

**SERVICE DATE**  
**Mar 07, 2025**

**PUBLIC SERVICE COMMISSION OF WISCONSIN**

Joint Application of Maple Grove Solar I, LLC and Maple Grove Solar II, LLC 5-CE-154  
for a Certificate of Public Convenience and Necessity to Construct a  
Photovoltaic Electric Generation Facility, Battery Energy Storage System,  
Project Substation, and 161 kV Generator Tie Line in the Towns of Barron and  
Maple Grove, Barron County, Wisconsin

**FINAL DECISION**

This is the Final Decision in the application filed by Maple Grove Solar I, LLC and Maple Grove Solar II, LLC (together, applicants) seeking from the Public Service Commission of Wisconsin (Commission) a Certificate of Public Convenience and Necessity (CPCN) authorizing the applicants to construct a new solar photovoltaic (PV) electric generation facility, battery energy storage system (BESS), 161 kilovolt (kV) transmission line (generation tie line), substation, and associated facilities (collectively, project) in the Towns of Barron and Maple Grove, Barron County, Wisconsin.

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

**Introduction**

On February 14, 2024, pursuant to Wis. Stat. § 196.491 and Wis. Admin. Code chs. PSC 4 and 111, the applicants filed with the Commission an application for a CPCN to construct the proposed project. The applicants later filed revisions to the application that corrected an error, fixed formatting issues, and incorporated changes that were made to the route being proposed for the generation tie line. ([PSC REF#: 526189](#).) The applicants' proposed project is a wholesale merchant plant as defined by Wis. Stat. § 196.491(1)(w). The proposed solar PV electric generation facility would have a nameplate generating capacity of up to 259.6 megawatts (MW) alternating current

(AC) and up to 228 MW AC at the point of interconnection (POI). The proposed BESS would have a capacity of 50 MW/ 200 megawatt-hour (MWh) AC (DC-coupled). The proposed project also includes an approximately 1.78 mile long 161 kV generation tie line, and other associated facilities. The boundaries of the proposed project would span approximately 1,559 acres of primarily agricultural land in the Towns of Barron and Maple Grove, Barron County, Wisconsin, which includes the primary solar arrays, alternative solar arrays, generation tie line, electric collector system, access roads, project substation, and operations and maintenance building.

### **Procedural Background**

The Commission found the application in this docket to be complete on March 14, 2024. ([PSC REF#: 493928](#).) The Commission issued a Notice of Proceeding on April 18, 2024. ([PSC REF#: 498364](#).) Wisconsin Stat. § 196.491(3)(g) requires that the Commission take final action within 180 days after it finds a CPCN application complete, unless an extension of no more than 180 days is granted by the Chairperson of the Commission. The initial 180-day deadline for the Commission to take action was September 10, 2024. On July 11, 2024, the Commission Chairperson granted a 180-day extension. ([PSC REF#: 508311](#).) The Commission must therefore take final action on or before March 10, 2025,<sup>1</sup> or the application is approved by operation of law. *See* Wis. Stat. § 196.491(3)(g).

### **Intervening Parties and Schedule**

RENEW Wisconsin, Inc. (RENEW) and Clean Wisconsin requested to intervene in this docket. ([PSC REF#: 499321](#), [PSC REF#: 500288](#), respectively.) On May 16, 2024,

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<sup>1</sup> As noted in the extension memorandum, the extended 180-day deadline falls on Sunday, March 9, 2025. Pursuant to Wis. Admin. Code § PSC 2.05(2), the next day the Commission is open is considered the last day of the extended 180-day period for the Commission to take final action.

Administrative Law Judge Michael E. Newmark (ALJ) issued an order granting RENEW and Clean Wisconsin's unopposed requests to intervene. ([PSC REF#: 501786.](#)) The parties, for the purposes of review under Wis. Stat. §§ 227.47 and 227.53, are listed in Appendix A.

On June 6, 2024 the ALJ issued a Scheduling Order establishing the issues, schedule, and other facilitating matters for the proceeding. ([PSC REF#: 504423.](#)) The issue was identified as: "Does the proposed project comply with the applicable standards under Wis. Stat §§ 1.11, 1.12, 196.025, and 196.491, and Wis. Admin. Code chs. PSC 4 and 111?"

### **Environmental Review**

The project is a Type II action under Wis. Admin. Code § 4.10(2) and requires the preparation of an environmental assessment (EA). Commission staff worked jointly with the Wisconsin Department of Natural Resources (DNR), and on April 2, 2024, issued an EA scoping letter to accept comments from the public to help determine the scope of the EA.

([PSC REF#: 495884.](#)) On July 1, 2024, Commission staff produced a preliminary determination that no significant environmental effects are expected to result from the proposed project. The preliminary determination letter summarized some of the environmental impacts.

([PSC REF#: 507077.](#)) The Commission received comments on this preliminary determination, and on July 24, 2024, issued the EA regarding the proposed project, which was entered as an exhibit into the record pursuant to Wis. Stat. § 1.11 and Wis. Admin. Code chs. NR 150 and PSC 4. ([PSC REF#: 510023.](#))

In the rebuttal testimony of applicants' witnesses Ripa, Wedesky and Wiater, applicants proposed changes to the primary and alternate route for the generation tie line, as well as the proposed location of the project substation. The applicants subsequently revised their application

to reflect these changes as noted above. Due to the changes in location, Commission staff issued a supplemental EA scoping letter on August 12, 2024 to accept comments from the public to help determine the scope of a Supplemental EA analyzing the new route for the gen-tie line and change in location for the project substation. ([PSC REF#: 512674.](#)) On November 6, 2024, Commission staff issued a Supplemental EA Preliminary Determination Letter indicating no significant impacts on the human environment are expected to result from the proposed project and therefore, preparation of an environmental impact statement (EIS) was not required. ([PSC REF#: 523453.](#)) The supplemental preliminary determination letter summarized some of the environmental impacts. The Commission received comments on this supplemental preliminary determination, and on November 22, 2024, issued the supplemental EA regarding the proposed project, which was also entered as an exhibit into the record. ([PSC REF#: 524911.](#))

### **Public and Party Hearings**

On July 22, 2024, the ALJ issued a Notice of Hearing scheduling both the party hearing session and public hearing sessions. ([PSC REF#: 509606.](#)) On September 10, 2024, the ALJ conducted a public hearing session in person and virtually for members of the general public. The public hearing included two sessions, one in the afternoon and one in the evening, and provided members of the public the opportunity to submit written comments or oral testimony. ([PSC REF#: 516788.](#)) The Commission also accepted written comments from members of the public through its website and by U.S. Mail. ([PSC REF#: 524844.](#))

The ALJ held a party hearing session virtually on September 12, 2024. ([PSC REF#: 517693.](#)) At the party session, expert witnesses offered testimony and exhibits on behalf of the applicants, Clean Wisconsin, RENEW, and Commission staff (including DNR

staff). ([PSC REF#: 528309](#).) The Commission conducted its hearings as Class 1 contested case proceedings, pursuant to Wis. Stat. §§ 196.491(3)(b), 227.01(3)(a), and 227.44.

## **Briefs**

On October 7, 2024, the applicants, Clean Wisconsin, and RENEW filed initial briefs. ([PSC REF#: 519993](#), [PSC REF#: 519997](#), [PSC REF#: 519996](#).) On October 8, 2024, the applicants, Clean Wisconsin, and RENEW filed letters indicating their intent not to file reply briefs. ([PSC REF#: 520222](#), [PSC REF#: 520236](#), [PSC REF#: 520238](#).)

## **Commission Discussion**

The Commission discussed the record in this matter at its open meeting of January 16, 2025. ([PSC REF#: 530565](#).) The Commission delegated authority to Commission staff pursuant to Wis. Stat. § 15.02(4) to draft a final decision consistent with its discussion and authorized the Secretary to the Commission to sign the Final Decision on behalf of the Commission.

## **Findings of Fact**

1. The applicants are affiliates of ibV Holdings, LLC, an independent power producer.
2. The applicants propose to construct a solar PV electric generation facility with a nameplate capacity of up to 259.6 MW AC and up to 228 MW AC at the POI, a 50 MW/200 MWh direct current (DC)-coupled BESS, an approximately 1.78-mile long 161 kilovolt (kV) generator tie line, and other associated infrastructure that includes inverters, collector circuits, and a project substation.
3. The proposed project is a solar electric generation facility and a “noncombustible renewable energy resource” under Wis. Stat. §§ 1.12 and 196.025 and is entitled to the highest

priority of all energy generation resources under the priorities listed. The energy and capacity from the proposed project cannot be replaced by energy conservation and efficiency.

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

5. The approved generation tie line route utilizes priority siting corridors listed in Wis. Stat. § 1.12(5) to the greatest extent feasible, consistent with economic and engineering considerations, reliability of the electric system, and protection of the environment.

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

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

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

9. A brownfield site for the applicants' proposed project is not practicable. Wis. Stat. § 196.491(3)(d)8.

10. The facilities approved by this Final Decision are primarily on agricultural land.

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

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

### **Conclusions of Law**

1. The Commission has jurisdiction under Wis. Stat. §§ 1.11, 1.12, 44.40, 196.02, 196.025, 196.395, and 196.491, and Wis. Admin. Code chs. PSC 4 and 111, to issue a CPCN authorizing the applicants to construct and place in operation the proposed electric generation facilities described in this Final Decision and to impose the conditions specified in this Final Decision.

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

3. The proposed electric generation facility is a wholesale merchant plant, as defined in Wis. Stat. § 196.491(1)(w).

4. The proposed project complies with the Energy Priorities Law (EPL) as required under Wis. Stat. § 1.12 and 196.025(1) and the approved generation tie route utilizes priority siting as per Wis. Stat. § 1.12(6) to the greatest extent feasible.

5. This is a Type II action under Wis. Admin. Code § PSC 4.10(2).

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

7. The proposed project, as conditioned by this Final Decision, satisfies the requirements of Wis. Stat. § 196.491(3)(d)3., will not have an undue adverse impact as defined in Wis. Stat. § 196.491(3)(d)4., and satisfies the other applicable CPCN criteria for approval.

8. Pursuant to Wis. Stat. § 15.02(4), the Commission has authority to delegate and redelegate to any officer or employee of the Commission any function vested in it by law.

## **Opinion**

### **Project Description**

The applicants propose to construct a new solar electric generation facility as a wholesale merchant plant, as defined by Wis. Stat. § 196.491(1)(w), with a nameplate generating capacity of up to 259.6 MW AC. The maximum output of the project will be 228 MW AC at the POI at the existing Dairyland Power Cooperative (DPC) owned Barron Substation. The applicants designed the project's nameplate capacity to be larger than the project's interconnection rights to account for losses in the PV arrays, inverters, and various other equipment. The project would also include a 50 MW AC/ 200 MWh BESS; an approximately 1.78-mile, 161 kV generator tie line, inverters, collector circuits, and a project substation. The proposed project would be located in the Towns of Barron and Maple Grove in Barron County, Wisconsin.

The solar modules used for a preliminary layout for the project are a bifacial design, the specific model of which is to be evaluated and selected closer to the time of construction. The preliminary solar module layout used 585 watts (W) DC per panel, requiring approximately 502,632 PV panels to generate approximately 294 MW of DC power, which would then be inverted into the proposed 228 MW AC at the POI. The selected panels would connect to a single-axis tracking system that would allow the PV panels to follow the sun from east to west throughout the day. Inverters and pad-mounted transformers would be required to convert the generated DC power into AC power and step up the voltage to 34.5 kV. The underground AC collector circuits would carry the power generated by the PV panels to the project substation.



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The collector circuits would total approximately 25 miles for the project's proposed arrays and approximately 10 miles of collector circuits would be required to connect all alternate arrays.

The solar PV arrays would connect to a new 161 kV/34.5 kV project collector substation. The 50 MW BESS facility would be DC-coupled, with the units located adjacent to the inverters throughout the Maple Grove Solar II portion of the project. A generator tie line of approximately 1.78 miles would connect the new project substation to the existing DPC Barron Substation.

The transmission interconnection facility requirements for the proposed project have been or are being determined through the Midcontinent Independent System Operator, Inc. (MISO) Generator Interconnection Queue study process. The applicants filed two interconnection requests with MISO, queue numbers J1808 and J3198 in the MISO West Definitive Planning Phase (DPP)-2020 and DPP-2022 study cycles, respectively. Queue number J1808 requests the interconnection of 148 MW AC of solar generation associated with Maple Grove Solar I while queue number J3198 requests the interconnection of 80 MW AC of solar, which also includes 50 MW of DC-coupled BESS on a non-additive basis, and is associated with Maple Grove Solar II. The applicants must execute Generator Interconnection Agreements (GIAs) for each interconnection request prior to full operation of each respective phase of the proposed project. Commission staff recommended, and the applicants agreed to an order condition requiring the applicants to submit updated MISO DPP studies and GIAs to the Commission as they are completed.

### **Applicable Statutory Criteria and Standard of Proof**

For a wholesale merchant plant, Wis. Stat. § 196.49(3)(d)3. requires that the design and location of the project be in the public interest considering alternative locations, individual hardships, safety, reliability, and environmental factors. As a wholesale merchant plant, the Commission does not consider whether the project will satisfy the reasonable needs of the public for an adequate supply of electric energy. Wis. Stat. § 196.49(3)(d)2. The Commission is also precluded from considering alternative sources of supply, engineering or economic factors in a merchant plant proceeding like this one. Wis. Stat. § 196.49(3)(d)3. As a wholesale merchant plant, the Commission's review in this docket was appropriately limited to those statutory criteria applicable to merchant plants.

The Commission has considered several applications for the construction of a utility-scale solar facility, and the evaluation of technical and complex projects, such as the one proposed in this docket, is an area in which the Commission has special expertise.<sup>2</sup> The Commission's expertise in

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<sup>2</sup> See, e.g., *Application for a Certificate of Public Convenience and Necessity of Paris Solar Farm, LLC, to Construct a Solar Electric Generation Facility in the Town of Paris, Kenosha County, Wisconsin*, docket 9801-CE-100, Dec. 29, 2020, [PSC REF#: 402226](#); *Application for a Certificate of Public Convenience and Necessity of Point Beach Solar, LLC to Construct a Solar Electric Generation Facility, to be Located in Manitowoc County, Wisconsin*, docket 9802-CE-100, Feb. 12, 2020, [PSC REF#: 383720](#); *Application for Certificate of Public Convenience and Necessity of Wood County Solar Project, LLC to Construct a Solar Electric Generation Facility in the Town of Saratoga, Wood County, Wisconsin*, docket 9803-CE-100, March 4, 2021, [PSC REF#: 406282](#); *Application for Grant County Solar, LLC to Construct a New Solar Electric Generation Facility located near Potosi and Harrison townships, in Grant County, Wisconsin*, docket 9804-CE-100, May 17, 2021, [PSC REF#: 411529](#); *Application for a Certificate of Public Convenience and Necessity of Onion River Solar, LLC to Construct a Solar Electric Generation Facility in the Town of Holland, Sheboygan County, Wisconsin*, docket 9805-CE-100, June 18, 2021, [PSC REF#: 413949](#); *Application for a Certificate of Public Convenience and Necessity of Darien Solar Energy Center, LLC to Construct a Solar Electric Generation Facility in the Town of Bradford, Rock County, and the Town of Darien, Walworth County, Wisconsin*, docket 9806-CE-100, Aug. 5, 2021, [PSC REF#: 418117](#); *Application for a Certificate of Public Convenience and Necessity of Springfield Solar Farm, LLC to Construct a Solar Electric Generation Facility in the Town of Lomira and the Village of Lomira, Dodge County, Wisconsin*, docket 9807-CE-100, Oct. 12, 2021, [PSC REF#: 422918](#); *Application for a Certificate of Public Convenience and Necessity of Apple River Solar, LLC to Construct a Solar Electric Generation Facility in the Towns of Clayton, Beaver, Apple River, and Lincoln, Polk County, Wisconsin*, docket 9808-CE-100, Oct. 15, 2021, [PSC REF#: 423202](#); *Application for a Certification of Public Convenience and Necessity of Portage Solar, LLC to Construct a Solar Electric Generation Facility in the Towns of Grant and Plover, Portage County, Wisconsin*, docket 9810-CE-100, April 10, 2023, [PSC REF#: 463896](#); *Application for a Certificate of Public Convenience and*

administering Wis. Stat. § 196.491 to determine what proposed projects are appropriate additions and in the public interest has long been recognized by Wisconsin courts. *Wisconsin Power & Light Co. v. Pub. Serv. Comm'n of Wisconsin*, 148 Wis. 2d 881, 888, 437 N.W.2d 888, 891 (Ct. App. 1989); *see also Clean Wisconsin, Inc. v. Public Service Commission of Wisconsin*, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768 (recognizing the Commission's expertise in reviewing proposed construction projects under Wis. Stat. § 196.491).

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

With regard to evidentiary determinations, the applicable burden of proof functions in tandem with the applicable standard of proof. The CPCN law, Wis. Stat. § 196.491(3), unlike other provisions of Chapter 196, does not assign a burden of proof to any party with regard to any determination that the Commission must make.<sup>3</sup> Nor does the CPCN law itself specify a standard of proof (i.e., quantum of evidence) that must be found in order for the Commission to make one determination rather than another. This is contrasted with other sections of Wis. Stat.

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*Necessity of Koshkonong Solar Energy Center LLC to Construct a Solar Electric Generation Facility in the Towns of Christiana and Deerfield, Dane County, Wisconsin*, docket 9811-CE-100, May 5, 2022, [PSC REF#: 437761](#).

<sup>3</sup> *See, e.g.*, Wis. Stat. §§ 196.499(5)(am), 196.504(8), 196.54(2).

ch. 196, which require that certain determinations be made only upon “clear and convincing evidence” or “a preponderance of the evidence.”<sup>4</sup>

The CPCN law provides that the Commission “shall approve an application . . . for a certificate of public convenience and necessity only if the commission determines . . .” that a proposed project will be free of specified adverse impacts and in the public interest. Wis. Stat. § 196.491(3)(d). These determinations are fact-intensive, and the Commission’s action in approving or denying an application ultimately depends on the facts found by the Commission. As such, the standard of proof that the Commission must apply can be logically inferred from the standard of review set forth in Wis. Stat. § 227.57(6), which requires a court to remand a CPCN decision back to the Commission if its decision “depends on any finding of fact that is not supported by substantial evidence in the record.”

As the courts have explained, “the substantial evidence test is not weighing the evidence to determine whether a burden of proof is met. Such tests are not applicable to administrative decisions.” *Wisconsin Ass’n of Mfrs. & Commerce, Inc. v. Pub. Serv. Comm’n*, 94 Wis. 2d 314, 321, 287 N.W.2d 844, 847 (Ct. App. 1979). The substantial evidence test simply requires that there be enough evidence for a finding to be reasonable. *Kitten v. DWD*, 2002 WI 54, 252 Wis. 2d 561, 644 N.W.2d 649; *see also Gateway City Transfer Co. v. Pub. Serv. Comm’n*, 253 Wis. 397, 405, 34 N.W.2d 238, 242, 1948 WL 60150 (1948). In other words, a court must determine whether the Commission used its technical competence and specialized knowledge to determine the persuasiveness of the evidence and reach a well-reasoned decision.

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<sup>4</sup> *See, e.g.*, Wis. Stat. §§ 196.499(5)(d), 196.64(2), 196.795(7)(c).

In light of this standard of proof, for each finding that the CPCN law requires the Commission to make, the Commission focuses on evaluating the evidence to identify the finding that is supported by substantial evidence. The standard of proof applicable to CPCN determinations renders the question of an applicable burden of proof a subordinate consideration. A burden of proof consists of a burden of going forward and a burden of persuasion.<sup>5</sup> The import of a burden of proof is generally effectuated through the burden of persuasion, rather than the burden of going forward. Therefore, although in administrative hearings such as this one the common-law rule that the moving party has the burden of proof is generally observed,<sup>6</sup> observation of this rule is fulfilled by evaluating the evidence to determine whether a finding is supported by substantial evidence.

### **Party and Public Participation**

The Commission's proceeding on this CPCN application developed an extensive record from the public and parties on all the issues that the Commission must consider in reviewing a project under Wisconsin law. The applicants, Clean Wisconsin and RENEW provided evidence in this proceeding that included expert testimonies and exhibits. Additionally, members of the public commented both in writing and through appearances at the public hearings about the impact that this project may have on them and their communities. Many of the public comments pertained to concerns related to the potential impacts to the environment and aesthetics of the area. This information assisted the Commission in its review of the application, in understanding the different perspectives toward the project, and in making its determinations on the application.

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<sup>5</sup> *Hocgurtel v. San Felippo*, 78 Wis. 2d 70, 86, 253 N.W.2d 526 (1977).

<sup>6</sup> *Sterlingworth Condominium Ass'n Inc. v. Wis. Dept. of Natural Res.*, 205 Wis. 2d 710, 726, 556 N.W.2d 791 (Ct. App. 1995).

### **Project Design and Location**

The Commission must consider alternative locations when determining whether a proposed generation facility is in the public interest. Wis. Stat. § 196.491(3)(d)3. A CPCN application must describe the siting process, identify the factors considered in choosing the alternative sites, and include specific site-related information for each site. Wis. Admin. Code § PSC 111.53(1)(e)-(f). A CPCN for a large electric generation facility requires the submittal of “site-related information for each of two proposed power plant sites.” Wis. Admin. Code § PSC 111.53(1)(f).

#### **Applicants’ Siting Process**

The applicants’ CPCN application complies with the requirements described above. The application explained a process used to screen areas in Wisconsin based upon the solar resource, proximity to transmission infrastructure, topography, ground cover, and community acceptance. It also described how specific solar siting areas were selected and how the applicants confirmed the suitability of these locations. The record reflects examination of each of the solar siting areas. In addition, the applicants identified and provided information regarding 25 percent more siting areas on leased properties within the project area that meet all of its siting criteria. The inclusion of at least 25 percent additional siting areas meeting the siting criteria has become a

standard by which the Commission evaluates an applicants' compliance with the requirement that an applicant offer site alternatives in solar electric generation dockets.<sup>7 8</sup>

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

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<sup>7</sup> In a previous docket concerning a wind project, the Commission found that the project applicant met the requirement to offer site alternatives by identifying 25 percent more turbine locations than it proposed to develop. *Application of Forward Energy LLC for a Certificate of Public Convenience and Necessity to Construct a Wind Electric Generation Facility and Associated High Voltage Electric Transmission Facilities, to be Located in Dodge and Fond du Lac Counties*, docket 9300-CE-100 (July 14, 2005). On appeal, the Dodge County Circuit Court affirmed this method of offering site alternatives for a wind project. *Horicon Marsh Systems Advocates and Joe M. Breaden v. Public Service Commission of Wisconsin and Forward Energy LLC*, Dodge County Case No. 05-CV-539; "Memorandum Decision and Order" of Circuit Judge John R. Storck (March 23, 2006). In previous solar electric generation dockets, the Commission has applied a similar analysis, concluding that an applicant complies with this requirement by providing 25 percent additional siting areas with the proposed project as an alternative.

<sup>8</sup> See, e.g., *Application for Certificate of Public Convenience and Necessity of Wood County Solar Project, LLC to Construct a Solar Electric Generation Facility in the Town of Saratoga, Wood County, Wisconsin*, docket 9803-CE-100, March 4, 2021, [PSC REF#: 406282](#) at 12; *Application for Grant County Solar, LLC to Construct a New Solar Electric Generation Facility located near Potosi and Harrison townships, in Grant County, Wisconsin*, docket 9804-CE-100, May 17, 2021, [PSC REF#: 411529](#) at 12; *Application for a Certificate of Public Convenience and Necessity of Onion River Solar, LLC to Construct a Solar Electric Generation Facility in the Town of Holland, Sheboygan County, Wisconsin*, docket 9805-CE-100, June 18, 2021, [PSC REF#: 413949](#) at 11-12; *Application for a Certificate of Public Convenience and Necessity of Darien Solar Energy Center, LLC to Construct a Solar Electric Generation Facility in the Town of Bradford, Rock County, and the Town of Darien, Walworth County, Wisconsin*, docket 9806-CE-100, Aug. 5, 2021, [PSC REF#: 418117](#) at 12; *Application for a Certificate of Public Convenience and Necessity of Springfield Solar Farm, LLC to Construct a Solar Electric Generation Facility in the Town of Lomira and the Village of Lomira, Dodge County, Wisconsin*, docket 9807-CE-100, Oct. 12, 2021, [PSC REF#: 422918](#) at 11-12; *Application for a Certificate of Public Convenience and Necessity of Apple River Solar, LLC to Construct a Solar Electric Generation Facility in the Towns of Clayton, Beaver, Apple River, and Lincoln, Polk County, Wisconsin*, docket 9808-CE-100, Oct. 15, 2021, [PSC REF#: 423202](#) at 10-11; *Application for a Certification of Public Convenience and Necessity of Portage Solar, LLC to Construct a Solar Electric Generation Facility in the Towns of Grant and Plover, Portage County, Wisconsin*, docket 9810-CE-100, April 10, 2023, [PSC REF#: 463896](#) at 12; *Application for a Certificate of Public Convenience and Necessity of Koshkonong Solar Energy Center LLC to Construct a Solar Electric Generation Facility in the Towns of Christiana and Deerfield, Dane County, Wisconsin*, docket 9811-CE-100, May 5, 2022, [PSC REF#: 437761](#) at 21-22.

The proposed and alternative siting areas that the applicants have identified meet both of these standards. The areas provide differing environmental and participant impacts, and the alternative solar array areas offer more than 25 percent additional possible solar siting areas.

As part of the application and consistent with the alternative location requirement included in Wis. Stat. § 196.491(3)(d)3., the applicants included additional sites to meet the minimum requirement of 25 percent additional MW (68.5 MW AC) for solar panels, and an additional alternate route segment for the gen-tie line. The Commission requires these additional siting areas for two reasons:

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

The applicants identified which of the array areas and gen-tie routes were preferred (also referred to as “proposed”) and alternate in Appendix A to their application. ([PSC REF#: 491013](#) and [PSC REF#: 515658](#).) The proposed and alternate arrays and routes are siting areas that the applicants have identified meet their siting criteria, and the applicants have secured land rights to these areas. The different arrays provide differing environmental and participant impacts. The



different generation tie line routes provide differing environmental impacts but similar participant impacts.

The applicant proposed two generation tie line route options, as required in Wis. Admin. Code § PSC 111.55(10), which differ in one segment (2A and 2B). As shown in the revised application, the proposed generation tie line routes share a common segment, Segment 1, which runs due north from the project substation and crosses 11 ½ Ave. The routes then diverge into segments 2A and 2B, which run northwest towards State Trunk Highway (STH) 25, with segment 2B running parallel with and to the north of 2A for approximately 0.3-mile. The proposed and alternate segments converge into segment 3 and run parallel to STH 25 due north, cross west over the highway, then north and west to connect to the DPC Barron Substation. The generation tie line would use only new right-of-way.

#### **Authorized Project Site and Route**

When deciding siting, the relevant inquiry is whether the proposed project site will cause undue individual hardships or undue adverse impact on other environmental values. *See* Wis. Stat. §§ 196.491(3)(d)3. As the record compiled for this proceeding reveals and the remainder of this Final Decision demonstrates, the Commission conducted a robust analysis of the potential impacts to the surrounding landowners, the community, and to the environment. The Commission is tasked with weighing and contrasting those impacts, balancing the competing interests of those for and against the project, and considering the benefits of the project.

The Commission concludes that all of the proposed or alternative sites for solar arrays, BESS, and associated facilities are in the public interest considering the siting criteria of Wis. Stat. § 196.491(3)(d)3. Therefore, the Commission finds it reasonable to allow the applicants to use any of the proposed and alternative solar array sites as needed to accommodate

environmental, technical, and landowner issues as they arise during construction of the project and provided that the project size shall remain at the 259.6 MW AC installed capacity for the solar PV electric generation facility approved in this Final Decision, as well as an installed capacity of 50 MW/200 MWh AC for the project BESS. If the situation arises where the applicants elect to use an alternative array area, the applicants shall provide written notice to the Commission within 30 days of identifying such alternative arrays and shall follow the procedures outlined in this Final Decision relating to Minor Siting Adjustments, as applicable.

Upon consideration of the record evidence and the siting requirements of Wis. Stat. §§ 1.12(6), 196.025(1m) and 196.491(3)(d), the Commission finds it reasonable to authorize the proposed route (segments 1, 2B, and 3) for the 161 kV gen-tie transmission line that would connect the project substation to the existing DPC Barron Substation. The proposed route would total 1.78 miles in length, as opposed to 1.79 miles for the alternate route. Although the routes are largely similar, the segment distinguishing the alternate route from the proposed would result in greater impacts such as requiring an additional 0.5-acre of tree clearing.

As described more fully in this Final Decision, the proposed sites meet the siting criteria of Wis. Stat. §§ 196.491(3)(d)3. and 4. and will not cause undue individual hardships or adverse impacts on the environment. To the extent there are some impacts, these impacts can be mitigated through the conditions imposed by the Commission in its authorization as identified in this Final Decision.

### **Individual Hardships and Safety**

In determining whether the proposed project meets the statutory standard for a CPCN, the Commission considered individual hardships as required by Wis. Stat. § 196.491(3)(d)3. Several members of the public voiced concerns regarding the potential impacts of the facility being

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constructed in their area. Aesthetic concerns and the potential for increased noise, glare from the panels, facilities or property damage, safety concerns, and the change of land use from a rural farmed landscape to many acres of panels were discussed in comments provided by members of the public and reviewed by Commission staff in the EA and Supplemental EA for this proceeding. The Commission reviewed and considered these concerns in arriving at its Final Decision.

The applicants have been involved in outreach and efforts to work collaboratively with the local community since January of 2024. As stated in rebuttal testimony, the applicants are continuing to pursue Good Neighbor Agreements with non-participating landowners and continue to negotiate JDAs with Barron County and local municipalities. The Commission finds such efforts to be valuable and encourages the applicants to continue such negotiations and other ongoing commitments the applicants have made. The Commission therefore finds it reasonable to impose an order condition similar to those typically used in Certificate of Authority (CA) dockets<sup>9</sup> and require that the applicants shall follow through on any other commitments it has made in the application for the Commission's consideration in this docket.

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<sup>9</sup>*Application of American Transmission Company LLC, as an Electric Public Utility, for a Certificate of Authority to Rebuild 21 Miles of Existing 69 kV Transmission Line (T-98 and E-83) to a Double-Circuit 138 kV Line between the Bayport and Pioneer Substations in the Villages of Howard and Suamico in Brown County, and in the Towns of Abrams, Little Suamico, and Stiles in Oconto County, Wisconsin*, docket 137-CE-190, March 19, 2020, [PSC REF#: 385977](#) at 17; *Application of American Transmission Company LLC, as an Electric Public Utility, for a Certificate of Authority to Construct for the Cottage Grove Facility Asset Renewal Project located in the Town of Pleasant Springs, Dane County, Wisconsin*, docket 137-CE-197, April 6, 2022, [PSC REF#: 434647](#) at 9; *Application of the Village of Mazomanie, as an Electric Public Utility, for Authority to Construct and Place in Service an addition to the 12.47 kV Substation on the West Side of the Village, in the Village of Mazomanie, Dane County, Wisconsin*, docket 3740-CE-104, April 25, 2024, [PSC REF#: 499151](#) at 13; *Application of the City of Sun Prairie, as an Electric Public Utility, for Certificate of Authority to Construct the Business Park Substation Phase 2 Project, in the City of Sun Prairie, Dane County, Wisconsin*, docket 5810-CE-109, September 26, 2022, [PSC REF#: 448080](#) at 11; *Application of Northern States Power Company-Wisconsin for a Certificate of Authority to Construct the Boot Lake to Chain O Lakes 34.5 kV Transmission Line and Substation Project in Vilas County, Wisconsin*, docket 4220-CE-186, March 13, 2024, [PSC REF#: 493903](#) at 20.

Project facilities would cause visual impacts to the surrounding area which could be viewed as negative due to the change in nature of the landscape. The applicants stated in the application that they would work with adjacent landowners on reasonable vegetative buffers and screening, as appropriate, following completion of the project. To ensure such efforts continue and to allow the Commission to track such efforts, the Commission finds it reasonable to require that the applicants work with interested non-participating landowners that are adjacent to solar panel arrays on one or more sides of their property to create visual buffers and screening in order to mitigate visual impacts, to the extent reasonable and economically feasible, and not otherwise impeding solar operations or access to sunlight.

To address safety concerns, the applicants have agreed to construct, maintain and operate the facilities to comply with National Electric Code and National Electrical Safety Code and Wis. Admin. Code ch. 114 as appropriate, and to construct, maintain and operate the BESS facilities to follow best industry safety practices for ensuring battery fire safety. In addition and as described in Order Conditions 4 and 5, the applicants have agreed to provide its emergency response plan to the Commission and report on any safety incidents.

The Commission finds that the conditions imposed as part of its approval of the project, as described and more fully in this Final Decision, will mitigate any individual hardships that may be experienced. Those conditions include, but are not limited to, requirements relating to noise, stray voltage testing, and compliance with all applicable safety requirements and protocols relating to the design, construction, and operation of the facility. Therefore, the Commission finds that the project will not create undue individual hardships or safety risks that either cannot be addressed or mitigated.

## **Reliability**

In determining whether the proposed projects meet the statutory standard for a CPCN, the Commission considered reliability as required by Wis. Stat. § 196.491(3)(d)3. The applicants have indicated their intent to comply with the applicable interconnection requirements to ensure the interconnection of the project will not result in adverse reliability impacts to the grid. The applicants have worked with DPC to determine the appropriate location and grounding methodology for the proposed substation. Therefore, the Commission concludes that the project, as conditioned by this Final Decision, will not adversely affect reliability consistent with Wis. Stat. § 196.491(3)(d)3.

The transmission interconnection facility requirements for the proposed project are being determined through the MISO Generator Interconnection Queue study process. The project is represented in MISO's interconnection process as two queue positions, J1808 and J3198. Both queue positions are currently being reviewed in the Definitive Planning Phase (DPP) study phase and, as of the date of the Commission's discussion, a GIA has not been executed for either of the queue positions. Consistent with the Commission's Final Decisions for the Darien Solar project, docket 9806-CE-100, and Koshkonong Solar project, docket 9811-CE-100, the Commission finds it reasonable here to require the applicants to provide the results of all MISO DPP studies and facilities studies related to the project, including interconnection queue positions J1808 and J3198, and surplus interconnection study reports related to these queue positions, and the Generator Interconnection Agreements (GIAs) related to the project when each of them have been completed.

## Energy Priorities Law

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

- 1.12 State energy policy. (4) PRIORITIES.** In meeting energy demands, the policy of the state is that, to the extent cost-effective and technically feasible, options be considered based on the following priorities, in the order listed:
- (a) Energy conservation and efficiency.
  - (b) Noncombustible renewable energy resources.
  - (c) Combustible renewable energy resources.
  - (cm) Advanced nuclear energy using a reactor design or amended reactor design approved after December 31, 2010, by the U.S. Nuclear Regulatory Commission.
  - (d) Nonrenewable combustible energy resources, in the order listed:
    - 1. Natural gas.
    - 2. Oil or coal with a Sulphur content of less than 1 percent.
    - 3. All other carbon-based fuels.

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

The Commission has an obligation to consider these priorities in all energy-related decisions including construction of new electric generation facilities.<sup>10</sup> The EPL instructs the Commission to implement the energy priorities to the extent they are environmentally sound, and the Commission must assess the environmental impacts of a wholesale merchant plant under Wis. Stat. § 196.491(3)(d)3.

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<sup>10</sup> Wisconsin Stat. § 196.025(1)(ar) provides: "To the extent cost-effective, technically feasible and environmentally sound, the commission shall implement the priorities under s. 1.12(4) in making all energy-related decisions and orders, including advance plan, rate setting and rule-making orders."

As this is a merchant plant, the Commission does not consider whether the plant will satisfy the reasonable needs of the public for an adequate supply of electric energy or alternative sources of supply, engineering, or economic factors. Wis. Stat. §§ 196.491(3)(d)2. and 196.491(3)(d)3. Accordingly, there are no alternative sources of supply and need for the Commission to consider.

The proposed project will be a new solar electric generation facility. As such, it is a “noncombustible renewable energy resource” and is entitled to the highest priority of all energy generation resources under the EPL. No evidence was presented in the record that energy conservation and efficiency could be used to replace the energy and capacity from the proposed project in a cost-effective, technically feasible, and environmentally sound manner.

The Commission concludes that energy and capacity from the proposed project cannot be replaced by energy conservation and efficiency, the highest priority alternative. The EA for the proposed project concluded that “approval and construction of this project is unlikely to have a significant impact on the human environment.” ([PSC REF#: 510023](#) at 83.) The Supplemental EA reached the same conclusion, after analyzing changes to the gen-tie route and project substation location. ([PSC REF#: 524911](#) at 88.) Additionally, the objective of the law is to deploy environmentally preferable options first when meeting Wisconsin’s energy needs, not to require that measures such as conservation or energy efficiency displace a project if not obviously technically feasible or more cost effective.<sup>11</sup> This project aligns with that objective. Therefore, the Commission finds that the proposed project satisfies the requirements of the EPL.

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<sup>11</sup> See also Wis. Stat. §§ 1.12(3)(b) and 196.377.

### **Compliance with the Wisconsin Environmental Policy Act and Environmental Review**

The Wisconsin Environmental Policy Act (WEPA) requires all state agencies to consider the environmental impacts of “major actions” that could significantly affect the quality of the human environment. Wis. Stat. § 1.11. Additionally, before granting a CPCN for the proposed project, the Commission must also determine that the project is in the public interest when considering environmental factors, and that the project will not have an undue adverse impact on 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. Wis. Stat. § 196.491(3)(d)3. and 4.

The proposed electric generation project was reviewed by the Commission for environmental impacts. Wisconsin Admin. Code ch. PSC 4, Table 2, identifies construction of an electric energy storage facility, which would include projects with a BESS, as a Type II action. *See also* Wis. Admin. Code § PSC 4.10(2). Type II actions are those “that have the potential to significantly affect the quality of the human environment” and thus require the preparation of an EA to determine whether an EIS is required. *Id.*

An EA was prepared for the proposed project, and a Supplemental EA was also prepared due to a change in the proposed project’s gen-tie line and project substation location. The Supplemental EA included all relevant information from the EA and updated the analysis to address the new gen-tie routes and project substation relocation. The environmental review focused primarily on impacts to wildlife, including rare or endangered species, aesthetics, historic resources, wetlands and waterways, and local landowner impacts. 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. Commission staff used the application and data request response materials provided by the applicants including text, photographs, maps, and land use plan documents. Commission staff also reviewed any written or oral comments provided by government officials, the public, or other interested persons. Additionally, various websites were used to review information related to the project and any potential impacts. DNR staff authored portions of the EA and Supplemental EA documents relating to impacts to wetlands and waterways, endangered species, and other DNR responsibilities.

Provided the project is built as described, including modifications described in the data request responses, the EA and Supplemental EA do not indicate that significant adverse impacts are likely. The EA concluded that “approval and construction of this project is unlikely to have a significant impact on the human environment...” ([PSC REF#: 510023](#) at 83.) The Supplemental EA reached the same conclusion. ([PSC REF#: 524911](#) at 88.) The Commission concluded that no EIS is required and finds that the environmental review conducted in this proceeding complies with the requirements of Wis. Stat. § 1.11 and Wis. Admin. Code ch. PSC 4.

The Commission also finds that based upon environmental review and the record developed in this proceeding, as described herein, that the project will not have undue adverse impacts on other environmental values as provided under Wis. Stat. § 196.491(3)(d)4., and therefore satisfies the CPCN statutory criteria. To the extent there are some environmental impacts, the Commission finds that these impacts can be mitigated by conditions imposed by this Final Decision.

### **Main Environmental Effects of the Project**

The results of the staff environmental review for this project are described in the EA and Supplemental EA. Based on Commission and DNR staff analysis, the main environmental effects associated with constructing the proposed project include:

- Disturbance of vegetation and removal of several acres of trees;
- Disturbance of wildlife due to fencing and land use changes;
- Removal of land that could be used for other purposes;
- Aesthetic changes resulting from new visual impacts to the area;
- Changes in plant species compositions in the project area due to removal of vegetation, construction processes, and new plantings.

### **Construction and Post-Construction Impacts**

The project would cause mostly temporary effects during construction, such as increased traffic, noise, and air pollution. There would be increased traffic in the project area as employees and deliveries arrive at and leave the project work areas. The applicants have reviewed roads for use of the project and prepared a Road Condition Report.

Removal of topsoil and other construction actions could cause issues with water flows onto nearby areas. The applicants would be required to meet Wisconsin Pollutant Discharge Elimination System stormwater regulations administered by DNR. The applicants plan to follow stormwater and erosion control Best Management Practices (BMP) to reduce the risk of water runoff and soil damage during construction.

DNR witness Samantha Whitens testified regarding the erosion problems that can occur on utility-scale solar construction sites. Problematic erosion can occur during winter construction activities and DNR witness Samantha Whitens proposed order condition language

that would require the applicants to submit a site-specific winter stabilization plan with the Storm Water Pollution Prevention Plan (SWPPP) that includes measures to stabilize bare soils during winter conditions. Direct-DNR-Whitens-8 ([PSC REF#: 508919](#)). The applicants agreed with this condition but noted they did not believe it required a separate submittal and could be included in the final SWPPP for the project. Rebuttal-MGS-Ripa-6 ([PSC REF#: 514663](#)). The Commission finds that this order condition is necessary for approval of the proposed project.

Chairperson Strand dissents and would not have required a site-specific winter stabilization plan.

An additional consideration for erosion and sediment control is the use of appropriate vegetation to help achieve soil stabilization. There have been several instances of stormwater management and erosion control problems in previous solar construction projects. Ex.-WDNR-Whitens-1 and 2 ([PSC REF#: 508869](#), [PSC REF#: 508870](#)). DNR witness Whitens suggested an order condition requiring the applicants to submit vegetation progress reports documenting areas that have achieved 70 percent uniform vegetation density. Direct-WDNR-Whitens-7-8 ([PSC REF#: 508919](#)). The applicants agreed to submit these vegetation progress reports in testimony. Rebuttal-MGS-Ripa-6 ([PSC REF#: 514663](#)). The Commission finds it reasonable to require the applicants to submit vegetation management progress reports documenting areas that have achieved 70 percent uniform vegetation density.

The Vegetation Management Plan for the proposed project included proposed protocols for vegetation management actions such as mowing and herbicide treatments. Four years following initial project vegetation establishment and through the remainder of the project lifespan, or the long-term maintenance period, mowing events could negatively impact pollinators and wildlife species utilizing the project-created grassland habitat. Commission staff

asked the applicants in a data request if a time of year restriction for mowing events would be considered to mitigate impacts to species in the project area. ([PSC REF#: 517717](#).) The applicants responded that the suggested restriction would not be feasible to control invasive or weedy species, however that they were open to discussing timing restrictions. The applicants agreed in testimony to discuss long-term maintenance as needed given the unpredictable nature of species growth rates. The Commission finds it reasonable to require the applicants to discuss the mowing time of year restrictions with Commission and DNR staff prior to the Long-Term Maintenance period as identified in the Vegetation Management Plan.

The proposed project's Graminoid Plus seed mix included aggressive species, such as red fescue, that could threaten the viability of native species in the solar array seed mix. DNR staff provided recommendations to remove aggressive species from the proposed Low Grow Native/Non-native Graminoid and Wildflower Seed Mix, and in response the applicants agreed to remove Rough Bluegrass and Kentucky Bluegrass. ([PSC REF#: 504139](#) at 1.) The applicants also agreed in testimony to remove red fescue from the seed mix and replace with another species. Rebuttal-MGS-Wiater-4 ([PSC REF#: 514665](#)). Therefore, the Commission finds it reasonable to include the suggested order condition requiring that all non-native, aggressive species, including red fescue, shall be removed from the Graminoid Plus seed mix proposed in its vegetation management strategy for all arrays and replaced with those species with less-aggressive native species.

Several wetlands and waterways will be impacted as a result of this project. DNR staff witness Geri Radermacher recommended conditions to mitigate for the impacts to wetlands and waterways as a result of the project, apart from any required DNR permits for the project. Direct-WDNR-Radermacher-5-6 ([PSC REF#: 508865](#)). The applicants supported the proposed

conditions with a caveat allowing flexibility in sequencing construction (i.e. “where possible”) relating to condition (v). Rebuttal-MGS-Ripa-5 ([PSC REF#: 514663](#)). The Commission finds it reasonable to require that the applicants take the following actions related to wetlands and waterways:

- i. Prior to construction, install signage at wetland and waterway boundaries to alert construction crews to not work within or access across these areas unless permit coverage was granted for the area.
- ii. Develop and implement a Storm Water Erosion Control Plan and a Stormwater Management Plan that meet or exceed the standards found in Wis. Admin. Code chs. NR 216 and NR 151. Implement the technical standards developed per Subchapter V of Wis. Admin. Code § NR 151.
- iii. Install all site-specific sediment and erosion control measures and devices prior to any construction activities commencing and regularly inspect and maintain them through all construction and restoration phases.
- iv. Provide copies of all plans and environmental documents to construction crews and inspectors. Plans should clearly label the locations of wetlands and waterways and include language stating vehicle access, storage of materials, grading, and all other construction activities are not permissible within these areas. Plans should also clearly label where sediment and erosion control measures and devices need to be installed if working adjacent to wetlands and waterways.
- v. Implement a construction sequencing plan where possible that minimizes the amount of land disturbed or exposed (susceptible to erosion) at one given time across the project.
- vi. Vegetate disturbed areas and areas of exposed soil as soon as possible and seed with a cover crop and/or native seed mix to minimize erosion potential and prevent the establishment of invasive species.
- vii. 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.
- viii. Leave existing vegetative buffers in place to the maximum extent practicable.

- ix. Avoid the use of herbicide in wetlands and near waterways, or utilize herbicides approved for use in aquatic environments.

### **Tree Clearing**

Up to 91.8 acres of upland forest is proposed to be cleared for the project including generator tie line and perimeter areas. Approximately 5.0 acres of upland forest within proposed array areas would require clearing for this project, with 80.2 acres of upland forest within alternate arrays to be cleared if utilized. The proposed tree clearing could impact roosting bats, migratory birds, and risk spreading invasive species and pathogens. Implementing tree clearing avoidance periods could decrease the risk of impacting these sensitive resources. In Wisconsin, the suggested tree clearing restriction period to avoid impacts to roosting bats is from June 1 through August 15, as per DNR. The applicants proposed to conduct tree clearing during the dryer months of the year, August through mid-March. In rebuttal testimony, the applicants agreed to extend the proposed tree clearing avoidance period through August 15. Rebuttal-MGS-Wiater-4 ([PSC REF#: 514665](#)). The Commission finds it reasonable to require that the applicants, to the extent reasonably possible, avoid tree clearing activities during the period of March 15 through August 15.

### **Wildlife**

Project area array fencing could impact wildlife movement. Specific “wildlife-permeable” fencing could fix issues of wildlife movement. DNR staff witness Stacy Rowe made recommendations in the record to alter fence heights to deter access by persons while allowing small animal movement. Direct-WDNR-Rowe-5-6 ([PSC REF#: 508866](#)). The recommendation was to raise the fence a minimum of 6 inches off the ground or have openings of at least 7 inches by 12 inches throughout the project area. The applicants agreed in rebuttal testimony to install

fencing 6 inches off the ground for the perimeter fence, however did not agree to the option of creating larger openings at least 7 inches by 12 inches in the fence. Rebuttal-MGS-Wiater-4 ([PSC REF#: 514665](#)). The Commission finds it is reasonable to require that fence height be raised a minimum of 6 inches off the ground to allow small wildlife, including turtles, access in and out of the project area.

### **Archeological and Historic Resource Review**

As directed by Commission staff in the application filing requirements (AFR), the applicants identified recorded site locations from the Wisconsin Historic Preservation Database (WHPD) to determine whether any recorded resources within or adjacent to the project area might be physically or visually impacted by the project.<sup>12</sup> ([PSC REF#: 515639](#).) This is known as the “Area of Potential Effect” (APE).

The applicants determined the boundaries, historic significance, and integrity of each resource, including archaeological sites and historic buildings or districts within the APE. This information was requested for the Commission’s Historic Preservation Officer (HPO) to determine whether the property recorded on WHPD satisfies the criteria of significance established in Wis. Stat. § 44.36(2) for it to be considered a historic property.

The Commission HPO reviewed the application materials for effects to historic properties recorded in WHPD and within the APE, as described in the Supplemental EA ([PSC REF#: 524911](#) at 45):

- No known cemeteries or burial sites are present within the project area; therefore, a Burial Site Disturbance Authorization/Permit is not required.

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<sup>12</sup> Application Filing Requirements for Solar Energy Projects, section 5.14. Accessed at: [https://psc.wi.gov/Documents/AFR/AFR\\_SolarGeneration.pdf](https://psc.wi.gov/Documents/AFR/AFR_SolarGeneration.pdf)

- The applicants would follow the Unanticipated Discoveries Plan if unrecorded archaeological sites are discovered during construction, with the Commission and WHS being informed if significant archaeological sites or human burials are encountered. Local law enforcement would also be contacted immediately if human burials are discovered. Wisconsin Tribal Historic Preservation Officers would be contacted if any Native American human burial sites or significant prehistoric archaeological sites are discovered.
- No archaeological or historic resources were identified within the project area.
- No known Native American burial sites or significant prehistoric archaeological sites would be within the project area.
- Four archaeological sites, two burial sites, and 17 historical structures are located within one mile, but outside, of the project area. No National Register of Historic Places (NRHP) listed resources were located within one mile of the project area, however two structures were determined as potentially eligible for listing, and one was not evaluated. The two potentially eligible structures are both 0.98-mile from the project area, one of which was recommended for eligibility and one was not. Due to the intervening distance, vegetation, and buildings, neither of those structures are anticipated to be affected by the project. The previously unevaluated structure is known as the School District No. 7, a schoolhouse directly adjacent to the project area, and was recommended for NRHP eligibility. The Wisconsin State Historical Preservation Office (SHPO) completed a review and determined that the project as proposed would not adversely affect the schoolhouse. ([PSC REF#: 524911](#) Appendix A).



The cultural resources investigations determined that there will likely be no adverse effects associated with the siting and construction of the proposed project on cultural resources listed in or eligible for either the NRHP or the Wisconsin State Register of Historic Places. No significant cultural resources would be impacted by the proposed project.

### **Public Health and Welfare**

As the Wisconsin Supreme Court has declared, issuing a CPCN is a legislative determination involving public policy and statecraft. *Clean Wisconsin, Inc. v. Pub. Serv. Comm'n of Wisconsin*, 2005 WI 93, ¶ 35, 282 Wis. 2d 101.2, 700 N.W.2d 768. Wisconsin Stat. § 196.491 assigns to the Commission the role of weighing and balancing many conflicting factors. In order to determine whether construction of a new electric generating facility is reasonable and in the public interest, the Commission must not just apply the priority list in Wis. Stat. § 1.12(4), but also must examine the conditions written into that law and consider the purpose of the legislation.

These statutes require that when the Commission reviews a CPCN application for a wholesale merchant plant generating facility, it must determine whether the project is in the public interest when considering individual hardships, safety, interference with orderly local land use and development plans, environmental factors, reliability, and any potential impacts to wholesale electric competition. Ultimately, the Commission must determine whether granting or denying a CPCN will promote the public health and welfare. After weighing all of these factors and all of the conditions it is imposing, the Commission finds, for the reasons set forth in this Final Decision and administrative record developed for this proceeding, that issuing a CPCN is

in the public interest considering its assessment of individual hardship, safety, reliability and environmental impacts.

In preparing the EA and Supplemental EA for this project, Commission staff reviewed the information from the applicants' CPCN application, responses to Commission staff data requests, maps, geographic information system data, aerial imagery, and reports from consultants. Commission staff assessed information from other sources including comments from individuals, state and federal agency information, local officials, and scientific literature. Commission staff also coordinated review with DNR to assess wetland, waterway, and endangered resource impacts. The applicants agreed to incorporate some recommendations from the Commission and DNR into their project to mitigate environment impacts, and the Commission imposes additional conditions as described in this Final Decision.

The record before the Commission reflects an expectation that if these facilities are decommissioned after the projected 35-year life span of the project, the land could be returned to agricultural use. Because of the passive nature of solar energy generation, operations activities at the site will be minimal.

Approval of the proposed project will provide 228 MW of noncombustible renewable energy to the state of Wisconsin at the POI. Renewable generation projects such as this one promote public health and welfare by generally avoiding many of the impacts created by other types of electric generation. The applicants and supporting intervenors identified other positive environmental attributes of the proposed project such as improving air and water quality, reducing agricultural nutrient runoff, enhanced plant and wildlife habitat, and soil revitalization for future agricultural use.

The project will also generate economic benefits through job creation, landowner lease payments, tax revenue, and payments to the Town of Maple Grove and Barron County from the Shared Revenue Utility Aid Formula.

For these and the other reasons identified in the record and highlighted in this Final Decision, the Commission finds that the project is in the public interest and satisfies the CPCN statutory requirements.

### **Impacts to Non-participating Landowners**

The Commission finds that the proposed project facilities are to be built in an area that is largely agricultural and is under voluntary contracts with landowners. To the degree that there are non-participating landowners, the Commission's EA and Supplemental EA determined that potential impacts to these non-participating landowners would not be significant. These findings combined with the outreach efforts within and commitments to the local community give the Commission confidence that the impacts to non-participating landowners have been thoroughly investigated and addressed by the applicants and Commission staff.

Landowner participation in this project is entirely voluntary and required lease, easement and/or purchase options on all acreage required for the project facilities. Communication with non-participating neighbors is expected to continue throughout the development process.

### **Noise**

The applicants completed a noise study using the technical specifications of planned equipment to measure the current sound levels around the project area and estimate the noise impact of the facility (application Appendix P). ([PSC REF#: 524610](#).) The results show the highest predicted operational noise level of 45 A-weighted decibels at the nearest residence,

which meets the criteria of Wis. Admin. Code § PSC 128.14, a standard for wind energy systems that most solar developers use as a goal, for both daytime and nighttime periods.

([PSC REF#: 524911](#) at 54-55.)

The facility would not violate any known county or town noise ordinances. The applicants shall perform post-construction noise studies as described in the most current version of the PSC Noise Measurement Protocol. The applicants 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 applicants shall confer with Commission staff to determine if a new pre-construction noise study must be completed. The applicants shall file a copy of the post-construction noise study report with the Commission.

### **Glint and Glare**

The applicants conducted a Glare Study (application Appendix N, parts 1-4) ([PSC REF#: 491047](#)) to analyze the potential for glare from the arrays throughout the day and yearly seasons to 71 residences in the vicinity of the proposed arrays. Nine public road segments or routes in the vicinity of the arrays were also assessed. The applicants also used Federal Aviation Administration guidelines to assess glare to flight paths, helipads, public road segments or routes, and Air Traffic Control Towers. According to the results of the Glare Study, glare is most frequently predicted to a late in the morning for up to 45 minutes on short segments of 15<sup>th</sup> Street and 16<sup>th</sup> Street from November through January. The 71 residences included in the assessment were not predicted to receive glare. Glare is also not predicted for pilots approaching the airports or hovering over the helipads.

The applicants state that the project is not anticipated to raise concerns based on these modeled results, which indicate that none of the observation points would have glare of an

intensity to cause permanent impacts, while two road segments may experience green glare (low potential to cause temporary after-image for viewer). If concerns regarding glare arise after the project is operational, the applicants plan to offer mitigation options including installing vegetation or other screening methods.

### **Land Use and Development Plans**

Wisconsin Stat. § 196.491(3)(d)6. requires that a proposed generation facility not “unreasonably interfere with the orderly land use and development plans for the area involved.” A utility or wholesale merchant infrastructure project will have some impact on land use and development plans for the area involved. The question is whether the project will “unreasonably interfere” with land use and development plans, and must also take into account the benefits of the proposed project.

The majority of the project area would be within the Exclusive Agricultural District Zoning (A-1) and the General Agriculture District (A-2) of Barron County, with a portion of the gen-tie route within the City Extraterritorial Zoning. The applicants believe that the proposed project would not interfere with local planning based on the zoning codes and plans outlined in the Comprehensive Plans for the Town of Barron, City of Barron, and Barron County.

The applicants stated in response to data requests that Joint Development Agreement (JDA) negotiations are still ongoing with the three local units of government. Continuation of negotiations is discussed further in the project-specific conditions of this Final Decision.

A utility infrastructure project will have some impact on land use and development plans for the area involved. The Commission takes seriously that areas within the fenced solar arrays would likely be taken out of agricultural production for the life of the project, but must balance

those concerns with the right of individual landowners to use their properties in the manner they choose.

The applicants are not a public utility and do not possess statutory eminent domain authority. The applicants must secure long-term lease agreements with landowners in the project area to acquire the property for the generation facility. The changes to land use are agreed to by the landowners who have signed leases with the applicants, and after decommissioning, the land may return to a use similar to its current use.

The Commission recognizes that the proposed project, as with any major construction project, will create impacts on the land use and development plans of affected areas, but finds that the proposed project will minimize these impacts and will not unreasonably interfere with the orderly land use and development plans of the project area. For these reasons, the Commission finds that the proposed project would not unreasonably interfere with the orderly land use and development plans for the area involved, and thus complies with Wis. Stat. § 196.491(3)(d)6.

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

Under Wis. Stat. § 196.491(3)(d)7., the Commission may only issue a CPCN for a project that “will not have a material adverse impact on competition in the relevant wholesale electric service market.” As a wholesale merchant plant, concerns regarding horizontal market power are not an issue since the energy generated by the project will only be dispatched into the market if the price it charges for its generation is competitive. If the solar facilities are purchased by Wisconsin utilities, the concern remains unchanged as capacity and energy from the project would be subject to market mitigation measures and oversight of MISO’s independent market

monitor that restricts any ability to raise prices above competitive levels.<sup>13</sup> As such, the Commission finds that the proposed project meets the requirements of Wis. Stat. § 196.491(3)(d)7.

### **Brownfield Sites**

Wisconsin Stat. § 196.491(3)(d)8. provides that a CPCN generation project must be sited in a brownfield area “to the extent practicable.” The proposed project requires approximately 1,559 acres of developable land in close proximity to existing transmission facilities. The applicants identified one brownfield site within 10 miles of the point of interconnection. Given the lack of contiguous land surrounding the site and no immediate proximity to a viable grid interconnection point, the applicants determined there are no brownfield sites suitable to host the project. The Commission finds that the applicants’ siting criteria was reasonable, that a brownfield site is not practicable for the applicants’ proposed project, and that the requirement under Wis. Stat. § 196.491(3)(d)8 has been satisfied.

### **Standard Order Conditions**

In testimony, Commission staff identified various conditions relating to the authorized construction, reporting, and communication that it considered to be standard order conditions for electric construction projects. The applicants agreed to the inclusion of all of the standard order conditions suggested by Commission staff. *See* Rebuttal-MGS-Wedeky-3 ([PSC REF#: 514664](#)). The Commission finds it reasonable to impose the standard order conditions as

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<sup>13</sup> *See e.g. Application of Wisconsin Electric Power Company for a Certificate of Public Convenience and Necessity to Construct a Wind Electric Generation Facility and Associated Electric Facilities, to be located in the Towns of Randolph and Scott, Columbia County, Wisconsin*, docket 6630-CE-302 (January 22, 2012). ([PSC REF#: 126124](#) at 20.)

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proposed by Commission staff witnesses Golden and Feltes. Direct-PSC-Golden-5-11

([PSC REF#: 508946](#)) and Direct-PSC-Feltes-13-14 ([PSC REF#: 508947](#)).

### **Minor Siting Adjustment Order Condition**

While it is the applicants' obligation to minimize the need for minor siting flexibility by rigorously analyzing their proposed project prior to submission of an application, the Commission recognizes that detailed engineering is not complete prior to authorization of a project and that minor siting flexibility may be needed to accommodate the final design of the project. Situations may be discovered in the field that were not apparent based on the information available to the applicants in development of the proposed project or to the Commission in making its authorization. Therefore, the Commission typically includes an order condition that allows for minor siting flexibility when authorizing a project.

The Commission finds it reasonable to proscribe a procedure, as described more fully in Order Condition 25 of this Final Decision, that would apply to minor siting adjustments, should they be needed for this project. The applicants may propose minor adjustments to the approved locations of project facilities for the protection of environmental resources, landowner requests, or technical design changes that arise during final stages of engineering (up to the authorized nameplate capacity the 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 applicants 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 applicants shall submit for Commission staff review and approval a letter containing all of the information set forth in Order Condition 25.

### **Project Construction Schedule**

The schedule for the project is divided into two phases. Phase 1 is anticipated to start construction in July 2025 with an in-service date of July 2026. Phase 2 is anticipated to start construction in October 2025 with an in-service date of January 2027. Some construction timelines could be affected by weather conditions, particularly winter weather conditions.

### **Certificate**

The Commission grants the applicants a CPCN for the construction of the proposed photovoltaic electric generation facility, BESS, project substation, 161 kV generator tie line, and other associated facilities as described in the application and as modified by this Final Decision.

### **Order**

1. The applicants are authorized to construct the proposed solar PV electric generation facility, BESS, 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. The applicants are authorized to construct the project at an installed capacity of no greater than 259.6 MW AC for the solar PV electric generation facilities and no greater than 50 MW AC for the BESS facilities.

2. The applicants shall provide the Commission with final detailed as-built engineering plans for the project, including the final designs and equipment plans for the

proposed project as soon as practicable after the project in-service date. 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.

3. The applicants shall construct, maintain, and operate the BESS facilities to follow best industry safety practices for ensuring battery fire safety.

4. Prior to commencement of operations, the applicants shall provide the Commission a copy of the applicants' emergency response plan that includes discussion of what follow-up steps would occur for site treatment and materials disposal after a fire, thermal runaway, or storm damage event. This information would be provided to the Commission for informational purposes.

5. The applicants shall provide reporting on any safety incident at the BESS that triggers reporting under any emergency response plans resulting from the Hazard Mitigation Analysis, and provide reporting on any alterations to the BESS that the applicants reasonably believe will result in a change of best practices regarding the safety of the BESS. Such reporting shall be done within 60 days of the safety incident or alteration.

6. The applicants shall provide the results of all MISO DPP studies and facilities studies related to the project, including interconnection queue positions J1808 and J3198, any surplus interconnection study reports related to these queue positions, and the GIAs related to the project when each of them have been completed.

7. The applicants shall perform post-construction noise studies as described in the most current version of the PSC Noise Measurement Protocol. The applicants 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 applicants shall confer with Commission staff to determine if a new pre-construction noise study must be completed. The applicants shall file a copy of the post-construction noise study report with the Commission.

8. The applicants shall construct, maintain, and operate all applicable project facilities to comply with National Electric Code or the National Electrical Safety Code and Wis. Admin. Code ch. PSC 114, as appropriate. In case of conflict or overlap between code requirements, the applicants shall construct, maintain, and operate all applicable project facilities to comply with whichever code has the more stringent requirements.

9. Should the scope, design, or location of the project change significantly, the applicants shall notify the Commission within 30 days of becoming aware of possible changes. The applicants shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, or location of the approved project.

10. The applicants 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 facilities, prior to commencing any construction activity that may interfere with testing and after the project is energized. The applicants 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 applicants shall work with the applicable distribution utility and Commission staff to determine where and how it will conduct the stray voltage measurements. The applicants shall report the results of their testing to Commission staff in writing.

11. If the applicants cancel the project or enter into any arrangement with another party regarding ownership or operation of the proposed facilities, the applicants shall provide prior notice to the Commission.

12. All commitments made by the applicants in their application, subsequent filings, and the provisions of the Final Decision, shall apply to the applicants, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project.

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

14. The applicants shall mitigate impacts to line-of-sight communications and landowners who can show disruption to broadcast communications post-construction.

15. The applicants 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 BMPs. Plans shall be provided to Commission and DNR staff a minimum of 14 days prior to the meeting date to allow time for review.

16. The applicants 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.

17. The applicants shall conduct an updated Endangered Resources Review closer to the start date of construction (no more than one year prior to construction start).

18. The applicants shall, to the extent reasonably possible avoid tree clearing activities during the period of March 15 through August 15.

19. To allow small wildlife, including turtles, access in and out, the fence should be raised a minimum of 6 inches off the ground.

20. All non-native, aggressive species, including red fescue, shall be removed from the Graminoid Plus seed mix proposed in its vegetation management strategy for all arrays and replaced with those species with less-aggressive native species.

21. The applicants shall discuss vegetation management mowing time of year restrictions with Commission and DNR staff prior to the Long-Term Maintenance period as identified in the Vegetation Management Plan.

22. Prior to construction, the applicants shall install signage at wetland and waterway boundaries to alert construction crews to not work within or access across these areas unless permit coverage was granted for the area.

23. The applicants shall develop and implement a Stormwater Erosion Control Plan and a Stormwater Management Plan that meet or exceed the standards found in Wis. Admin. Code chs. NR 216 and NR 151. Implement the technical standards developed per Subchapter V of Wis. Admin. Code ch. NR 151.

24. The applicants shall install all site-specific sediment and erosion control measures and devices prior to any construction activities commencing and regularly inspect and maintain them through all construction and restoration phases.

25. The applicants shall provide copies of all plans and environmental documents to construction crews and inspectors. Plans should clearly label the locations of wetlands and waterways and include language stating vehicle access, storage of materials, grading, and all other construction activities are not permissible within these areas. Plans should also clearly label where sediment and erosion control measures and devices need to be installed if working adjacent to wetlands and waterways.

26. The applicants shall implement a construction sequencing plan where possible that minimizes the amount of land disturbed or exposed (susceptible to erosion) at one given time across the project.

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

28. The applicants shall 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.

29. The applicants shall leave existing vegetative buffers in place to the maximum extent practicable.

30. The applicants shall avoid the use of herbicide in wetlands and near waterways, or utilize herbicides approved for use in aquatic environments.

31. The applicants shall submit a site-specific winter stabilization plan with the Storm Water Pollution Prevention Plan that includes measures to stabilize bare soils during winter conditions.

32. The applicants shall submit vegetation progress reports documenting areas that have achieved 70 percent uniform vegetation density.

33. The applicants may propose minor adjustments to the approved locations of project facilities for the protection of environmental resources, landowner requests, or technical design changes that arise during final stages of engineering (up to the authorized nameplate capacity the 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 applicants 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 applicants shall submit for Commission staff review and approval a letter describing:

- a. The nature of the requested change;
  - b. The reason for the requested change;
  - c. The incremental difference in any environmental impacts;
  - d. Communications with all potentially affected landowners regarding the change;
  - e. Documentation of discussions with other agencies regarding the change;
- and

f. A map showing the approved layout and the proposed modification(s) of all facilities proposed to be modified, property boundaries, relevant natural features such as woodlands, wetlands, waterways, and other sensitive areas.

Regarding item (c), provide a table with incremental changes in acreage for all the land acres contained within the perimeter fences and the land acres that blocks of arrays/subarrays occupy, changes in length of all collector lines, access roads, and tie lines, and changes in distances to adjacent landowner buildings for all inverters/Power Conditioning Units (PCUs) and substations where there is a shift in the originally approved location. Identify each change using the infrastructure identification used in the application (i.e. array 1A, 21 inverter 22).

Regarding item (d), provide documentation of communications with any landowner, participating or nonparticipating, related to proposed changes wherein any project facility (including perimeter fences as well as items within those fences such inverters or panels) is proposed to be re-located closer to an inhabited residence than the location that was approved in the Commission's Order.

Documentation should include all the information provided to the landowner regarding changes, include any feedback provided by the landowner, identify any way in which landowner feedback has informed the changes proposed, and whether the landowner agrees to the proposed changes. 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.

34. The applicants may use the authorized proposed or alternative array sites as needed to accommodate environmental, technical, and landowner issues as they arise during construction of the project, provided however, that the project size shall remain at the maximum



nameplate capacity approved in this Final Decision. If the situation arises where the applicants elect to use an alternative array area, the applicants shall provide written notice to the Commission identifying such alternative arrays within 30 days of the decision to use the alternative arrays.

35. Beginning within 30 days after the end of the quarter during which the Final Decision is signed and served, and within 30 days of the end of each quarter thereafter and continuing until the authorized facilities are fully operational, the applicants shall submit quarterly progress reports to the Commission that include all of the following:

- a. The date that construction commences;
- b. Major construction and environmental milestones, including permits obtained, by agency, subject, and date;
- c. Summaries of the status of construction, the anticipated in-service date, and the overall percent of physical completion;
- d. The date that the facilities are placed in service;
- e. Its efforts, and the efforts of its contractors, to recruit Wisconsin residents to fill employment opportunities created by the construction of the proposed project;
- f. Its efforts to collaborate with state registered apprenticeship programs; and
- g. The actual number of Wisconsin residents and out-of-state workers employed on-site to construct the proposed project.

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

- a. The date the Final Decision is served;

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

c. The date when the deadlines expire for requesting administrative review or reconsideration of the CPCN and of the permits, approvals, and licenses described in par. (b.); and

d. The date when the applicants receive 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.)

37. If the applicants have 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 approved project for which construction has not commenced shall become void unless the applicants:

a. File a written request of an extension of time with the Commission before the effective date on which the Certificate becomes void;

b. Are granted an extension by the Commission.

38. If the applicants have not begun on-site physical construction of the authorized project and have not filed a written request for an extension before the date that this Certificate becomes void, the applicants shall inform the Commission of those facts within 20 days after the date on which the Certificate becomes void.

39. The applicants shall follow through on any other commitments it has made in the application for the Commission's consideration in this docket.

40. The applicants shall work with interested non-participating landowners that are adjacent to solar panel arrays on one or more sides of their property to create visual buffers and screening in order to mitigate visual impacts, to the extent reasonable and economically feasible, and not otherwise impeding solar operations or access to sunlight.

41. The Final Decision takes effect one day after the date of service; and,

42. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 7<sup>th</sup> day of March, 2025.

By the Commission:

A handwritten signature in black ink, appearing to read "Cru Stublely", with a long horizontal flourish extending to the right.

Cru Stublely  
Secretary to the Commission

CS:AW:jlt:arw:DL:02045320

Attachments

See attached Notice of Rights

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

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

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

*PETITION FOR REHEARING*

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

*PETITION FOR JUDICIAL REVIEW*

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.<sup>14</sup> The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

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

Revised: March 27, 2013

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<sup>14</sup> See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

**APPENDIX A**

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Docket 5-CE-154

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