate becomes void, the applicant shall inform the Commission of those facts within 20 days after the date on which the certificate becomes void.
 - q. The Final Decision takes effect one day after the date of service.
 - r. Jurisdiction is retained.
- 7. The applicant may propose minor adjustments to the approved locations of project facilities for the protection of environmental resources, landowner requests, or technical design changes that arise during final stages of engineering (up to the authorized nameplate capacity of 300 MW), but any changes from the approved layout may not affect resources not discussed in the EA, nor may they affect new landowners who have not been given proper notice and hearing opportunity. The applicant 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, the applicant shall submit for Commission staff review and approval a letter describing: the nature of the requested change; the reason for the requested change; the incremental difference in any environmental impacts; communications with all potentially affected landowners regarding the change; documentation of discussions with other agencies regarding the change; and a map showing the approved layout and the proposed modification, property boundaries, relevant natural features such as woodlands, wetlands, waterways, and other sensitive areas. Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis with advice and consent from the Administrator of the Division of Digital Access, Consumer, and Environmental Affairs.
- 8. The applicant shall work with the applicable distribution utility to make available stray voltage testing at each agricultural confined animal operation within one-half mile of the project area, pursuant to the stray voltage protocol established by the Commission, prior to construction and after the project is energized. The applicant shall work with the distribution utility and farm owner to rectify any identified stray voltage problem arising from the construction or operation of the project, in compliance with the Commission's stray voltage protocol. Prior to testing, the applicant shall work with the applicable distribution utility and Commission staff to determine where and how it will conduct the stray voltage measurements. The applicant shall report the results of its testing to Commission staff in writing.
- 9. The applicant shall provide notice of construction to all properties adjacent to the project prior to the commencement of construction. The notice shall include the contact information for a dedicated project contact person to answer questions about

construction. In addition, the applicant shall clearly post contact information at construction site entrances.

10. The applicant shall work with interested non-participating landowners that are adjacent to solar panel arrays on one or more sides of their property to create visual buffers and screening in order to mitigate visual impacts, to the extent reasonable and economically feasible, and not otherwise impeding solar operations or access to sunlight.
11. The applicant shall raise the array fences a minimum of 6 inches off the ground or provide larger openings (roughly 1 foot by 1 foot) at intervals throughout the perimeter fence to allow for small animal movement.
12. The applicant shall provide a report when any Midcontinent Independent System Operator, Inc. (MISO) studies are complete on the inclusion of a battery energy storage system (BESS). The applicant shall update the Commission with a report on all MISO Definitive Planning Phase studies and shall provide the Commission with final detailed engineering plans for the BESS. If Commission staff identifies safety or reliability issues upon review of the plans and report, when considering safety and reliability, final location, individual hardships, and environmental factors, then the matter shall be returned to the Commission.
13. The following project-specific conditions reasonable to impose as a condition of approval for the construction and operation of the BESS project facilities:
 - a. The applicant shall construct, maintain, and operate all applicable BESS project facilities to comply with the International Fire Code 2018, as appropriate.
 - b. The applicant shall construct, maintain, and operate all applicable BESS project facilities to comply with the National Fire Protection Association (NFPA) 855 Standard for the Installation of Stationary Energy Storage Systems, as appropriate. All battery enclosures should be constructed, maintained, and operated as remote, outdoor, non-occupiable or cabinet type design, pursuant to NFPA 855. The applicant shall construct, maintain, and operate all applicable BESS project facilities to comply with the National Electrical Code (NEC) NFPA 70, as appropriate.
 - c. The applicant shall construct, maintain, and operate all applicable BESS project facilities to comply with the safety standards including UL 1973, 16 UL 1741, UL 9540, UL 9540A, and UN 38.3 as appropriate.
 - d. The applicant shall construct, maintain, and operate all applicable BESS project facilities to include an automatic fire suppression system that complies with the U.S. Environmental Protection Agency approved fire suppression agents with meeting all applicable fire suppression codes and regulations, in accordance with NFPA 855.

- e. The applicant shall develop a site-specific emergency response program. The emergency response program shall include training and emergency procedures for fire, medical emergencies, and other situations.
 - f. In case of conflict or overlap between code requirements, the applicant shall construct, maintain, and operate all applicable project facilities to comply with whichever code has the more stringent requirements.
14. The applicant shall decommission the proposed BESS facilities in a manner that is consistent with best practices in the industry in a manner to which it's being disposed of, as recommended by the U.S. Energy Storage Association, American Clean Power or similar successor organization.
15. An Independent Environmental Monitor is not necessary for approval of the proposed project.
16. Neither a standard setback requirement nor property-specific setback from project facilities as requested by non-participating landowners in the record is necessary for approval of the proposed project.
17. None of the other conditions or modifications to conditions suggested or described in the record are necessary for the approval of this project except as outlined above.
18. The Commission has complied with the Wisconsin Environmental Policy Act pursuant to Wis. Stat. § 1.11 and Wis. Admin. Code ch. PSC 4.
19. The proposed project will not have undue adverse impact on other environmental values as provided under Wis. Stat. § 196.491(3)(d)4.
20. The Commission grants a Certificate of Public Convenience and Necessity for the proposed project, with conditions.

Commissioner Huebner did not participate in the Commission's discussion and abstained from the Commission's consideration.

The Commission directed the Division of Energy Regulation and Analysis to draft an order consistent with its discussion. The draft final decision shall be returned to the Commission for review and approval.

The Commission adjourned the meeting at 12:28 p.m.

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A handwritten signature in black ink, appearing to read "Cru Stublely". The signature is written in a cursive style with a large, looping initial "C" and a distinct "S" for the last name.

Cru Stublely
Secretary to the Commission

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