

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

Public Service Commission of Wisconsin  
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**Issue 1: Are any Energy Priority Law (EPL) options cost-effective, technically feasible, and environmentally sound alternatives to building the proposed project, per Wis. Stat. §§ 1.12(4) and 196.025(1)? (Uncontested)**

- 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 percent.
  3. All other carbon-based fuels.

**Issue Scope:** The proposed project is a 300-megawatt (MW) alternating current (AC) photovoltaic (PV) electric generation facility and a 165 MW battery energy storage system (BESS), which would place it in the second-highest tier of the EPL alternatives, and the highest tier of new generation alternatives.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports the Uncontested Alternative. The Project will utilize solar energy, a renewable energy resource that is the highest priority generation alternative and which is explicitly promoted in Wisconsin’s energy policy goals. The Project’s BESS will also enhance efficiency and reliability. No EPL alternatives exist, including energy conservation and efficiency options, that are cost-effective, technically feasible, and environmentally sound alternatives to the proposed Project.</p>		<p>HNS Init. Br. at 3-4.                      Direct-HNS-O’Connor-32-33.                      Ex.-PSC-EA at 9.</p>
<p><b>RENEW:</b> Supports the Uncontested Alternative. Consistent with the EPL, the proposed project will provide multiple benefits by converting a locally available, noncombustible renewable energy source—sunshine—to electricity.</p>		<p>Direct-RENEW-Vickerman-r-13                      Direct-HNS-O’Connor-32-33</p>

**COMMISSION ALTERNATIVES**

**Uncontested Alternative:** No EPL alternatives exist that are cost-effective, technically feasible, and environmentally sound alternatives to the proposed project.

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

**Commissioner Notes:**

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<b>Issue 2: Would the proposed project have a material adverse impact on competition in the relevant wholesale electric service market under Wis. Stat. § 196.491(3)(d)7.? (Uncontested)</b>		
<b>Issue Scope:</b> The Commission must find that the proposed project will not have a material adverse impact on competition before issuing a Certificate of Public Convenience and Necessity (CPCN).		
<b>PARTY POSITIONS</b>	<b>AMOUNT</b>	<b>TRANSCRIPT REFERENCES</b>
<b>High Noon Solar:</b> Supports the Uncontested Alternative. The Project will not have a material adverse impact on competition in the relevant wholesale electric service market. The Commission has repeatedly held that wholesale merchant plants do not have a negative impact on competition in the wholesale market and the Uncontested Alternative is consistent with Commission precedent. Energy generated by HNS will only be dispatched to serve load if the price it charges for its generation is competitive.		HNS Init. Br. at 21. Direct-HNS-O'Connor-18-19; 31-32.
<b>RENEW:</b> Supports the Uncontested Alternative.		Direct-HNS-O'Connor-31-32
<b>COMMISSION ALTERNATIVES</b>		
<b>Uncontested Alternative:</b> No, the proposed project would not have a material adverse impact on competition in the relevant wholesale electric service market.		
<b>Commissioner Notes:</b>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<b>Issue 3: Would the proposed project comply with Wis. Stat. § 196.491(3)(d)6. and not unreasonably interfere with the orderly land use and development plans for the area involved?</b>		
<b>Issue Scope:</b> The Commission must find that the proposed project will not unreasonably interfere with orderly local land use and development plans before issuing a CPCN.		
<b>PARTY POSITIONS</b>	<b>AMOUNT</b>	<b>TRANSCRIPT REFERENCES</b>
<b>High Noon Solar:</b> Supports Alternative One. All easements are voluntary, and participating landowners’ property rights should be respected. The Project Area is mostly agricultural land, and the Project will complement the character of the area and may boost agricultural production on adjacent agricultural land through the Vegetation Management Strategy. The land may return to agricultural use after decommissioning.		HNS Init. Br. at 21. Direct-HNS-Johnson-r-9-10. Ex.-NPS-Application: Appendix K.
<b>RENEW:</b> Supports Alternative One. At about 2,000 acres, the project’s footprint would equate to about 0.66% of actively cultivated land in Columbia County.		Direct-RENEW-Vickerman-r-12 Direct-HNS-Johnson-r-8-10
<b>Commission Staff:</b> A number of environmental impacts and impacts on local land use and development can be expected from the proposed project. None of the impacts are expected to be significant or appear to unreasonably interfere with orderly land use and development.		Ex.-PSC-EA Direct-PSC-Ingwell-r-4-8
<b>COMMISSION ALTERNATIVES</b>		
<b>Alternative One:</b> Yes, 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.		
<b>Alternative Two:</b> No, the project does not comply with Wis. Stat. § 196.491(3)(d)6. and would unreasonably interfere with the orderly land use and development plans for the area involved.		
<b>Commissioner Notes:</b>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<b>Issue 4: Has High Noon Solar Energy LLC. (applicant) considered the use of brownfield sites to the extent practicable as required by Wis. Stat. § 196.491(3)(d)8.? (Uncontested)</b>		
<b>Issue Scope:</b> The Commission must find that the proposed project uses brownfields, as defined in Wis. Stat. § 238.13(1)(a), to the extent practicable before issuing a CPCN. A “brownfield” is defined as an abandoned, idle, or underused industrial or commercial facility or site where redevelopment would be “adversely affected by actual or perceived environmental contamination.”		
<b>PARTY POSITIONS</b>	<b>AMOUNT</b>	<b>TRANSCRIPT REFERENCES</b>
<b>High Noon Solar:</b> Supports the Uncontested Alternative. The siting criteria utilized by HNS was reasonable and did not identify a brownfield location that would provide a suitable alternative for a solar facility of this scale.		HNS-Init. Br. at 22. Direct-HNS-O'Connor-32. Ex.-HNS-Application at 7-8.
<b>RENEW:</b> Supports the Uncontested Alternative.		Direct-HNS-O'Connor-32
<b>Commission Staff:</b> The range of siting criteria evaluated by the applicant did not identify a brownfield site that would provide a suitable alternative site.		Ex.-PSC-EA; Ex.-HNS-Application
<b>COMMISSION ALTERNATIVES</b>		
<b>Uncontested Alternative:</b> No existing brownfield sites meet the siting criteria for the proposed project.		
<b>Commissioner Notes:</b>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

Issue 5: Is the design and location of the proposed project in the public interest considering the siting criteria of Wis. Stat. § 196.491(3)(d)3., or should the Commission modify the proposed siting areas?		
<p><b>Issue Scope:</b> For a wholesale merchant plant, Wis. Stat. § 196.491(3)(d)3. requires that the design and location of the proposed project be in the public interest considering alternative locations, individual hardships, safety, reliability, and environmental factors. To address these considerations, the Commission may modify the design or location to mitigate or minimize impacts to non-participating landowners or address other factors.</p> <p>See also Issues 7d, 7e and 7i.</p>		
PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative One. All proposed sites meet the criteria of Wis. Stat. § 196.491(3)(d)3. The Project will cause no undue individual hardship, meet all applicable safety standards, and not negatively impact reliability. Environmental benefits far outweigh potential impacts. HNS encouraged public participation in the siting process and has a Good Neighbor Program to address local concerns, resulting in broad public support for the Project. The Commission should approve all primary and alternate arrays to provide construction flexibility.</p>		<p>HNS Init. Br. at 4-9; 29.            Tr. 12: 20 – 15:7            Direct-HNS-O’Connor-12-14, 16-18            Direct-HNS-Johnson-r-11-12            Direct-HNS-Heagney-6-7            Ex.-PSC-EA-88, 91</p>
<p><b>RENEW:</b> Takes no position.</p>		
<p><b>Commission Staff:</b> In addition to the proposed siting areas, the applicant provided 25 percent additional siting areas with the proposed project as an alternative. These additional siting areas provide options that the Commission could include as allowable areas for the installation of arrays at the solar generation facility. Specific non-participating landowners with potential close proximity to solar arrays on multiple sides of their properties are included in subsequent items in this Decision Matrix. These are included in items 7d, 7e and 7i. The Commission may wish to consider adjusting proposed and/or alternate arrays in these areas.</p>		<p>Ex.-PSC-EA            Ex.-HNS-Application</p>

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

<b>COMMISSION ALTERNATIVES</b>
<b>Alternative One:</b> All of the proposed and alternative solar array sites meet the siting criteria of Wis. Stat. § 196.491(3)(d)3.
<b>Alternative Two:</b> Some of the proposed or alternative solar array sites are not in the public interest considering the siting criteria of Wis. Stat. § 196.491(3)(d)3., such that the Commission should modify the application to mitigate or minimize such impacts.
<b>Commissioner Notes:</b>

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

**Issue 6a: What general conditions similar to those that have been included in prior electric construction orders should be attached to construction of the proposed project to meet the requirements for Commission approval?**

**Issue Scope:** Typically, the Commission’s Final Decision for electric construction projects includes the general conditions similar to the following, which the Commission could consider imposing here:

- a. The applicant is authorized to construct the proposed solar PV electric generation facility, BESS facilities, generation tie line facilities, and all other associated facilities, as described in the application and data request responses and as modified by the Final Decision.
- b. The applicant shall perform 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.
- c. 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.
- d. Should the scope, design, or location of the project change significantly, the applicant shall notify the Commission within 30 days of becoming aware of possible changes. The applicant shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, or location of the approved project.
- e. If the applicant cancels the project or enters into any arrangement with another party regarding ownership or operation of the proposed facilities, the applicant shall provide prior notice to the Commission.
- f. All commitments made by the applicant in its application, subsequent filings, and the provisions of the Final Decision, shall apply to the applicant, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project.
- g. The transfer of rights and obligations under this CPCN to a third party does not confer either additional rights or 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).



Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

- h. The applicant shall mitigate impacts to line-of-sight communications and landowners who can show disruption to broadcast communications post construction.
- i. Beginning with the quarter ending on a date to be determined by the Commission in the Final Decision, and within 30 days of the end of each quarter thereafter and continuing until the authorized facilities are fully operational, the applicant shall submit quarterly progress reports to the Commission that include all of the following:
  - 1. The date that construction commences;
  - 2. Major construction and environmental milestones, including permits obtained, by agency, subject, and date;
  - 3. Summaries of the status of construction, the anticipated in-service date, and the overall percent of physical completion; and
  - 4. The date that the facilities are placed in service.
- j. The CPCN is valid only if construction commences no later than one year after the latest of the following dates:
  - 1. The date the Final Decision is served;
  - 2. The date when the applicant has received every federal and state permit, approval, and license that is required prior to commencement of construction by construction spread under the CPCN;
  - 3. The date when the deadlines expire for requesting administrative review or reconsideration of the CPCN and of the permits, approvals, and licenses described in par. (b.); and
  - 4. The date when the applicant receives the Final Decision, after exhaustion of judicial review, in every proceeding for judicial review concerning the CPCN and the permits, approvals, and licenses described in par. (b.).
- k. If the applicant has not begun on-site physical construction of the authorized project within one year of the time period specified by this Final Decision, the certificate authorizing the applicant project for which construction has not commenced shall become void unless the applicant:
  - 1. Files a written request of an extension of time with the Commission before the effective date on which the Certificate becomes void; and
  - 2. Is granted an extension by the Commission.
- l. 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.
- m. The applicant and its selected contractors 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 Best Management Practices. Plans shall be provided to Commission and DNR staff a minimum of 14 days prior to the meeting date to allow time for review.

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

- n. The applicant shall obtain all necessary federal, state, and local permits for the project prior to commencement of construction on the portion of the project requiring the permit.
- o. 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).
- p. The applicant may use the 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 Final Decision. 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.
- q. The applicant may propose minor adjustments to the approved locations of Solar Project facilities for the protection of environmental resources, landowner requests, or technical design changes that arise during final stages of engineering (up to the authorized nameplate capacity of each solar facility stated in the application), but any changes from the approved layout may not affect a type of resource not discussed in the EA, nor may they affect new landowners who have not been given proper notice and hearing opportunity or affect landowners who were given proper notice and hearing opportunity in a significantly different manner than was originally approved, nor may they include a unique occurrence not discussed in the EA of, for example, a particular human burial, archaeological site, or protected species. The applicant shall consult with Commission staff regarding whether a proposed change rises to the level at which Commission review and approval is appropriate. For each proposed adjustment for which Commission review is appropriate, the applicant shall submit for Commission staff review and approval a letter describing: the nature of the requested change; the reason for the requested change; the incremental difference in any environmental impacts; communications with all potentially affected landowners regarding the change; documentation of discussions with other agencies regarding the change; and a map showing the approved layout and the proposed modification, property boundaries, relevant natural features such as woodlands, wetlands, waterways, and other sensitive areas. Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis with advice and consent from the Administrator of the Division of Digital Access, Consumer, and Environmental Affairs.
- r. The Final Decision takes effect one day after the date of service; and,
- s. Jurisdiction is retained.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<b>High Noon Solar:</b> Supports Alternative One. HNS does not object to the conditions provided in Issue 6a, a through s, which represent a majority of the conditions proposed by Commission staff.		Rebuttal-HNS-O'Connor-2 Ex.-HNS-O'Connor-2

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<b>RENEW:</b> Takes no position.		
<b>Commission Staff:</b> Supports all of the conditions listed as 6a(a.) through 6a(s.).		Direct-PSC-Wu-r-5-7 Direct-PSC-Ingwell-r-8-10
<b>COMMISSION ALTERNATIVES</b>		
<b>Alternative One:</b> Any or all of the conditions listed as 6a(a.) through 6a(s.) are necessary for approval of the proposed project, as the Commission deems appropriate.		
<b>Alternative Two:</b> None of the conditions listed as 6a(a.) through 6a(s.) are necessary for approval of the proposed project.		
<b>Commissioner Notes:</b>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 6b: Is the following stray-voltage testing condition reasonable to impose as a condition of approval?**

**The applicant shall work with the applicable distribution utility to make available stray voltage testing at each agricultural confined animal operation within one half-mile of the project area, prior to installing any metal or conductive materials into the ground 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.**

**Issue Scope:** The Commission may determine that a stray voltage testing order condition could mitigate impacts associated with construction activities and operation of the proposed project. Large-scale solar facilities are a relatively new addition to the Wisconsin electric system and many things about how they may operate are not currently known. Pre- and post-construction stray voltage testing may offer protection both to agricultural confined animal operators, and also to the applicant by providing testing data that could be referenced in case any stray voltage disputes should arise in the project area. Conducting stray voltage testing prior to construction ensures testing captures a representative “baseline” of stray-voltage conditions before the facilities are placed in-service. The Commission has previously included a condition requiring pre- and post-construction stray voltage testing for large utility-scale solar electric generation facilities. In docket 6680-CE-183, the Commission required that stray voltage testing be made available prior to “installing metal or conductive materials in the ground.”

In rebuttal testimony, the applicant’s witness Mr. Aidan O’Connor testified that it does not object conceptually to a requirement to perform pre- and post-construction stray voltage testing but proposed that the Commission could modify the order condition language to require that stray voltage testing be made available prior to “commencing any construction activity that may interfere with testing,” rather than “installing metal or conductive materials in the ground.” Additionally, the applicant proposes offering testing at each agricultural confined animal operation within one half-mile of the project “facilities” rather than within one half mile of the project “area.” (Rebuttal-HNS-O’Connor-3-4.)

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<b>High Noon Solar:</b> Supports Alternative Two. Stray voltage testing within one-half mile of Project infrastructure is consistent with Commission precedent. The risk of stray voltage from the Project is extremely minimal based on engineering details such as underground, insulated conductors with additional copper shielding and grounding, sophisticated controls, and		HNS Init. Br. at 16-18 Rebuttal-HNS-O’Connor-3-4 Direct-HNS-r-13-14

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<p>no direct connections to agricultural facilities. Nothing in the record supports more extensive testing than in previous similar projects. Alternative Two is also consistent with PSC 128.17.</p>		
<p><b>RENEW:</b> Takes no position.</p>		
<p><b>Commission Staff:</b> Supports Alternative One. Ordering pre- and post-construction stray voltage testing to be offered to agricultural confined animal operations could provide protection both to agricultural confined animal operators and to the applicant. Specifying that testing be made available prior to “installing any metal or conductive materials into the ground” clarifies construction activity that is allowed to take place before testing must be made available. The language proposed by staff also allows the applicant to avoid any unnecessary impacts to proposed project construction timelines by allowing the applicant to begin construction-related activities that can occur without altering or impacting baseline conditions in the Project Area. Additionally, implementing the applicant’s recommended changes in regard to the required testing area could potentially reduce the required testing area to within one half-mile of project equipment, rather than the entire site of the proposed project.</p>		<p>Ex.-PSC-EA § 3.1.4; Direct-PSC-Wu-r-9; Surrebuttal-PSC-Wu-3</p>
<b>COMMISSION ALTERNATIVES</b>		
<p><b>Alternative One:</b> Condition 6b. is necessary for approval of the proposed project.</p>		
<p><b>Alternative Two:</b> Condition 6b. as modified by the applicant is necessary for approval of the proposed project.</p>		
<p><b>Alternative Three:</b> Condition 6b. as modified by the Commission is necessary for approval of the proposed project.</p>		
<p><b>Alternative Four:</b> Condition 6b. is not necessary for approval of the proposed project.</p>		
<p><b>Commissioner Notes:</b></p>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7a: Is the following project-specific condition reasonable to impose as a condition of approval?**

- Prior to construction, install signage at wetland and waterway boundaries to alert construction crews to avoid work within or access across these areas.
- 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.
- Provide copies of all plans and environmental documents to construction crews and inspectors. Plans should clearly label the locations of wetlands and waterways and include language stating vehicle access, storage of materials, grading, and all other construction activities are not permissible within these areas. Plans should also clearly label where sediment and erosion control measures and devices should be installed to reduce the likelihood of sediment entering the resources.
- Implement a construction sequencing plan that minimizes the amount of land disturbed or exposed (susceptible to erosion) at one given time across the project.
- Establish vegetative cover prior to land disturbance activities.
- Leave existing vegetative buffers in place and maximize their width in proximity to wetlands and waterways.
- Disturbed areas and areas of exposed soil should be vegetated as soon as possible and seeded with a cover crop and/or native seed mix to minimize erosion potential and prevent the establishment of invasive species.
- Prepare and implement an invasive species management plan that identifies known areas of invasive species populations and includes specific protocols to minimize the spread of invasive species.
- Avoid the use of herbicide in wetlands and near waterways, or use herbicides approved for use in aquatic environments.

**Issue Scope:** DNR witness Radermacher provided suggested requirements the Commission could impose to help avoid indirect impacts to wetlands and waterways during construction of this project.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. The condition is unnecessary. The Project was designed to avoid wetlands/waterways. BMPs were conditions in only one prior solar CPCN, and were required only “where applicable and practical.” The Commission explicitly declined to add BMPs as conditions in other projects because they are ambiguous. Design of project-specific BMPs are refined as engineering progresses,</p>		<p>HNS Init. Br. at 24-25            Rebuttal-HNS-Wilson-2            Direct-WDNR-Radermacher-2-3            Ex.-HNS-Application-78</p>

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

and subsequently incorporated into the ECSWMP and VSMP. HNS will implement Project-specific BMPs where necessary, which will be monitored through WDNR regulations.		
<b>RENEW:</b> Takes no position.		
<b>Commission Staff:</b> Taking the following precautions can prevent indirect impact to wetlands and waterways during construction of the proposed project.		Direct-WDNR-Radermacher Ex.-PSC-EA
<b>COMMISSION ALTERNATIVES</b>		
<b>Alternative One:</b> Condition 7a. is necessary for approval of the proposed project.		
<b>Alternative Two:</b> Condition 7a. as modified by the Commission is necessary for approval of the proposed project.		
<b>Alternative Three:</b> Condition 7a. is not necessary for approval of the proposed project.		
<b>Commission Notes:</b>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7b: Should the applicants be required to increase the number of forbs or pollinator-friendly species in its primary under-the-array seed mix for this project? Alternatively, the Commission could require that the applicants provide the DNR and Commission staff an opportunity to review and comment on the final designed seed mixes for the project prior to their implementation, specifically in regard to the mix planned for use under the solar panels.**

**Issue Scope:** DNR staff provided testimony on an order condition the Commission may wish to include relating to the applicant’s proposed main seed mix for the project for under the arrays. Specifically, DNR staff testified that additional native forb or flowering species will benefit the local pollinators, many of which are in decline across the county as a result of habitat loss, pesticide use, and other factors. The Commission has required provisions of this nature in previous dockets such as 9805-CE-100, 6680-CE-183 and 9810-CE-100.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. HNS’s VMS was designed for site-specific conditions by a certified professional soil scientist. This condition is overly burdensome; will require increased herbicide use and inhibit other vegetation objectives (stabilization, weed suppression) because of the weedy seed bank in agricultural soil; and will raise shading, fire safety, and insurance issues. Forb/flowering species are included in other Project areas. The final VSMP will be shared with DNR but requiring a comment period will cause unnecessary construction delays.</p>		<p>HNS Init. Br. at 25-26            Ex.-HNS-Hartsig-1            Rebuttal-HNS-Hartsig-2-3            Tr. 42:9 – 48:25</p>
<p><b>RENEW:</b> Takes no position.</p>		
<p><b>Commission Staff:</b> DNR staff testified that increasing the number of native forb/flowering species will help diversify the seed mix and provide more habitat for declining pollinator species and how increasing these species would not be incompatible with the applicant’s goals of successful vegetation establishment in former agricultural fields. Julie Schoeneberg commented in this regard as well.</p>		<p>Direct-DNR-Rowe            Surrebuttal-DNR-Rowe            Ex-PSC-EA            Public Comment by Julie Schoeneberg (<a href="#">PSC REF #460215</a>)</p>
COMMISSION ALTERNATIVES		
<p><b>Alternative One:</b> One of the options of Condition 7b. is necessary for approval of the proposed project.</p>		
<p><b>Alternative Two:</b> One of the options of Condition 7b., as modified by the Commission, is necessary for approval of the proposed project.</p>		



Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

**Alternative Three:** Neither of the options of Condition 7b. are necessary for approval of the proposed project.

**Commission Notes:**

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7c: Is the following project-specific environmental resources condition reasonable to impose as a condition of approval of this project?**

**The applicant shall avoid construction work in suitable upland nesting habitat during the special concern herptile’s nesting period (May 20 – October 15) or install and maintain exclusion fencing using the DNR Amphibian and Reptile Exclusion Fencing Protocol. Construction work can then be conducted within the fenced area at any time of year as long as the fencing is maintained.**

**Issue Scope:** For the HNS project, a special concern herptile species was identified in the ER Review. This species primarily uses wetland habitats, which are for the most part avoided by the HNS project. However, the species does use upland habitats (sandy and/or well-drained soils) within 900 feet of a wetland or water body for nesting and can be impacted by construction work in these areas. There are several areas in the HNS project that are close enough to wetland areas where this upland habitat could be impacted by the proposed project. The Commission, in previous project authorizations, such as 6680-CE-183, has required applicants to follow established DNR-recommended actions during the construction phase to avoid impacts to this species in order to mitigate environmental impacts and may find it reasonable to include that requirement as an order condition in this project.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. HNS is committed to protecting endangered species, and their existing suitable habitat is avoided through Project design. HNS will implement ERR required actions and intends to implement the ERR recommended actions to the extent practicable, including the proposed condition, pre-construction surveys, observation notifications, and annual training. However, adding ERR recommended actions as order conditions unnecessarily increases the regulatory burden on the Project, and is not consistent with the requirements of the endangered species law.</p>		<p>HNS Init. Br. at 27-28            Rebuttal-HNS-O’Connor-5            Direct-HNS-Wilson-r-12-13            HNS-Application: Appendix G</p>
<p><b>RENEW:</b> Takes no position.</p>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<p><b>Commission Staff:</b> The Commission has required applicants follow DNR-recommended actions from ER Reviews as informed and specific ways to mitigate the environmental impacts of a project. The recommended species-exclusion fencing that forms one option is nearly identical to the silt fence used at solar facilities to manage stormwater runoff and, if installed during the correct time of year, would also function as an exclusion fence. Julie Schoeneberg commented in this regard as well.</p>		<p>Ex.-PSC-EA          Direct-PSC-Ingwell          Public Comment by Julie Schoeneberg (<a href="#">PSC REF #460215</a>)</p>
<p><b>COMMISSION ALTERNATIVES</b></p>		
<p><b>Alternative One:</b> Condition 7c. is necessary for approval of the proposed project.</p>		
<p><b>Alternative Two:</b> Condition 7c. as modified by the Commission is necessary for approval of the proposed project.</p>		
<p><b>Alternative Three:</b> Condition 7c. is not necessary for approval of the proposed project.</p>		
<p><b>Commissioner Notes:</b></p>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7d: Should the Commission preclude the use of the E15-Alt alternative array or impose additional setbacks on up to three sides of the property located at W6710 Maas Road/Arlington WI/ 53911? The proposed E15-Alt array appears to be within 150 feet of this property line on the west side of the parcel and within 20 feet or less on the north and east sides of this parcel.**

**Issue Scope:** A landowner resident, Joshua Wolff, at the W6710 Maas Road/Arlington WI/53911 address, commented as part of the hearing on the potential impacts resulting from this project and the proximity of the proposed facilities to his property line. A data request was issued and responded to by the applicant.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<b>High Noon Solar:</b> Supports Alternative Three. The commenter does not propose the condition. The condition is contrary to record evidence, is inconsistent with Commission precedent, and may cause adverse impacts to other resources and landowners. The comment mentions glare, BESS safety, local traffic, environmental impacts, and potential storm damage – all of which were fully addressed by HNS in the record. Adding this unevaluated and unsupported order conditions disregards property rights, threatens Project viability, and discourages future renewable development in Wisconsin.		
<b>RENEW:</b> Supports Alternative Three. Additional mitigation measures should not be required. Claims of individual hardship should be advanced in a manner that allows parties to review and respond.		
<b>Public Comment:</b> Transcript references to the comment and DR response to the right.		PSC Ref#'s 460589 and 461096. Response-Data Request-PSC-Ingwell 4.1, 4.2, and 4.3

**COMMISSION ALTERNATIVES**

**Alternative One:** Additional mitigation measures listed in issue 7d. are necessary for approval of the proposed project.

**Alternative Two:** Additional mitigation measures listed in issue 7d. as modified by the Commission are necessary for approval of the proposed project.

**Alternative Three:** Additional mitigation measures listed in issue 7d. are not necessary for approval of the proposed project.

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

**Commissioner Notes:**

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7e: Should the Commission preclude the use of the A5-Alt alternative array or impose additional setbacks on up to three sides of the property located at W7215 Thiele Road/Arlington WI/ 53911? The proposed A5-Alt array appears to be within 150 feet of this property line on most of the east side of this parcel and within 20 feet or less on the south, west, and a portion of the east sides of this parcel.**

**Issue Scope:** A landowner resident, Steven Woolever, at the W7215 Thiele Road/Arlington WI/53911 address, commented as part of the hearing on the potential impacts resulting from this project and the proximity of the proposed facilities to his property line. A data request was issued and responded to by the applicant.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<b>High Noon Solar:</b> Supports Alternative Three. The commenter does not suggest greater setbacks, as proposed. He mentions property value, which was fully addressed by HNS in the record. He raises concerns regarding prime farmland impact, but increased setbacks would create unusable strips of land and increase the impact on farmland. Staff’s data requests related to tree clearing, not greater setbacks. HNS voluntarily increased the setback east of the property adjacent to the residence. Additional restrictions disregard the participating property owner’s rights.		
<b>RENEW:</b> Supports Alternative Three. This condition should not be required. Claims of individual hardship should be advanced in a manner that allows parties to review and respond.		
<b>Public Comment:</b> Transcript references to the comment and DR response to the right.		PSC Ref# 461175. Response-Data Request-PSC-Ingwell 5.1, 5.2, and 5.3
COMMISSION ALTERNATIVES		
<b>Alternative One:</b> Condition 7e. is necessary for approval of the proposed project.		
<b>Alternative Two:</b> Condition 7e. as modified by the Commission is necessary for approval of the proposed project.		
<b>Alternative Three:</b> Condition 7e. is not necessary for approval of the proposed project.		

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

**Commissioner Notes:**

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7f: Are the following project-specific conditions suggested by Julie Schoeneberg reasonable to impose as a condition of approval?**

- a) **The applicant shall not construct solar arrays in areas G & L or on any land contiguous to USDA-defined specialty crop farms and instead applicant shall move them to approved alternate panel sites. If this is not possible, the applicant shall provide at least a 600-foot setback from fence lines along with the planting and continued maintenance of tall border shrubs and trees to act as a screen for fugitive dust. The applicant shall also be required to install a fabric dust screen during construction to block dust.**
- b) **Don't allow the noise levels to go above 40 dB(A) Lmax as measured along property line boundaries from the months of April through November. December through March, only allow pile driving and other construction during the daytime hours (8 am to 5 pm Monday - Friday).**
- c) **High Noon Solar (Invenergy) needs to install corner escapes included as a means to allow any deer or large wildlife that would get trapped inside an array fence, a means to escape.**
- d) **High Noon Solar (Invenergy) needs to exclude at least one route from County Rd 22 to our farm from their haul route plan (Hall Rd & Mountford Rd) and one route from State Rd 60 (County Rd C & County Rd CS & Mountford Rd).**

**Issue Scope:** A project-specific set of order conditions could mitigate impacts associated with construction activities and operation of the proposed project. Julie Schoeneberg owns and operates a family specialty farm on N2760 Mountford Road, Poynette, WI that provides u-pick and picked produce to customers. The comment expresses concern for the health of the crops and people from fugitive dust impacts. Specific concerns related to fugitive dust include reduction in light to the plants, salmonella exposure, changes in soil pH, pollinator impacts, and silica respirable dust.

Schoeneberg also expresses concern for sound impacts, upland nesting habitat for special concern herptile species, and wildlife fencing. Additional supporting information is included in the comment itself.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<b>High Noon Solar:</b> Supports Alternative Three. The proposed conditions have not been fully evaluated in, and are not supported by the record; are inconsistent with Commission precedent; and may cause adverse impacts to other resources and landowners. HNS's dust control, wildlife mitigation, and traffic mitigation methods are outlined in the record. The proposed		HNS Init. Br. at 11, 30 Direct-HNS-O'Connor-23-25 Direct-HNS-Wilson-r-13-16



Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<p>noise and timing restrictions cannot reasonably be implemented. Adding unevaluated and unsupported order conditions threatens the viability of the Project and discourages future renewable development in Wisconsin.</p>		
<p><b>RENEW:</b> Supports Alternative Three. No air quality impacts would be expected to occur once construction of the solar facility is complete and operational. Solar PV facilities generate energy without the creation of regulated pollutants or carbon dioxide. This proposed set of conditions is should not be required. Claims of individual hardship should be advanced in a manner that allows parties to review and respond. Approving such broadly constructed conditions would likely endanger the viability of the project.</p>		<p>Ex.-PSC-EA-40</p>
<p><b>Public Comment:</b> Julie Schoeneberg electronically filed comments that suggested the order conditions noted above and expressed concern for the impacts this project would have on specialty farms and several other issues described in the comment. Marianne Flynn Statz provided similar comments relating to precluding areas G&amp;L, land contiguous to specialty crops, or require a 600-foot setback along with dust screens for fugitive dust.</p>		<p>Public Comment by Julie Schoeneberg (<a href="#">PSC REF #460215</a>)          CPCN application Noise Study Appendix J and page 57 of the application</p> <p>Public Hearing Comment by Marianne Flynn Statz (PSC REF #461471)</p> <p>Public Comment by Marianne Flynn Statz (<a href="#">PSC REF #460752</a>)</p>
<b>COMMISSION ALTERNATIVES</b>		
<p><b>Alternative One:</b> The set of conditions in 7f. are necessary for approval of the proposed project.</p>		
<p><b>Alternative Two:</b> The set of conditions in 7f. as modified by the Commission are necessary for approval of the proposed project.</p>		
<p><b>Alternative Three:</b> The set of conditions in 7f. are not necessary for approval of the proposed project.</p>		

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

**Commissioner Notes:**

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7g: Is the following project-specific condition suggested by Darrel Schoeneberg reasonable to impose as a condition of approval?**

**Before any topsoil is stripped in the High Noon Solar Project, representative soil samples should be obtained from the areas to be disturbed. The soil sampling should be consistent with UW Madison’s soil testing guidelines, and samples should be submitted to a laboratory for testing pH, percent organic material, cation exchange capacity, Phosphorus/Phosphate (P), and Potassium/Potash (K). The results should be used to establish a benchmark that the soil’s PH, Nitrogen (N), Phosphorus/Phosphate (P), and Potassium/Potash (K) and should be measured against upon restoration after decommissioning the solar project. If the tests don’t match, High Noon Solar should be made to pay for the costs of amending the soil to match that of before they started construction.**

**Issue Scope:** Darrel Schoeneberg is a fifth-generation farm owner who operates a strawberry, peach, fall corn maze, and Christmas tree farm on N2760 Mountford Road, Poynette, WI. Schoeneberg requested the applicant conduct the soil tests discussed above to monitor and mitigate soil impacts from the project. The comment expresses concern for degradation of farmland soils (especially topsoil), runoff from the project site to their property, plant health issues, soil pH, soil nutrient loss, and zinc deposits into the soil from panel oxidization. The comment questions the efficacy of the applicant’s plan to manage “their vegetation for the first three years and then do a ‘periodic’ visual inspection.”

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. The proposed condition was not evaluated in the record and is inconsistent with Commission precedent. This is not a request of participating landowners, who own and manage the impacted land. HNS worked with participating landowners to determine the specific terms of decommissioning. HNS will implement topsoil BMPs. The record evidence does not support this condition. Adding unevaluated and unsupported order conditions threatens the viability of the Project and discourages future renewable development in Wisconsin.</p>		
<p><b>RENEW:</b> Supports Alternative Three. Well-maintained vegetation between and underneath solar panels can minimize water scour or erosion from driplines, filter runoff, and improve infiltration capacity of the soil.</p>		<p>Ex.-PSC-EA-50, 51</p>

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<p>Infiltration of storm water typically improves in areas where row cropland is converted to grassland. Claims of individual hardship should be advanced in a manner that allows parties to review and respond. Approving such broadly constructed conditions would likely endanger the viability of the project.</p>		
<p><b>Public Comment:</b> Darrel Schoeneberg electronically filed a comment that suggested the order conditions noted above and expressed concern for the impacts this project would have on the Schoeneberg family specialty farm, along with several other items.</p>		<p>Public Comment from Darrel Schoeneberg (<a href="#">PSC Ref #460860</a>)</p>
<b>COMMISSION ALTERNATIVES</b>		
<p><b>Alternative One:</b> Condition 7g. is necessary for approval of the proposed project.</p>		
<p><b>Alternative Two:</b> Condition 7g. as modified by the Commission is necessary for approval of the proposed project.</p>		
<p><b>Alternative Three:</b> Condition 7g. is not necessary for approval of the proposed project.</p>		
<p><b>Commissioner Notes:</b></p>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7h: Are the following project-specific conditions suggested by Tess Carr reasonable to impose as a condition of approval?**

- a) Requests the PSC require increased property line setbacks and visual screen tree plantings as appropriate to ameliorate neighbors' viewsheds.
- b) The Commission should require Invenergy to participate in long-term wildlife monitoring studies to ensure we better understand, and address, potential negative impacts to mammals, birds, and possibly other species.
- c) The PSC should also encourage and promote agrivoltaics in these sites (beekeeping, shade-loving vegetable production, sheep grazing, etc.) to maximize social and economic benefit.

**Issue Scope:** Tess Carr suggested the above order points as a private citizen of Columbia County. Carr expressed concern for land use, wildlife movement, and visual aesthetics. She recommends the project move forward quickly but with consideration to the above-listed issues.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. The proposed conditions were not evaluated in the record, are unnecessary, are inconsistent with Commission precedent, and may cause adverse impacts to other resources and landowners. Aesthetic and wildlife impacts were analyzed by HNS and in the EA, which concluded the Project was unlikely to have significant impacts. The Commission should not mandate or regulate agrivoltaics. Adding unevaluated and unsupported order conditions threatens the viability of the Project and discourages future renewable development in Wisconsin.</p>		<p>Ex.-PSC-EA at 66-67, 74-75, 81-81, 91</p>
<p><b>RENEW:</b> Supports Alternative Three.</p>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<p><b>Public Comment:</b> Tess Carr electronically filed a comment and presented a comment at the public hearing session. These comments suggested the order conditions noted above and expressed support for the project, with the conditions listed above.</p>	<p>Public Hearing Comment by Tess Carr via Public Hearing (<a href="#">PSC REF#461471</a>)</p> <p>Public Comment from Tess Carr (<a href="#">PSC REF #461156</a>)</p>
<b>COMMISSION ALTERNATIVES</b>	
<p><b>Alternative One:</b> The set of conditions in 7h. are necessary for approval of the proposed project.</p>	
<p><b>Alternative Two:</b> The set of conditions in 7h. as modified by the Commission are necessary for approval of the proposed project.</p>	
<p><b>Alternative Three:</b> The set of conditions in 7h. are not necessary for approval of the proposed project.</p>	
<p><b>Commissioner Notes:</b></p>	

**Issue 7i: Is the following set of project-specific conditions suggested by Marianne Flynn Statz reasonable to impose as a condition of approval?**

**If the Wisconsin Public Service Commission approves the application, Marianne Flynn Statz requests that it exercises its statutory powers and add the following orders as an order condition for the project:**

- a) Do not construct solar arrays in area K, move them to an approved alternate array site.**
- b) Do not construct solar panels in areas B & C (which are contiguous to a wetland/marsh) and move them to approved alternate array sites.**
- c) Do not allow construction of the BESS at the current location due to its proximity to wetland and populated areas, including the Town of Arlington.**
- d) Establish prairie plantings in areas where arrays are to be mounted prior to construction, per the best management practices outlined by the DNR water runoff experts.**
- e) Mandate all DNR-recommended actions for the purpose of avoiding or minimizing impacts to natural resources and wildlife, including but not limited to the special concern herptile that has suitable habitat in many areas adjacent to the project area.**
- f) Do not mount solar arrays in areas G & L or on any land contiguous to USDA-defined specialty crop farms, move them to approved alternate array sites.**
- g) If arrays are mounted in these areas (G &L), mandate a 600-foot setback from the fence lines and add plantings (and maintenance of said plantings) of tall border shrubs/trees to screen fugitive dust and require the installation of fabric dust screens during construction.**
- h) Setbacks contiguous to residences shall be no less than 500 feet, with tall border shrubs and trees to be planted and maintained by the applicant.**
- i) Requests the PSC partner with Columbia County and the Wisconsin Department of Transportation to craft a comprehensive plan regarding best management practices for dust mitigation and require Invenergy to follow it with steep monetary penalties for any and all violations.**
- j) Mandate the applicant to use its proposed method of mitigating fugitive dust which is to only perform construction during the winter months to protect crops, gardens and human lungs.**
- k) High Noon Solar will post a form of financial security, such as a surety bond, letter of credit, escrow account, reserve fund, parent guarantee or other suitable financial mechanism, prior to the commencement of construction to include the total cost of decommissioning of the solar generation portion and the battery energy storage portion of High Noon Solar at the end of its useful life.**

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue Scope:** Marianne Flynn Statz is a Columbia County resident who resides near the project site on W306 Hall Road in Poynette, Wisconsin. In public hearing session #1, Marianne Flynn Statz requests in her comment that, in the case the Commission is unable to deny authorization, it should limit the size and scope of this project due to impacts to water, land, and human health.

Statz requests many panel sites be moved to alternate location areas. The comment notes that proposed array location K is less than 100 feet from the federally protected wetland Schoeneberg Marsh and expresses concern for migratory bird impacts. She notes area K is susceptible to frequent flood events. The written comment also finds that primary array areas B and C are located contiguous to a wetland/marsh and requests alternate array areas are used. The comment expresses concern for specialty crop impacts on array areas G and L and requests panels are moved to alternate array sites.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. The proposed conditions were not evaluated in the record, rely on inaccurate information, are inconsistent with Commission precedent, and may cause other adverse impacts. Impacts on wetlands/waterways and wildlife, and other environmental and landcover impacts were analyzed in the EA, which identified no potential significant environmental impacts. The record evidence does not support these conditions. Adding unevaluated and unsupported order conditions threatens the viability of the Project and discourages future renewable development in Wisconsin.</p>		Ex.-PSC-EA
<p><b>RENEW:</b> Supports Alternative Three. By displacing generation from fossil-fueled power plants, the project would protect human health and the natural environment. Claims of individual hardship should be advanced in a manner that allows parties to review and respond. Approving such broadly constructed conditions would likely endanger the viability of the project.</p>		Direct-RENEW-Vickerman-r-12



Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<p><b>Public Comment:</b> Member of the public Marianne Flynn Statz commented in a public hearing session and filed comments electronically to recommend these proposed order conditions along with much additional information in the comment. Julie Schoeneberg provided similar comments relating to precluding areas G&amp;L, land contiguous to specialty crops, or require a 600-foot setback along with dust screens for fugitive dust.</p>		<p>Public Hearing Comment by Marianne Flynn Statz (PSC REF #461471)</p> <p>Public Comment by Marianne Flynn Statz (<a href="#">PSC REF #460752</a>)</p> <p>Public Comment by Julie Schoeneberg (<a href="#">PSC REF #460215</a>)</p>
<p><b>COMMISSION ALTERNATIVES</b></p>		
<p><b>Alternative One:</b> The set of conditions in 7i. are necessary for approval of the proposed project.</p>		
<p><b>Alternative Two:</b> The set of conditions in 7i. as modified by the Commission are necessary for approval of the proposed project.</p>		
<p><b>Alternative Three:</b> The set of conditions in 7i. are not necessary for approval of the proposed project.</p>		
<p><b>Commissioner Notes:</b></p>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7j: Is the following project-specific condition suggested by Operating Engineers Local 139, Construction Business Group, and North Central States Regional Council of Carpenters reasonable to impose as a condition of approval?**

**The applicant shall provide the actual mix of local versus out-of-state labor used to construct the High Noon Project be reported to the Commission by the applicant on a quarterly basis if the Commission approves the CPCN application.**

**Issue Scope:** The Operators, Carpenters, and Construction Business Group comment finds that the application ambiguously responded to the solar application filing requirement that asked applicants to disclose the actual amounts of local workers employed through the proposed project. While the comment does not suggest the Commission require specific hiring metrics, the comment states that “knowing whether the Wisconsin ratepayers that will pay for the High Noon Project will realize any of the economic benefits from the construction of the project is important information for the Commission and the public. Ratepayers deserve to know whether the applicant has met a specifically stated (or in this case not stated, but implied) goal or fell short, as we have seen with so many other out-of-state third-party developers.” The comment cites the Commission’s similar reporting requirement in the Grant County Solar Project (9804-CE-100).

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. The comment relies on inaccurate information regarding ratepayer impacts. The condition was not evaluated in the record, is inappropriate for wholesale merchant facilities, and is inconsistent with Commission precedent. Though HNS voluntarily provided information on the Project’s positive economic impacts, the Commission may not consider economic factors when determining if the Project is in the public interest. The condition may discourage provision of information for future projects.</p>		
<p><b>RENEW:</b> Takes no position.</p>		
<p><b>Public Comment:</b> The Operators, Carpenters, and Construction Business Group filed the above proposed condition electronically.</p>		<p>Comment from Operators, Carpenters &amp; CBG (<a href="#">PSC REF #460740</a>)</p>

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

<b>COMMISSION ALTERNATIVES</b>
<b>Alternative One:</b> Condition 7j. is necessary for approval of the proposed project.
<b>Alternative Two:</b> Condition 7j. as modified by the Commission is necessary for approval of the proposed project.
<b>Alternative Three:</b> Condition 7j. is not necessary for approval of the proposed project.
<b>Commissioner Notes:</b>

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7k: Are the following project-specific conditions suggested by Wisconsin Laborers’ District Council reasonable to impose as a condition of approval?**

- 1) High Noon Solar Energy LLC 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.
- 2) High Noon Solar Energy LLC shall publicly report to the Commission on a quarterly basis the number of total construction workers employed on the project, and the total number of construction workers who are Wisconsin residents.

**Issue Scope:** The Wisconsin Laborers’ District Council is comprised of five labor unions representing construction craft laborers throughout the state. The comment finds that the applicant does not detail whether employees will be local, state, or out-of-state residents. The Wisconsin Laborers’ Council states that local and state worker jobs during peak construction are important because “large scale employment impacts on solar projects are limited to the construction phase” and “local economic impacts depend on whether the construction workforce is locally sourced or consists of out-of-state workers who travel to the jobsite and leave after the project is complete.” The second suggested condition is very similar to that proposed by the Operators, Carpenters, and CBG above.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports Alternative Three. The condition was not evaluated in the record, is inconsistent with Commission precedent, and is inappropriate for wholesale merchant facilities. The Commission required this reporting for only one prior wholesale merchant plant, and has declined to require this reporting for several others similar projects. The comment was submitted after the party hearing so HNS could not provide testimony explaining the difficulty with tracking this data, privacy concerns, or other concerns with the requirements.</p>		HNS Init. Br. at 28
<p><b>RENEW:</b> Takes no position.</p>		
<p><b>Public Comment:</b> The Wisconsin Laborers’ District Council filed the above proposed order condition electronically.</p>		Public comment from Wisconsin Laborer’s District Council ( <a href="#">PSC REF #461089</a> )
COMMISSION ALTERNATIVES		
<p><b>Alternative One:</b> The set of conditions in 7k. are necessary for approval of the proposed project.</p>		

Final Decision Matrix  
High Noon Solar Energy LLC  
Docket 9814-CE-100  
May 17, 2023

**Alternative Two:** The set of condition in 7k. as modified by the Commission are necessary for approval of the proposed project.

**Alternative Three:** The set of conditions in 7k. are not necessary for approval of the proposed project.

**Commissioner Notes:**

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 7I: Is the following project-specific condition pertaining to final detailed engineering plans reasonable to impose as a condition of approval?**

**The applicant shall provide the Commission with final detailed engineering plans for the project, including the final designs and equipment plans for the proposed project as soon as practicable after the project is placed in-service. If Commission staff identifies safety or reliability issues upon review of these plans, when considering safety and reliability, final location, individual hardships, and environmental factors, then the matter shall be returned to the Commission.**

**Issue Scope:** The Commission first began imposing a form of this condition as a condition of approval in docket 9801-CE-100 due to the newness of BESS in Wisconsin and has imposed a similar condition as a condition of approval in other dockets involving BESS, such as 9806-CE-100 and 9811-CE-100. As of April 28, 2023, none of the BESSs approved in previous dockets have been placed in-service. In its application, the applicant provided the manufacturers and models for the equipment used for the basis of approximate design calculations for estimates used in the application. However, the applicant also states that equipment selection has not been finalized and that it will make final equipment selection based on technology and pricing available at the time of final engineering design.

Commission staff originally proposed the order condition without the language “...as soon as practicable after the project is placed in-service.” Commission staff proposed the modifications to this order condition in response to the applicant’s redundancy concerns regarding a separate proposed condition that requires the applicant to discuss engineering and site plans at a pre-construction meeting with DNR and Commission staff in an attempt to clarify and to reflect staff’s experience that designs presented prior to completion of a proposed project may differ from the final design of a project after construction is complete. (Direct-PSC-Ingwell-8-9, Direct-PSC-Wu-7, Rebuttal-HNS-O’Connor-2-3, Surrebuttal-PSC-Wu-1-2.)

In rebuttal testimony, the applicant’s witness Mr. Aidan O’Connor states that the proposed order condition is redundant with other proposed conditions, and therefore unnecessary. Additionally, Mr. O’Connor states mandating “that staff returns the Project to the Commission based on this ambiguous standard will increase the workload for Commission staff and increase the regulatory burden for the Project.” (Rebuttal-HNS-O’Connor-2-3.)

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<b>High Noon Solar:</b> Supports Alternative Three. HNS does not object to providing as-built engineering plans to the Commission confidentially, but the mandate for staff to return the Project to the Commission is		HNS-Init. Br. at 28-29 Rebuttal-HNS-O' Connor-2-3 Tr. 81:3-7

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

burdensome for both HNS and staff, and not supported by the structure of the CPCN statute.		
<b>RENEW:</b> Takes no position.		
<b>Commission Staff:</b> Supports Alternative One or Two. Although site and engineering plans are likely to be provided at pre-construction meetings with DNR and Commission staff, the final design of the project at post-construction is likely to differ from pre-construction designs. Additional information provided once final designs are available would help supplement the record and allow the Commission to identify what exactly has been built.		Direct-PSC-Ingwell-8-9; Direct-PSC-Wu-7; Surrebuttal-PSC-Wu-1-2
<b>COMMISSION ALTERNATIVES</b>		
<b>Alternative One:</b> Condition 7l. is necessary for the approval of the proposed project.		
<b>Alternative Two:</b> Condition 7l. as originally proposed is necessary for the approval of the proposed project.		
<b>Alternative Three:</b> Condition 7l., without the mandate that the matter be returned to the Commission, is necessary for the approval of the proposed project.		
<b>Alternative Four:</b> Condition 7l. as modified by the Commission is necessary for the approval of the proposed project.		
<b>Alternative Five:</b> Condition 7l. is not necessary for approval of the proposed project.		
<b>Commission Notes:</b>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<b>Issue 8: Wisconsin Environmental Policy Act (WEPA) and other Environmental Considerations</b>		
<b>Issue 8a: Has the Commission complied with WEPA pursuant to Wis. Stat. § 1.11 and Wis. Admin. Code ch. PSC 4? (Uncontested)</b>		
<p><b>Issue Scope:</b> Wisconsin Stat. § 1.11 requires, for major actions significantly affecting the quality of the human environment, the preparation of a detailed statement as to the environmental impact of the proposed action.</p> <p>An EA was prepared jointly by Commission and DNR staff, in accordance with WEPA. The purposes of the EA are: (1) to help determine whether an environmental impact statement is needed; and (2) to provide a factual investigation of the relevant areas of environmental concern in sufficient depth to permit a reasonably informed preliminary judgment of the environmental consequences of the proposed action, representing the required environmental review under WEPA.</p>		
PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<p><b>High Noon Solar:</b> Supports the Uncontested Alternative. The Commission has complied with WEPA.</p>		<p>Ex.-PSC-EA HNS Init. Br. at 3-4</p>
<p><b>RENEW:</b> Supports the Uncontested Alternative. Commission Staff did not identify any potential environmental effects of the proposed project that could be considered significant</p>		<p>Ex.-PSC-EA, 86-92</p>
<p><b>Commission Staff:</b> Yes.</p>		<p>Ex.-PSC-EA</p>
COMMISSION ALTERNATIVES		
<p><b>Uncontested Alternative:</b> Yes. The Commission has complied with WEPA pursuant to Wis. Stat. § 1.11 and Wis. Admin. Code ch. PSC 4.</p>		
<p><b>Commissioner Notes:</b></p>          		



Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

**Issue 8b: Will the proposed project have undue adverse impact on other environmental values as provided under Wis. Stat. § 196.491(3)(d)4.?**

**Issue Scope:** Wisconsin Stat. § 196.491(3)(d)4. requires that the proposed project will not have an undue adverse impact on other environmental values such as, but not limited to, ecological balance, public health and welfare, historic sites, geological formations, the aesthetics of land and water and recreational use.

PARTY POSITIONS	AMOUNT	TRANSCRIPT REFERENCES
<b>High Noon Solar:</b> Supports Alternative One. The record evidence demonstrates that the Project, as designed, will not have undue adverse impacts upon environmental values including ecological balance, public health and welfare, historic sites, geological formations, the aesthetics of land and water, and recreational use. In fact, the Project will have significant environmental benefits.		HNS Init. Br. at 9-20 Direct-HNS-O'Connor-19-30 Ex.-HNS-Application: Appendices K and R.
<b>RENEW:</b> Supports Alternative One. The Proposed project would not have an unduly adverse impact. By displacing generation from fossil-fueled power plants, the project would protect human health and the natural environment.		Direct-RENEW-Vickerman-r-12; Ex.-PSC-EA, 86-92
<b>Commission Staff:</b> Provided the project is built as described, including modifications described in the data request responses, the EA does not indicate that significant adverse impacts are likely.		Ex.-PSC-EA
COMMISSION ALTERNATIVES		
<b>Alternative One:</b> No, the proposed project will not have undue adverse impact on other environmental values as provided under Wis. Stat. § 196.491(3)(d)4.		
<b>Alternative Two:</b> Yes, the proposed project will have undue adverse impact on other environmental values as provided under Wis. Stat. § 196.491(3)(d)4.		
<b>Commissioner Notes:</b>		

Final Decision Matrix  
 High Noon Solar Energy LLC  
 Docket 9814-CE-100  
 May 17, 2023

<b>Issue 9: Should the Commission grant a CPCN for the proposed project?</b>		
<b>Issue Scope:</b> The Commission shall approve an application for a CPCN if all of the criteria are met as listed in Wis. Stat. § 196.491(3)(d). The Commission may reject or modify an application for a CPCN under the criteria included in Wis. Stat. § 196.491(3)(e).		
<b>PARTY POSITIONS</b>	<b>AMOUNT</b>	<b>TRANSCRIPT REFERENCES</b>
<b>High Noon Solar:</b> Supports Alternative Two. The Commission should grant a CPCN for the Project with the conditions as described by HNS.		
<b>RENEW:</b> Supports Alternatives Ones or Two. The proposed project satisfies the requirements for a CPCN. It will help mitigate the impacts of climate change in Wisconsin while strengthening the state’s economy.		Direct-RENEW-Vickerman-r-12-13
<b>COMMISSION ALTERNATIVES</b>		
<b>Alternative One:</b> Yes, the Commission should grant a CPCN for the proposed project as filed.		
<b>Alternative Two:</b> Yes, the Commission should grant a CPCN for the proposed project, with conditions.		
<b>Alternative Three:</b> No, the Commission should not grant a CPCN for the proposed project.		
<b>Commissioner Notes:</b>          		

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