

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

PETITION FOR SOLAR SITING RULEMAKING
of the
JEWELL JINKINS INTERVENORS

The Jewell Jinkins Intervenors, active intervenors in three solar related dockets, make this Petition to the Public Service Commission for rulemaking regarding siting solar projects. Because there are no solar-specific siting regulations in the PSC Code, similar to those fashioned for transmission, coal, nuclear, natural gas, and wind generation siting, Jewell Jinkins Intervenors, all five members of the Board and its counsel, have an interest in rules for siting solar generation projects and as provided by Wis. Stat. 227.12(1), we submit this Petition for Rulemaking and request an Advisory Committee be authorized as provided by Wis. Stat. §227.13.. The Public Service Commission has authority to promulgate solar-specific rules necessary to effectuate the purpose of the CPCN statute. Wis. Stat. §227.11(2)(a); Wis. Stat. §196.491(3). See also Wis. Stat. §227.11(2)(c).

I. SUBSTANCE AND NATURE OF THE RULEMAKING REQUESTED

The rulemaking requested is to provide rules with siting criteria and standards for solar generation, and to utilize and advisory committee in the rulemaking process. See Wis. Stat. §227.12(2)(a). This rulemaking is targeted at promulgating rules for solar similar to those for wind found in Wis. Code Chapter 128, and consistent with the priorities of Wisconsin Statute § 1.12(3)(b). At present there is nothing specifically for solar Certificate of Public Convenience

and Necessity and solar siting to guide the Public Service Commission.

Typically, a large solar installation was 2-10 MW, but now, Wisconsin is faced with a 300MW solar application, and no rules for guidance. That is a set up for improper siting, and once a project is sited, mitigation is not easy. It's very difficult to address siting issues if a project is built, and mitigation becomes a matter of landowner buyouts, which is not advantageous to either the developer or the landowners – prevention, precaution, is needed.

Based on experience thus far with a very large solar project, Jewell Jinkins Intervenors ask that the rulemaking develop regulations governing information to be included in solar applications; land leasing, purchasing, and promotional practices; notice requirements for local governments and non-participants in project area; limits to percentages and/or acreages that can be removed from agricultural production; setbacks from roads, homes, public buildings and other receptors; permissible and prohibited glare of the panels; collector system locations and specifications; drainage and run off and water collection systems; fencing and vegetation surrounding a project or pieces of the project; construction best practices and model development agreements; unintended economic consequences of removal of land from production, such as loss of revenue for agricultural support industries including equipment sales and repair, planting, spraying and harvesting services; potential for population decrease if farms are no longer farming and residents move; decommissioning plan and financial assurance to be in place prior to construction; and other issues that become apparent in the rulemaking process.

The rulemaking requested is also to update categories of environmental review and assign megawatt thresholds for solar projects to reflect the potential for environmental impact. Jewell Jinkins Intervenors request that environmental review categories reflect the prospect of very large solar projects, which would have similarly large environmental impacts, and recognize that large

solar project have potential for significant impact. The proposed 300 MW project will have very limited environmental review because it is now categorized very generally, as a Type III Action, with generic “Construct a solar-powered electric generation facility” immediately below categorization of wind projects less than 10 MW. See Wis. Admin. Code PSC Ch. 4, Table 3. Solar projects should be categorized for environmental review purposes by either MW or acreage thresholds for different Environmental Review. An iterative environmental review process such as that of an Environmental Impact Statement is necessary for a large 300 MW/3,500 acre project.

Applicants are using wind noise regulations for solar projects, with neither scientific basis nor legal authority. Wis. PSC Code 128.14. It is noteworthy that the noise of solar tracking motors does reach the noise levels of wind turbines, but the character is different, with noise in different spectrums than that of wind. Jewell Jinkins Intervenors request that this rulemaking proceeding and an Advisory Committee consider solar specific noise and promulgate solar noise regulations. See Wis. Stat. §227.13. The Commission has authority to promulgate noise rules under Wis. Stat. §227.11(3)(c).

II. REASON FOR THE REQUEST AND PETITIONERS’ INTEREST

As intervenors in three inter-related solar dockets, Jewell Jinkins Intervenors are painfully aware of the lack of regulatory guidance for large solar projects, and thus have an interest in rulemaking. See Wis. Stat. §227.12(2)(b). While this is a general request, a look at the two Badger Hollow solar dockets (9697-CE-100 and 9697-CE-101) in which Jewell Jinkins Intervenors are parties, plus the similar Two Creeks also-inter-related dockets (9696-CE-100 and 9696-CE-101) and the acquisition “buy/sell” docket umbrella over all four (5-BS-228), the significant process hole in Wisconsin’s regulatory scheme is apparent.

Navigating a Commission docket is difficult enough for anyone involved, but where there are no rules for the type of project applied for, the regulatory process is not just a problem for intervenors, but it presents a problem for staff, the Administrative Law Judge, and ultimately the Commission: Where there are no rules, no regulatory guidance, how would any decision made be anything but arbitrary and capricious?

III. PUBLIC SERVICE COMMISSION HAS AUTHORITY TO PROMULGATE SOLAR RULES.

The Public Service Commission has authority to promulgate solar-specific rules. See Wis. Stat. §227.12(2)(c). Rules are necessary to effectuate the purpose of the Certificate of Public Convenience and Necessity statute conveyed by the legislature. Wis. Stat. §227.11(2)(a)(1); Wis. Stat. §227.11(3)(b); Wis. Stat. §196.491(3). The Commission also, thus far, has made solar siting determinations on a case by case discretionary basis leading to general policies, and promulgation establishing policies as rules is also authorized. The regulatory leap from a 10MW or smaller solar project to a 300MW central station facility is too great to rely on the case by case considerations and decisions for smaller projects permitted thus far. See also Wis. Stat. §227.11(2)(c). Further, the Commission has promulgated rules within the last ten years, and thus, there is no prohibition. Rules are a necessary tool for regulation.

IV. AN ADVISORY COMMITTEE SHOULD BE ESTABLISHED TO PROVIDE EXPERT ASSISTANCE.

Petitioners request that an Advisory Committee be established to provide necessary expert assistance, as authorized by Wis. Stat. §227.13. Because large central station solar projects are a new development, in Wisconsin and nationwide, the expertise and experience of other jurisdictions, developers, and public interest groups would be useful in promulgating siting regulations.

For the above reasons, Jewell Jinkins Intervenors respectfully request that the rulemaking Petition be granted, that an Advisory Committee be established, and that the Commission embark on promulgating solar siting rules that provide sufficient consideration to communities to allow solar installations to be generation that people can live with.

Dated this 7th day of December, 2018.



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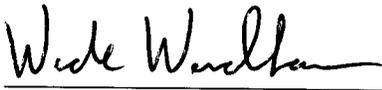
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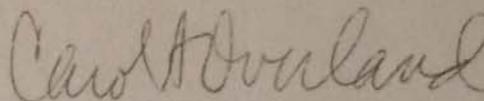
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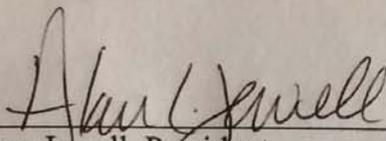
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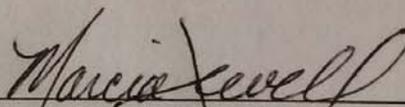
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