

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Verified Petition of Vote Solar of Distributed Energy Resource
Systems in Wisconsin

Docket No. 9300-DR-106

**DIRECT TESTIMONY OF COREY S.J. SINGLETARY
ON BEHALF OF CITIZENS UTILITY BOARD**

1 **Q. Please state your name, business address, and occupation.**

2 A. My name is Corey S.J. Singletary and my business address is the Citizens Utility Board
3 (CUB), 625 North Segoe Rd, Suite 101, Madison, Wisconsin 53705. I am employed by
4 CUB as Director, Regulatory Affairs.

5 **Q. Please state your educational background and experience.**

6 A. I hold a Bachelor of Science degree in Biology and a Bachelor of Arts degree in
7 International Studies from the University of Wisconsin–Milwaukee. I also hold a Master’s
8 Degree in International Public Affairs with a Graduate Certificate in Energy Analysis and
9 Policy from the University of Wisconsin–Madison, and am a member of the Pi Alpha Alpha
10 Honor Society for Public Affairs & Administration. I have completed training courses in
11 public utility regulation at the Michigan State University Institute of Public Utilities and the
12 New Mexico State University Center for Public Utilities. From May 2010 through June
13 2017, I was employed by the Public Service Commission of Wisconsin. During my time
14 with the Commission, my work focused on, but was not limited to, electric and natural gas
15 utility cost allocation and rate design, as well as a number of policy issues such as smart grid
16 technology, innovative rate design, rate-based energy efficiency, conservation, demand
17 response programs, and distributed energy resources.

1 Since 2017 I have worked for CUB as a rate and policy analyst, and most recently as
2 Director, Regulatory Affairs where I also oversee and coordinate the consumer advocacy
3 work conducted by CUB staff before the Commission and in other venues.

4 **Q. Have you testified before this Commission before?**

5 A. Yes. I have testified in 77 electric, natural gas, and water utility proceedings before this
6 Commission.

7 **Q. On whose behalf are you testifying in this proceeding?**

8 A. I am testifying on behalf of CUB.

9 **Q. What is the purpose of your direct testimony?**

10 A. My testimony will address the petition (herein as “the petition”) of Vote Solar (petitioner)
11 for declaratory ruling related to third-party financed distributed energy resources (DER).

12 **Q. How have you approached the request for declaratory ruling made by Vote Solar?**

13 A. Historically, CUB’s interest with respect to DER has been focused on the rates and rules that
14 apply to customer-owned DER facilities interconnected to a public utility. Within that
15 context, CUB’s position has been that proper regulatory treatment and valuation of
16 distributed energy resources (DER), including customer-owned DER, is critical to ensuring
17 that the utility of the future is operated in a manner that maximizes efficiency to the benefit
18 of all utility customers. CUB believes that utility rates should be cost-based and follow cost-
19 causer/cost-payer principles in order to minimize cross subsidization. CUB also believes that
20 utility rates, rules, and regulation generally should not unreasonably disadvantage the
21 economics of DER in favor of utility investment, as it relates to system benefits for all utility
22 customers. These types of economic regulatory issues have dominated conversations about

1 DER in Wisconsin and across the country since the passage of the Public Utility Regulatory
2 Policies Act of 1978 (PURPA).

3 A review of the comments filed in this proceeding opposed to the ruling sought by
4 Vote Solar reveals that many hold related concerns – although likely drawing different
5 conclusions than CUB - regarding the economics of DER-related utility rates such as net
6 metering and how the Commission’s ruling might bear on these economic concerns.

7 **Q. How are these economic issues related to the ruling sought in the petition?**

8 A. From CUB’s perspective, they aren’t.

9 **Q. Surely it isn’t that simple.**

10 A. It is.

11 **Q. Please explain.**

12 A. In the petition, Vote Solar enumerates a set of seven “characteristics” that comprise the state
13 of facts they wish the Commission to rule on. (Petition at 6, 9) If petitioner’s requested
14 declaratory ruling is granted, these characteristics would effectively serve as a sort of
15 “litmus test,” with third-party financed DER (herein “third-party DER”) possessing all the
16 listed characteristics being exempt from regulation as a public utility. When considered
17 together, the characteristics set forth in the petition make clear that rather than considering
18 the total universe of all possible third-party DER, the petition seeks to narrowly limit the
19 Commission’s consideration to the following: Third-party DER that is installed on a public
20 utility customer’s premises “behind” the customer’s utility meter via a privately negotiated
21 contract for the purposes of meeting the customer’s electricity requirements (“load” in the
22 petition).

1 Simply put, within the “universe” bound by petitioner’s characteristics there has to
2 be a public utility customer with “load” requirements. I interpret this together to mean that,
3 but for the hosted third-party DER, the utility customer would require the delivery of
4 electricity service provided by the public utility and that the third-party DER cannot be the
5 utility customer. The petition has nothing to do with third-party DER that might operate as
6 an independent power producer on the utility’s distribution system separate from a utility
7 customer and that customer’s electricity use.

8 Because of this, any third-party DER as contemplated by the petitioner would be
9 subject to the interconnection rules (PSC 119) and the authorized rates and rules in public
10 utility tariffs authorized by the Commission. This includes:

- 11 • availability criteria with respect to resource type and size;
- 12 • charges and credits; and
- 13 • any other rules or requirements deemed just and reasonable by the Commission.

14 This is because the customer, not the third-party DER provider, is the entity with the
15 relationship with the utility. The customer is the one who is bound by the utility’s tariff and
16 would be subject to the rates and rules set forth therein as they apply to electricity produced
17 for the customer by third-party DER they are hosting. What this all means is that questions
18 of economics and “cross-subsidization” are tariff issues. The charges, credits, availability
19 criteria, and other terms and conditions established in the utility’s tariff determine what
20 economic impact customer-hosted DER has on the utility and its customers; this is the case
21 whether the DER in question is “traditionally” financed (e.g. via cash or loan) or is a third-
22 party DER.

1 This does not mean that these economic considerations are not important. Indeed,
2 they are very important within the context of public utility ratemaking. Consequently, CUB
3 will continue to advocate on behalf of all residential and small commercial customers for the
4 appropriate balance between the interests of utility customers with DER and those without.
5 But this is simply the wrong venue to address any economic issues related to DER, whether
6 third-party or otherwise. The correct venue would be within a rate proceeding before the
7 Commission as a tariff issue. Economic issues are simply not germane to the petitioner’s
8 requested declaratory ruling.

9 **Q. Why is that?**

10 A. It is CUB’s position that the question before the Commission is appropriately viewed very
11 narrowly as one related to the financing mechanisms for customer-hosted DER and whether
12 it is appropriate for the Commission to regulate private contracts entered into by utility
13 customers.

14 **Q. Can you please elaborate on that?**

15 A. Yes. As bound by the petitioner’s set of “characteristics” there is nothing that materially
16 differentiates third-party DER from “traditionally” financed DER. In both cases there is a
17 utility customer with electricity needs. In both cases there is a DER hosted by that customer
18 designed and installed for the purposes of meeting that customer’s electricity needs. The
19 only differentiating factor is the financing mechanism used by the customer to secure the
20 DER. Unless a compelling argument can be presented that like customers with like DER are
21 somehow different from the perspective of the electric service they receive from the utility,
22 the only factor at play is financing.

1 This raises an issue of concern I have with the statutory interpretation held by some
2 that third-party DER, particularly as limited by the petitioner, should be subject to regulation
3 as a public utility, and consequently disallowed as a practical matter. The issue is of undue
4 discrimination.

5 **Q. How does this interpretation create undue discrimination?**

6 A. While somewhat simplified, undue discrimination in utility regulation comes down to
7 whether like customers are treated differently. It is not that “discrimination” is not allowed –
8 that you can’t treat customers differently. Rather, the question is whether any such
9 discrimination is “undue.” Specifically, treating different groups or “classes” of customers
10 differently requires that one class is actually different from the other in a way germane to the
11 purpose of the law, and that treating them differently is in the public interest.

12 Consider the following example. Say there are two coffee shops on the same street
13 in town. The owner of each decides to invest in identically sized DER in the form of rooftop
14 solar PV generation with battery storage. Both customers plan to enroll with their utility
15 under the same net-energy-billing tariff. One owner has sufficient liquidity that they pay for
16 the development and installation of their DER up front in cash. The second coffee shop
17 owner decides for cash flow reasons that they would prefer to finance their DER through a
18 lease arrangement. The two customers are practically identical in their use of electricity with
19 identical systems. Why should one business arrangement be allowed and the other deemed
20 illegal? What business is it of the utility’s how a customer finances any grid connected
21 equipment, whether DER or an air conditioner? What role does the Commission have in
22 regulating such private transactions? I would suggest the answer to both questions is “none.”

1 **Q. You've discussed how you believe that economics aren't relevant to the petition.**
2 **Would permitting third-party DER as defined by the petitioner's characteristics affect**
3 **safety or reliability of a utility's system?**

4 A. No. To make such a claim would require one to argue that such third-party DER would be
5 exempt from existing regulation as it relates to DER. One would have to argue, for example,
6 that third-party DER would be exempt from compliance with PSC 119 and all the codes and
7 standards referenced therein. Based on my review of PSC 119, I do not believe there is
8 anything in the rules that would provide for such an exemption.

9 **Q. Does this mean that you believe third-party DER that is found to not be in compliance**
10 **with PSC 119 can be disconnected or refused interconnection?**

11 A. Yes. If evaluated to be out of compliance with the rules, a DER should be subject to the
12 consequences set forth in the rules, regardless of how the system is financed. This gets to
13 another issue that I would like to address.

14 **Q. What is that?**

15 A. Opponents of the petition have made claims regarding safety, consumer protection, and
16 Wisconsin's utility regulatory model in general. Some of these parties effectively take what
17 I believe to be the hyperbolic position that if the Commission determines that third-party
18 DER is not subject to regulation *as a public utility*, third-party DER will somehow also not
19 be subject to *any regulation*. In my opinion this could not be further from the truth.
20 Petitioners do not specifically state as such, but implicit within their set of "characteristics"
21 is that the third-party DER would be designed, installed, and interconnected pursuant to the
22 applicable electrical code and Wis. Admin. Code ch. PSC 119, as well as any other codes
23 and standards. Absent this compliance, customer-hosted DER would not be allowed to

1 interconnect with the utility and enroll under a DER or parallel generation tariff for service,
2 regardless of whether third-party financing is involved or not.

3 **Q. You mentioned the regulatory model in Wisconsin. If the Commission were to issue a**
4 **declaratory ruling substantially in keeping with the petitioner's request, would it have**
5 **an impact on the regulatory model in Wisconsin?**

6 A. Others argue that such a decision by the Commission would open the door to electric retail
7 choice, or deregulation, or the end of over 100 years of utility regulation. I do not believe
8 this is the case. As discussed previously, to arrive at such a conclusion would require that
9 one find that third-party DER is substantially different from “traditionally” financed DER –
10 a difference I do not believe exists.

11 **Q. Petitioners argue that a Commission ruling allowing third-party DER would lower**
12 **barriers to entry for customers who have been unable to economically invest in DER**
13 **using traditional financing mechanisms for a variety of reasons. Do you believe that is**
14 **the case?**

15 A. Yes.

16 **Q. Do you believe that this lowering of barriers would result in more customer-hosted**
17 **DER being installed than would otherwise?**

18 A. Yes.

19 **Q. Do you think this poses a threat to the utility regulatory model?**

20 A. No.

21 **Q. Why is that?**

22 A. Ultimately, any threat comes from high levels of penetration of DER on a given utility’s
23 system. At some level of penetration, the concern becomes that the amount of “grid

1 defection," whether in whole or in part, caused by customers serving their own electricity
2 needs and thereby reducing utility billing units. This would potentially shift costs to
3 customers without DER, thus raising those customers' rates. There are also concerns that
4 above certain penetration levels interconnecting DER may cause the utility to incur costs
5 that, unless appropriately accounted for in a utility's rates, would cause cross-subsidization.
6 All of this ignores the issue of whether buyback, or credit rates for electricity delivered by
7 DER to the utility system, is priced appropriately. In the end, however, these are economic
8 issues not issues related to the regulatory framework. Moreover these are existing issues, not
9 ones that would be created by third-party DER.

10 For example, the policy question of whether there should be some cap on
11 interconnected DER capacity, whether determined as a percent of total utility load or by
12 some other means, is one that has been discussed in various states in recent years. However,
13 this policy question is not related to third-party DER. Certainly, to the extent that availability
14 of third-party DER as a financing option increases DER adoption, this policy discussion
15 becomes more urgent. But it will not be a new issue.

16 The only way that Wisconsin's framework of traditional utility regulation would be
17 upended would be if the Wisconsin legislature took affirmative action to make it happen. I
18 do not anticipate that happening in response to this petition.

19 **Q. You also previously mentioned consumer protection concerns raised by commenters in**
20 **this proceeding. Are there consumer protection issues that would be affected by the**
21 **Commission's decision in this proceeding?**

1 A. Not really, no. Take for example the comments of the Customer’s First Coalition (CFC).¹
2 CFC’s comments raise the following issues (CFC Response to Request for Declaratory
3 Ruling at 2-3):

- 4 • The need to address aggressive, door-to-door sales techniques by certain
5 entities that municipalities across the state are already grappling to control;
- 6 • Unregulated, misleading, and false marketing claims presented to Wisconsin
7 residents by temporary, out-of-state workers
- 8 • Prohibiting unequal access to participation by entities withholding access
9 from customers with less than optimal credit scores, and prohibiting entities
10 from targeting exclusively wealthy or vulnerable neighborhoods with door-
11 to-door or targeted online sales;
- 12 • Providing penalties for entities ignoring residential “no solicitation” requests;
- 13 • Allowing local municipalities to control which entities are going door-to-
14 door in their neighborhood, and ensuring that unscrupulous entities are
15 penalized and prohibited from engaging in door-to-door sales;
- 16 • Setting a system of penalties for entities making misleading claims about
17 partnerships with local utilities or misleading customers about actual costs
18 and benefits associated with a generation system;
- 19 • Initiating a consumer complaint system and enforcement agency to ensure
20 there are consequences for entities scamming Wisconsin residents.

¹ CUB is a founding member of the Customer’s First Coalition. CUB was among a minority of coalition members when the coalition’s board elected to take action in this proceeding.

1 These are all reasonable concerns and CUB shares these concerns with the other
2 members of the CFC. However, these are not *new* concerns. These concerns exist with the
3 DER technology and installer industry *today*. For example, last year a prominent solar
4 developer with a high-profile sponsorships agreement with the University of Wisconsin
5 system went door-to-door in my neighborhood, employing aggressive sales tactics, to the
6 dissatisfaction of many.² This was not a third-party DER company.

7 **Q. Would allowing for third-party DER make this situation worse?**

8 A. Perhaps. But my point is that consumer protection issues already exist as it relates to DER.
9 The issues raised by CFC already exist. Increasing the number of players in the DER market
10 may exacerbate the issue. However, I believe all this does is highlight that consumer
11 protections related to customer-hosted DER need to be strengthened, regardless of the
12 Commission’s decision in this proceeding. But ultimately, as with the economic issues,
13 these consumer protection issues are not germane to the question posed by petitioners.

14 **Q. Do you have any specific recommendations regarding consumer protection?**

15 A. Yes. Regardless of its decision in this proceeding, I recommend that the Commission
16 consider the issue of consumer protections related to DER and how it can take action, either
17 under the Commission’s own authority, in collaboration with other state and local agencies,
18 or in a legislative proposal, to improve consumer protections in Wisconsin. To that end I
19 have provided a copy of a report entitled “Solar Power on The Roof And In The
20 Neighborhood: Recommendations For Consumer Protection Policies” which was prepared
21 in 2016 by a former staff person from the Maine Public Utility Commission in collaboration
22 with a number of utility consumer advocate offices around the country. I recommend that

² I am a member of my neighborhood association board, and so I received complaints from homeowners regarding this company.

1 the Commission use this report as a resource in developing new consumer protections
2 related to customer-hosted DER. This report can be found in Ex.-CUB-Singleton-1.

3 **Q. Do you have any other recommendations that are related to the petition in this**
4 **proceeding?**

5 A. Yes. Implicit within the petitioners set of characteristics or “state of facts” is that any third-
6 party DER exempted from regulation as a public utility consistent with the petition must
7 comply with the utility’s authorized tariff. While I believe that this is reasonably understood,
8 should the Commission elect to issue a declaratory ruling that is substantially in keeping
9 with petitioner’s request, I recommend that this requirement be made explicit.

10 **Q. Does that conclude your direct testimony?**

11 A. Yes.