

**BEFORE THE PUBLIC SERVICE COMMISSION OF WISCONSIN**

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Application for a Certificate of Public Convenience and Necessity of Ursa Solar, LLC to Construct the Langdon Mills Solar Electric Generation Facility in the Towns of Courtland and Springvale, Columbia County, Wisconsin

**Docket No. 9818-CE-100**

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**INITIAL BREIF OF LAUREN TONN**

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**INTRODUCTION**

Lauren Tonn resides at W1951 Hollnagel Road, Randolph, Wisconsin (“Property”). She intervened in this proceeding as she and her family will suffer significant individual hardships as a result of the proposed 200 MW utility-scale solar project Langdon Mills Solar Electric Generation Facility (“Project”), proposed by the Applicant, Ursa Solar, LLC (“Applicant”). The project is proposed in Columbia County and will affect the Towns of Courtland and Springvale. Ms. Tonn’s property is slated to have solar arrays on three sides of her property, most of which will be directed toward her Property, as well as several inverters throughout those same areas.

Ursa is proposing to use thousands of acres of productive, prime farmland to construct a large solar project without any solar siting regulations to oversee the placement of the arrays or ways to mitigate glare, noise and disruption to wildlife. Ursa is allowed to make its own rules regarding where the project is to be located, what impacts non-participating landowners are forced to live with and how the problems or concerns will be mitigated.

Ursa has also tried to negate the individual hardships that have been presented in this docket. Ms. Tonn’s residence will be impacted by the project in many ways, all of which the Applicant has refused to acknowledge or provide solutions to.

Subsequently, Ursa has not satisfied the standards for granting a Certificate of Public Convenience and Necessity (“CPCN”) under Wis. Stat. § 196.491.

## **ARGUMENT**

### **I. Ursa Solar, LLC has not satisfied the requirements for issuance of a CPCN under Wis. Stat. § 196.491.**

- a.** The Wisconsin Public Service Commission must, in order to issue a CPCN, find that “The Project design and location is in the public interest after considering alternative locations, individual hardships, safety, reliability, and environmental factors”<sup>1</sup>. Throughout this process and the information submitted by the Applicant, Ms. Tonn has not found evidence that the Applicant made any attempt to survey the communities in which they propose to develop the Project. In fact, the Town of Courtland voted in an overwhelming majority that they do not want large scale solar projects developed in the Township<sup>2</sup>. During the public comment portion of the application, the Commission was also presented with a

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<sup>1</sup> Wis. Stat. § 196.491 (3) (d) (3)

<sup>2</sup> Ex.-LT-Tonn-11 PSC Ref. # 464838

petition containing over 700 signatures stating they do not agree with solar developments in Columbia County<sup>3</sup>. Additionally, the Applicant did not take into consideration any environmental factors that may change because of their layout for the project. For instance, array area 10c the southernmost portion of the fencing will be approximately one mile long. Large areas of fields fenced off from local wildlife is not favorable to a healthy habitat or ecosystem and eliminates the land use for several species.

**b. Ms. Tonn and her family will suffer significant and multiple individual hardships.**

**i. Ms. Tonn’s medical condition has not been addressed or any action to mitigate harm has been taken by the Applicant.**

Ms. Tonn has brought her medical condition to the attention of the Applicant and the Commission and to date has received no assurances that the current layout and design for the project will not cause any undue harm to her. The Applicant has presented desktop analyses of glare and noise, neither of which seems to take into account the unique characteristics of Ms. Tonn’s property and the surrounding landscape. The expert presented by the Applicant, Mr. Parish, testified that they did not take any unique measurements for glare at Ms. Tonn’s residence, but used “standard” measurements. Based on these statements alone, there has been no evidence presented, and in fact more questions have been raised, to say with any amount of

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<sup>3</sup> Petition, PSC Ref # 468963

certainty that Ms. Tonn will not suffer additional triggers of her medical condition resulting from the Project or that she will be able to use her property in the same manner as she is currently able to once the Project has been developed. The Applicant also doesn't address the additional noise and sound pollution that will be produced during the construction of the Project. Mr. Parish, the Applicant's witness regarding noise, has stated during his cross examination that he does not have any training on the effect of noise in a natural setting<sup>4</sup> nor does he have knowledge of the accuracy of the modeling based on information collected after such a project has been completed. However, Mr. Parish was presented as an expert witness who's testimony is to be relied upon for this topic in the Project Area. Mr. Parish has used modeling tools to make his determinations and lacks credibility in making any accurate determinations based on real data.

**ii. Property values will be negatively impacted by the Project.**

Several studies have been presented to the Commission for this and other dockets showing the negative impacts that will occur when large scale solar developments are built near homes. The Applicant's expert has not taken local real estate values or sales into consideration when testifying in this docket<sup>5</sup>. Mr. MaRous gives a very high-level interpretation of real estate in Columbia County, but does not look at the impacts this Project will have on the homes in the Town of Courtland or Town of Springvale. Based on his testimony it is clear that he has cherry picked his information to fit the narrative the Applicant would like the Commission to believe. Ms. Tonn and her family have invested a significant amount of money and time into their residence and regard it as a long-term investment. Any reduction in property value will impact

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<sup>4</sup> Tr. 310-461 Party Hearing Session, PSC Ref. #469815 pg. 345, lines 9-10

<sup>5</sup> Tr. 310-461 Party Hearing Session, PSC Ref. #469815 pg. 412, line 11

the collateral they have built with the improvements they continue to make on their recently built home. In fact, the Environmental Assessment states “The presence of a utility-scale solar PV facility would become one of many interacting factors that could affect a property’s value. Solar generating facilities have the potential to impact property values. Negative effects from these facilities could be the result of impacts that extend beyond the immediate footprint of the arrays such as noise and visual impacts.”<sup>6</sup> Ms. Tonn’s property and that of other non-participating landowners throughout the Project Area will suffer from both noise and visual impacts, which according to this testimony will create a negative effect on property values.

**iii. Ms. Tonn and her family’s quality of life will suffer.**

The layout and design of Ms. Tonn’s residence is such that the main areas for leisure and recreation are located toward the east and south sides of her home. These are the areas that will be impacted by noise pollution and glare the most significantly by this Project. During the fall, winter and spring seasons nearly all of the views from Ms. Tonn’s residence will be solar arrays. As stated, this poses a health risk to Ms. Tonn as well diminish the ability to enjoy the recreational spaces due to unnecessary noise and glare. During testimony the Applicant’s witness stated that the array placement will contour to the land. By doing so, the arrays in Area 9 which are placed the west and north sides of a hill, will direct the arrays toward Ms. Tonn’s residence even more so than if they were placed on flat land. This creates additional burden on Ms. Tonn’s residence that will not be a factor for any of the participating land owners, or many of the other non-participating landowners surrounding the Project. Ultimately, the placement of

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<sup>6</sup> Environmental Assessment, PSC Ref. #463475 pg. 44 Section 3.16.3

the arrays in Area 9 will all but eliminate the recreational and living areas of Ms. Tonn's property.

**c. Ursa has no evidence that the habitat the Project is proposed in will not be negatively impacted.**

Throughout the Application process many questions about the impact of this large-scale project and the areas that will be fenced off will affect the surrounding wildlife. According to the testimony of each of the Wisconsin Department of Natural Resources ("WDNR") representatives during the project hearing, they have not done any studies on these types of projects, nor are any proposed. The Commission does not have the evidence necessary to ensure that there will not be any negative impacts to wildlife, particularly larger mammals who cannot access the fenced areas and any migratory or predatory birds who frequent the area. The Environmental Assessment states, "The large increase in fenced acreage could have effects on how animals move through the wider project area. There may be unanticipated impacts to wildlife or the vegetation in the area that are not fully understood at the time of this EA"<sup>7</sup>, which echoes the statements made by WDNR representatives. Until more research has been done on the large-scale projects already developed in Wisconsin, it is impossible to determine what impacts will occur with the proposed Project.

**II. The Applicant has not Shown the Project to be in the Public Interest**

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<sup>7</sup> Environmental Assessment, PSC Ref. # 463475, page 62 Section 5.5

**a. The Town of Courtland does not agree with the building of Large-Scale Solar within the Township.**

According to the Referendum on the Spring 2023 election ballot in the Town of Courtland, 79% of the town’s residents do not want a project of this scale built in their township. As mentioned in earlier documents, the referendum read, “Do You Oppose the Construction and Operation of a Solar Power Plant In and Around the Township of Courtland, Columbia County, Wisconsin?”<sup>8</sup>. Additionally, during the public comment portion of the docket, the Commission was presented with a petition against the construction and operation of a solar plant in Columbia County. That petition has 739 signatures from individuals who live, work, or enjoy recreation in Columbia County who do not want a project of this scale developed in Columbia County. These documents clearly show that the residents of the area the Project is being proposed in do not agree with such development and do not support this project.

**b. The Project is Incompatible with Local Land Use documents and values.**

It is clearly stated in every land use document presented to the Commission that the area the proposed Project is suggesting to use, Town of Courtland, Town of Springvale and Columbia County, that they are primarily agricultural areas. A project of this type and size plainly contradicts agricultural practices by taking land out of crop production and installing industrial material throughout the landscape, changing not only aesthetics but creating noise pollution as well. The Applicants witness, Mr. Jaworski did not consult with any of the local governing bodies to make his determination on the goals and desires of the area according to his testimony<sup>9</sup>,

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<sup>8</sup> Ex.-LT-Tonn-11 PSC Ref. # 464838

<sup>9</sup> Tr. 310-461 Party Hearing Session, PSC Ref. #469815 pg. 327 lines 18-25 pg 327 lines 1-4

thus he is unable to accurately interpret these documents. The PSC staff mimic this statement in the Environmental Assessment stating, “The proposed large-scale, industrial-like, solar facilities do not seem to be in keeping with the agricultural designations of land that would be used for the project in local land use plans.<sup>10</sup>” Furthermore, Ursa has failed to negotiate Joint Developer Agreements with any local government body nor have they negotiated Good Neighbor Agreements with a majority of non-participating landowners.

**c. “Participating” Land Owners want to terminate contracts but are unable.**

According to the “Public Hearing Session Appearance Slips” on page 2, a participating land owner wants to terminate their contract, and knows of others who wish to do the same<sup>11</sup>. The Applicant clearly lacks support from individuals who are to be involved in the project.

**III. Should the Commission grant a CPCN for the proposed project?**

**NO.** The Commission should find that Ursa Solar, LLC has not been able to satisfy the requirements for issuance of a CPCN under Wis. Stat. § 196.41 for the reasons stated above.

If the Commission is to grant a CPCN for the proposed project, it should be with the following conditions.

- All proposed arrays and invertors in “Area 9” should be moved to alternative locations due to the medical complications that will likely arise for Ms. Tonn. At the

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<sup>10</sup> Environmental Assessment, PSC Ref. # 463475, pg.62 Section 5.2

<sup>11</sup> Public Hearing Session Appearance Slips, PSC Ref. # 469245, pg. 2



very least any array and inverter that may be seen or heard at any point or level, during the winter months, from Ms. Tonn's residence should be moved to an alternate location and any invertors left in Area 9 should be surrounded by noise dampening berms at least 6 foot in height.

- Setback requirements of 500 feet or more from real property lines must be implemented for all properties neighboring the project.
- Array areas should be limited to 40 square acres or 50% of each parcel used, whichever is less, per fenced area and have wildlife corridors, at least 50 feet wide, between each fenced area to allow for better wildlife movement and habitat.
- Any inverter installed for the project should require a noise dampening berm, at least 6 feet tall, to reduce the noise pollution for non-participating landowners. Berms are to be maintained by the Applicant and would need to be reconstructed if ever found to be below 6 feet tall at the expense of the Applicant within 1 calendar year of notification from adjoining landowners or the Township it is located in.
- Any and all viewpoints a non-participating landowner would have of the project must be planted and maintained by the Applicant and at their expense, with 3 rows of native, fast-growing conifer trees offset at 12 feet on center, which must have a planted height to match the top of the nearest array, to create a visual barrier. Should one of the planted trees die or somehow stop from blocking the viewpoints of the arrays, it shall be replaced within 1 calendar year of notification from adjoining landowners or the Township it is located in, by and at the expense of the Applicant until all equipment is removed during decommissioning.

- An Environmental Impact Analysis should be completed by the Wisconsin Department of Natural Resources prior to construction of the project with approval of the CPCN pending the results of the Analysis.
- An Agricultural Impact Statement should be completed by the Wisconsin Department of Agriculture, Trade and Consumer Protection prior to construction of the project, with approval of the CPCN pending the results of the Statement.

Respectfully Submitted on June 9, 2023

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