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PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Power and Light Company for a Certificate of Authority for Acquisition, Construction, Installation, and Operation of Six Solar Electric Generation Facilities in Wisconsin 6680-CE-182

FINAL DECISION

This is the Final Decision in the application filed by Wisconsin Power and Light Company (applicant) for approval to acquire, construct, own, and operate 675 megawatts (MW) of solar photovoltaic (PV) generating capacity at six different solar PV facilities. The six facilities include: the North Rock project (50 MW in Rock County), the Grant County project (200 MW in Grant County), the Crawfish River project (75 MW in Jefferson County), the Onion River project (150 MW in Sheboygan County), the Richland County project (50 MW in Richland County), and the Wood County project (150 MW in Wood County). These six projects (collectively, Solar Facilities) have an estimated cost of approximately \$862 million, excluding allowance for funds used during construction (AFUDC).

The application is GRANTED, subject to the conditions in this Final Decision.

Introduction

On May 29, 2020, the applicant filed an application under Wis. Stat. § 196.49 to acquire, construct, own, and operate the Solar Facilities. ([PSC REF#: 390310](#) confidential, [PSC REF#: 390311](#) public.) Three of the six solar PV facilities that the applicant is seeking to acquire, construct, own, and operate are involved in separate Commission proceedings that involve determinations of Certificates of Public Convenience and Necessity (CPCN) for the sites. The 150 MW Wood County project, being developed by Savion, LLC subsidiary Wood

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County Solar Project, LLC near the Town of Saratoga in Wood County, was considered in Commission dockets 9803-CE-100 and 9803-CE-101 for the solar PV facility and associated generation transmission tie line, respectively. Commission authorization of these projects was granted on March 4, 2021. ([PSC REF#: 406282](#) for the solar PV facility, [PSC REF#: 406281](#) for the generation transmission tie line.) The 200 MW Grant County project, being developed by NextEra Energy Resources, LLC near the townships of Potosi and Harrison in Grant County, was considered and authorized in Commission docket 9804-CE-100, on May 14, 2021. ([PSC REF#: 411529](#).) The 150 MW Onion River project, being developed by Ranger Power LLC subsidiary Onion River Solar, LLC in the Town of Holland in Sheboygan County, was authorized in docket 9805-CE-100, on June 18, 2021. ([PSC REF#: 413949](#).) The Grant County, Onion River, and Wood County projects, each of which required CPCN review, are collectively referred to as the Solar CPCNs.

The other three sites are sub-100 MW facilities, and thus are not large enough to require individual CPCNs, and the Commission's evaluation of environmental impacts associated with their proposed construction is evaluated for the first time in this docket. Those sites are the 50 MW North Rock project, being developed by National Grid Renewables (formerly Geronimo Energy) southwest of Edgerton in Rock County, the 75 MW Crawfish River project, being developed by Ranger Power LLC near the Town of Jefferson in Jefferson County, and the 50 MW Richland County project, being developed by Savion, LLC near the Village of Lone Rock in Richland County. The three sub-100 MW projects that did not require CPCN review are collectively referred to as the Solar Projects, and together with the Solar CPCNs, the Solar Facilities.

Together, this grouping of six solar PV facilities comprises a portion of the approximately 1.1 gigawatts (GW) of new solar PV facilities that the applicant is seeking to acquire, construct, own, and operate as part of the implementation of its Clean Energy Blueprint (Blueprint), a holistic evaluation and reshaping of the applicant's generator fleet. The broad outlines of the Blueprint involve the publicly announced shuttering of three applicant-operated coal electric generating facilities (Edgewater unit 5 in 2022, Columbia unit 1 in 2023, and Columbia unit 2 in 2024) and the replacement of that generating capacity with renewable resources, including the facilities in this docket.

The applicant's filing is unique in that it requests approval for the acquisition, construction, and operation of facilities at six sites, three of which require the issuance of a CPCN, and three of which fall below the 100 MW threshold, and thus instead require a Certificate of Authority (CA).

The Commission has discretion on how to consider the matters that come before it. It may exercise its discretion to consider things collectively where it is reasonable and appropriate to do so in order to fulfill its statutory duties, or it can exercise its discretion to separate them out. *See e.g.* Wis. Stat. § 196.49(3)(c) (the Commission may issue a certificate for a project or for any part of a project which complies with the requirements of that statute); Wis. Stat. § 196.49(3)(a) (project, for the purposes of the subsection, means construction of any new plant, equipment, property or facility, or extension, improvement or addition to existing plant, equipment, property, apparatus or facilities). Section 196.49, the CA statute, also reflects a legislative intent for the Commission to be able to consider issues together where such consideration will further holistic

and comprehensive review and efficiency.¹ The discretionary authority to determine the most appropriate way to review the matters before the Commission is further evidenced in the Wisconsin Administrative Code. *See e.g.* Wis. Admin. Code § PSC 112.07 (providing that the Commission may consider an application “together with any supplemental information” and may grant or deny an application “in whole or in part” and subject to modifications or conditions the Commission finds are necessary to protect the public interest or promote the public convenience and necessity).

As discussed more particularly in the Standard for Approval section below, in deciding whether to grant or deny the CA application at issue in this docket, the Commission is, among other things, charged with determining whether the proposed project will substantially impair the efficiency of the service of the public utility, and whether it would provide facilities unreasonably in excess of the probable future requirements. *See* Wis. Stat. §§ 196.49(3)(b)(1)-(2). The Wisconsin Administrative Code also requires an application for Commission authorization to include a description of the gross cost of the project and the utility’s proposed method of financing the project, and defines “gross cost” as the total expenditures required to accomplish the purpose of the project. Wis. Admin. Code. § PSC 112.02(4). The application should also include a description of the gross cost of alternative methods, locations, or routes that the utility considered for accomplishing the purpose of the project, with a statement of the reasons for rejecting these alternatives, as well as “[a]ny other information necessary to understand the project”

¹ *See e.g.* Wis. Stat. S. 196.49(5)(c) (relating to gas utilities, and stating “The Commission may direct the consolidation, separation or consideration of separate petitions as it deems necessary or expedient to a prompt hearing and disposition of the issue.”); 196.49(e) (“The commission, with or without an order, prior to or during any hearing under this subsection (relating to gas utilities), may frame and prescribe special issues and limit the issues or the nature and extent of proof so as to avoid unnecessary duplication.”).

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Wis. Admin. Code § PSC 112.06(1m). To meaningfully consider the applicant's proposal, this particular application requires consideration of the six solar sites as a group.

The applicant's stated purpose of this project notes that it is part of an effort to reshape its generator fleet by moving away from some of the coal plants it is retiring, and towards a total of 1.1 GW of solar energy generation. The applicant's financing proposal also contemplates the facilities at issue in this docket together, and given the overlap in how the projects would be financed, it made sense to consider conditions on the acquisition as a whole. Given the timing and the collective capacity and aggregate impacts these facilities could have due to the total amount of land and megawatts involved, the financing arrangements, and the specific circumstances presented here, the Commission finds that in addition to the extensive review conducted with respect to the construction of the Grant County, Wood County, and Onion River facilities in their individual CPCN dockets, it is reasonable and appropriate to consider the applicant's acquisition, construction, and operation of all six proposed facilities in this docket together.

The Commission further finds that under the specific circumstances presented here, the construction of the Grant County, Wood County, and Onion River facilities, each of which individually exceeded the 100 MW standard requiring a CPCN, was appropriately considered individually under the CPCN standard in their separate dockets, and the proposed acquisition, construction, and operation of all six sites is appropriately considered under the CA standard.

While the Solar CPCNs were authorized to those projects' respective merchant developers, the application materials in the various dockets suggest that the projects would be acquired by the applicant prior to the completion of construction, if the Commission approved

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those projects and if other conditions precedent to the acquisition were satisfied. At the time the Solar CPCNs were authorized, while acquisition of the Solar Facilities had been proposed, there had been no sale. Thus, it was appropriate to evaluate those Solar CPCNs as proposed merchant plants. This is consistent with past Commission decisions authorizing the transfer of a merchant CPCN to a public utility prior to completion of construction of the project,² and nothing in Wis. Stat. § 196.491 prohibits the transfer of rights granted under a CPCN. The Commission's review of this docket and dockets 9803-CE-100, 9803-CE-101, 9804-CE-100, 9805-CE-100 has resulted in a record containing evidence that addresses all of the required statutory criteria under Wis. Stat. § 196.49 (the CA statute) and Wis. Stat. § 196.491 (the CPCN statute). While need and alternatives were not addressed in the Solar CPCNs because the law precludes such an analysis, need, alternatives, and other economic and ratepayer protections are appropriately addressed in this docket. The environmental and other site-specific standards were considered in detail in the for the Solar CPCNs, with a separate environmental assessment (EA) developed for North Rock, Crawfish River, and Richland County in this record. The EA in this docket also examined the cumulative impact of those Solar Projects as well as the Solar CPCNs. As a result, the Commission's review of the Solar Facilities contemplated was comprehensive and holistic, and reviewed contemporaneously.

Further, the Wisconsin Supreme Court has concluded that the CPCN statute does not automatically apply any time Wisconsin utilities seek Commission approval to add large electric

² See Application of Wisconsin Power and Light Company and Sheboygan Power, LLC for a Certificate of Public Convenience and Necessity for Construction of an Electric Generation Facility to be Located in Sheboygan County, Docket 6680-CE-168; Application of Wisconsin Power and Light Company for Approval of Affiliated Interest Agreements Comprising a Leased Generation Contract with Sheboygan Power, LLC, docket 6680-AE-108, May 18, 2005; Final Decision signed and served 4-18-19 - [PSC REF#: 364423](#); Final Decision Signed and Served 04-18-19 - [PSC REF#: 364425](#).

generation facilities to their generation fleets. The Court provided an analysis of when the CA statute applies and when the CPCN statute applies to applications for the construction of large electric generating facilities when it considered the Commission's use of the CA process to approve out-of-state generation facilities constructed and owned by a public utility. *Wisconsin Indus. Energy Grp., Inc. v. Pub. Serv. Comm'n*, 2012 WI 89, ¶ 60, 342 Wis. 2d 576, 610, 819 N.W.2d 240, 257. The Court recognized that the Commission had a thorough and mandatory procedure under which it analyzed applications to construct electric generating facilities under the CA statute. *WIEG* at ¶ 32. The Court also recognized that the primary purpose of the CPCN statute is to require a more thorough review of local site-specific factors, and not primarily analyzing ratepayer impacts. *Id.* at 49. The Court noted its view that the Commission has essentially bound itself under the CA statute to consider the same information under the CA statute as the legislature required the agency to consider under the CPCN statute. *Id.*, fn. 15. Therefore, the Court's analysis supports the Commission's use of the CA statute to review the addition of new generation to Wisconsin utilities' fleet when site-specific factors are not at issue.

As described above, the Commission's review of the Solar CPCNs assessed all relevant site-specific factors required for approving construction of those solar facilities at those three project sites, and the CA process used here assessed all the relevant need, alternatives, and ratepayer impacts that would otherwise have been assessed in the CPCN dockets if those applicants had not been wholesale merchants. As the Wisconsin Supreme Court recognized in *WIEG*, the CPCN process is a procedural siting law for large electric generating facilities. In this docket, it is the purchase of the Solar Facilities, and the construction of the Solar Projects (Crawfish River, Richland County, and North Rock) that is before the Commission. Therefore,

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with respect to the Grant County, Onion River, and Wood County sites, the analysis of need, alternatives, and ratepayer impacts are the relevant inquiries in this docket, and the CA statute provides for ample review of whether the acquisition of the Solar Facilities by the applicant and the construction of the facilities not requiring separate CPCNs is in the public interest considering these factors.

All relevant statutory criteria in Wis. Stat. §§ 196.49 and 196.491 have been reviewed in the dockets. All interested parties have had a full and fair opportunity to participate in all of the dockets. As required by the CPCN statute, hearings were held for each of the CPCN projects. Although not required by the CA statute, a hearing was also held in this docket. Each of the CPCN construction dockets and the acquisition docket was treated as a contested case, and as such, all of the provisions of Wisconsin's Administrative Procedures Act applicable to contested cases applied. The schedules in the proceedings and preparation of the administrative records all occurred in a coordinated manner. The Commission reviewed and made decisions in these dockets contemporaneously. As a result, the Commission has, contrary to unsupported assertions critical of the Commission's process, reviewed these proposed construction and acquisition proceedings in a holistic and comprehensive manner and has also provided members of the public multiple avenues in which to participate – both through the filing of written comments or participating at the hearings in this as well as in the Solar CPCNs. While grouping six projects in one application may not always be appropriate and the Commission has the discretion to separate portions of an application or to group multiple applications together in a way that may diverge from how they were initially filed, considering these particular projects together was appropriate here.

The applicant initially filed a joint application relating to this docket that also included its application for approval of affiliated interest agreements related to its ownership and operation of the solar projects under Wis. Stat. §§ 196.52 and 196.795. The applicant proposes to own and operate the Solar Facilities through a tax equity partnership, which the applicant frames as a more cost-effective mechanism of financing the Solar Facilities than traditional utility ownership. The applicant expects that it will purchase the tax equity partners' interest in the Solar Facilities within 10 years of operation, and then convert to a traditional ownership structure for the remainder of the useful life of the Solar Facilities. The applicant represents that this will result in its customers avoiding approximately \$285 million in costs as compared to development under a traditional ownership structure. The Commission finds it reasonable to consider the review and approvals of the affiliated interest agreements, under Wis. Stat. §§ 196.52 and 196.795, in a separate docket, Commission docket 6680-AE-120.³

On October 29, 2020, the Commission issued a Notice of Proceeding in this docket. ([PSC REF#: 399130.](#)) On December 15, 2020, the Administrative Law Judge signed a scheduling order that was distributed to the applicant and four intervenors: Citizens Utility Board (CUB), Renew Wisconsin, Sierra Club, and Wisconsin Industrial Energy Group. ([PSC REF#: 401616.](#))

The Commission's action regarding construction a solar electric generation facility is considered a Type III action under Wis. Admin. Code § PSC 4.10(3). Similarly, acquisitions are treated as Type III actions. Type III actions normally do not require preparation of an EA or an

³ On June 8, 2021, 2021, the Commission approved some of the affiliated interest agreements addressed in that docket, as well as the key commercial terms of several remaining anticipated agreements, and required the applicant to seek final Commission approval of the remaining anticipated affiliated interest agreements prior to their effective dates. ([PSC REF#: 413298.](#))

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environmental impact statement (EIS) under Wis. Admin. Code § PSC 4.10(3). However, an evaluation of a specific Type III proposal may indicate that the preparation of an EA or EIS is warranted for that proposal. The Solar CPCNs each had an EA developed during their respective dockets. The Commission prepared an EA for the three proposed sub-100 MW projects in this docket due to the size and amount of land that would be covered by each site and the ability to use the EA process to seek public comments on the proposal. The EA also considered the cumulative impact of the Solar Facilities.

Commission staff worked jointly with the Wisconsin Department of Natural Resources (DNR), and on October 27, 2020 issued an EA scoping letter to accept comments from the public to determine the scope of the EA. ([PSC REF#: 398979.](#)) On January 5, 2021, Commission staff, working jointly with DNR, produced a preliminary determination that no significant environmental effects are expected to result from the construction and operation of the Solar Facilities. The preliminary determination letter summarized some of the environmental impacts. ([PSC REF#: 402473.](#)) The Commission took comments on this preliminary determination, and on January 26, 2021 issued the EA regarding the Solar Facilities, 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#: 405120.](#)) As a result of the EA, the Commission determined that the preparation of an EIS was not required.

On January 5, 2021, the Commission issued a Notice of Hearing in this docket. ([PSC REF#: 402566.](#)) The technical hearing was held on February 16, 2021, and the public hearings were held on February 18, 2021. The Commission also accepted comments from members of the public through its web site.

The Commission considered this matter at its open meeting of April 22, 2021.

Findings of Fact

1. The applicant is a public utility as defined in Wis. Stat. § 196.01(5)(a) and provides electric service in Wisconsin.
2. The applicant seeks to acquire, construct, own, and operate six solar photoelectric generation facilities in six counties in Wisconsin.
3. Wood County will be a solar PV electric generation facility with a nameplate capacity of up to 150 MW and an associated generation tie line located near the Town of Saratoga in Wood County.
4. Grant County will be a solar PV electric generation facility with a nameplate capacity of up to 200 MW located near the Townships of Potosi and Harrison in Grant County.
5. Onion River will be a solar PV electric generation facility with a nameplate capacity of up to 150 MW located in the Town of Holland in Sheboygan County.
6. North Rock will be a solar PV electric generation facility with a nameplate capacity of up to 50 MW located near the City of Edgerton in Rock County.
7. Crawfish River will be a solar PV electric generation facility with a nameplate capacity of up to 75 MW located near the Town of Jefferson in Jefferson County.
8. Richland County will be a solar PV electric generation facility with a nameplate capacity of up to 50 MW located near the Village of Lone Rock in Richland County.
9. The applicant proposes to acquire the Solar Facilities under agreements with each developer at a total cost of approximately \$862 million (excluding AFUDC), or \$1,277/kilowatt. This price includes the construction cost of the Solar Facilities and transmission tie-in

equipment. Of that \$862 million, the total project costs under a tax equity financing structure that the applicant seeks to include in rate base is up to \$585 million. The acquisition price is reasonable based on comparison to the cost of meeting the applicant's capacity and energy needs through market purchases or alternative generating technologies.

10. It is reasonable to recover the net investment in the tax equity partnership by utilizing Account 182.3 Other Regulatory Assets and to recover the amortization of the net investment in the tax equity partnership over the 30-year useful life of the project.

11. It is reasonable to record any difference between the cash distribution of net operating benefit from the tax equity partnership and future authorized revenue requirements in an escrow and for the escrowed amount to be included in a future authorized revenue requirement.

12. It is reasonable to utilize deferral and escrow accounting treatment for any net costs or benefits related to the contract for differences (CfD) and potential zonal resource credit (ZRC) and renewable energy certificate (REC) purchases.

13. It is reasonable for the applicant to notify the Commission within 30 days if the construction costs exceed the current estimate (\$862 million) or if the amount the applicant seeks to include in rate base net of the investor's minimum 35 percent contribution exceeds the current estimated rate base amount (\$585 million, excluding AFUDC).

14. It is reasonable to impose a cost cap of \$585 million, which is the estimated project fair market value less the investor capital contribution, and to allow the applicant to seek Commission approval for recovery of any excess cost increases in a future rate case proceeding.

15. As the result of planned retirement of aging and relatively inefficient coal-fired generating units, the applicant will need approximately 1 GW of capacity by the end of 2024. These planned retirements support the applicant seeking to purchase 675 MW of solar PV nameplate capacity as part of an overall solution to address the shortfall.

16. The applicant's acquisition of the Solar Facilities is consistent with the energy priorities laws under Wis. Stat. §§ 1.12 and 196.025.

17. The Solar Projects approved by this Final Decision are not expected to affect any historic properties under Wis. Stat. § 44.40, or any threatened or endangered species under Wis. Stat. § 29.604.

18. Critical proposed facilities of the Solar Projects 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 (Order 73).

19. The Solar Projects approved by this Final Decision will require a range of permits from other state, federal, and local regulatory authorities. Permitting for the Solar CPCNs was addressed in the respective dockets for those projects.

20. No unusual circumstances suggesting the likelihood of significant environmental impacts are associated with the acquisition, construction and operation of the Solar Facilities.

21. No existing brownfield sites meet the siting criteria for the Solar Projects.

22. The acquisition, construction, and operation of the Solar Facilities will not substantially impact the efficiency of the applicant's service, provide facilities unreasonably in excess of the applicant's probable future requirements, nor add to the applicant's cost of service without proportionally increasing the value or available quantity of service.

23. The acquisition, construction, and operation of the Solar Facilities satisfy the reasonable needs of the public for an adequate supply of electric energy.

24. The acquisition, construction, and operation of the Solar Facilities, as amended by the conditions prescribed by the Commission, is reasonable and in the public interest after considering alternative sources of supply, engineering, economic, safety, reliability, and environmental factors.

Conclusions of Law

1. The Commission has jurisdiction under Wis. Stat. §§ 1.11, 1.12, 44.40, 196.02, 196.025, 196.395, 196.49, and Wis. Admin. Code chs. PSC 4 and 112, to issue a Certificate and Order authorizing the applicant, as an electric public utility, to acquire, construct, own, and place in operation the facilities described in this Final Decision, subject to the conditions stated in this Final Decision.

2. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stat. §§ 196.02, 196.395, and 196.49.

3. The acquisition, construction, and operation of the Solar Facilities is consistent with the public interest.

4. The proposed acquisition, construction, and operation of the Solar Facilities complies with the Energy Priorities Law as required under Wis. Stat. §§ 1.12 and 196.025(1).

5. The construction or acquisition of a solar electric generation facility are Type III actions under Wis. Admin. Code § PSC 4.10(3), and typically require neither an EIS under Wis. Stat. § 1.11 nor an EA; however, an evaluation of the construction of the Solar Projects indicated that an EA was warranted to analyze the environmental impacts associated with the three

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sub-100 MW Solar Project sites that did not require a separate CPCN. Additionally, each of the three Solar CPCN sites had an EA completed in its respective docket or dockets, and the cumulative impact of the construction of the Solar Projects and acquisition and construction of the Solar CPCNs was analyzed in the EA for this docket.

Opinion

The applicant is a public utility as defined in Wis. Stat. § 196.01(5)(a) and provides electric service to approximately 470,000 customers in Wisconsin. The major components of each of the Solar Projects include the PV panels, inverters, collector circuits, generator tie lines, and a collector substation. For each solar facility, the selected PV panels will connect to a single-axis tracking system that will allow the PV panels to follow the sun from east to west, throughout the day. Inverters and pad-mounted transformers will be required to convert the generated direct current power into alternating current (AC) power and step-up the voltage to 34.5 kilovolts. The underground AC collector circuits will carry the power generated by the PV panels to each facility's collector substation. No battery energy storage system (BESS) was requested, evaluated, or decided on for any of the Solar Facilities in this docket or the dockets for the Solar CPCNs.

Wood County will be located in the Town of Saratoga in Wood County. The solar generation facility will have a total nameplate capacity of 150 MW and use approximately 1,200 acres for project facilities. Wood County, with its associated generation tie line, was authorized by the Commission in dockets 9803-CE-100 and 9803-CE-101, respectively.

Grant County will be located in Grant County, near the Townships of Potosi and Harrison. The solar generation facility will have a total nameplate capacity of up to 200 MW

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and use approximately 1,400 acres for project facilities. Grant County was authorized by the Commission in docket 9804-CE-100.

Onion River will be located in the Town of Holland, in Sheboygan County. The solar generation facility will have a total nameplate capacity of up to 150 MW and use approximately 1,400 acres for project facilities. Onion River was authorized by the Commission in docket 9805-CE-100.

Crawfish River will be located in the Town of Jefferson in Jefferson County. The solar generation facility will have a total nameplate capacity of up to 75 MW. The project facilities will include approximately 205,000 PV panels and associated equipment constructed on approximately 548 acres of land.

North Rock will be located near the City of Edgerton in Rock County. The solar generation facility will have a total nameplate capacity of up to 50 MW. The project facilities will include approximately 144,432 PV panels and associated equipment constructed on approximately 473 acres of land.

Richland County will be located near the Village of Lone Rock in Grant County. The solar generation facility will have a total nameplate capacity of up to 50 MW. The project facilities will include approximately 161,757 PV panels and associated equipment constructed on approximately 413 acres of land.

The total area that will be impacted by the Commission's approval of the applicant's application in this docket, for acquisition, construction, and operation of all six solar electric generation facilities, is approximately 5,443 acres. This area of land will include approximately

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4,484 acres within fenced solar arrays, with the rest of the land used for other project facilities or consisting of perimeter areas between fenced areas and property lines.

Standard for Approval

The applicant seeks approval under Wis. Stat. § 196.49 for a CA. Wisconsin Stat.

§ 196.49(2) states:

[n]o public utility may begin the construction, installation or operation of any new plant, equipment, property or facility, nor the construction or installation of any extension, improvement or addition to its existing plant, equipment, property, apparatus or facilities unless the public utility has complied with any applicable rule or order of the commission.

The Commission may require by rule or special order that no addition to a plant “may proceed until the Commission has certified that public convenience and necessity require the project.”

Wis. Stat. § 196.49(3). The Commission may refuse to certify a project if it appears that the completion of the project will do any of the following:

1. Substantially impair the efficiency of the service of the public utility.
2. Provide facilities unreasonably in excess of the probable future requirements.
3. When placed in operation, add to the cost of service without proportionately increasing the value or available quantity of service unless the public utility waives consideration by the commission, in the fixation of rates, of such consequent increase of cost of service.

Wis. Stat. § 196.49(3)(b). Electric utilities must obtain Commission authorization to place in service a generating plant or unit whose costs exceed the threshold established in Wis. Admin.

Code § PSC 112.05(3), such as the proposed Solar Facilities. Wis. Admin. Code

§ PSC 112.05(1)(a).

Acquisition of the Solar Facilities

The Solar Facilities mark some of the earliest utility-scale solar PV projects in Wisconsin and present an opportunity to take advantage of cost-effective and zero-emissions solutions to meet the applicant's capacity needs. The applicant cited a number of benefits resulting from its acquisition of the Solar Facilities. The applicant stated the Solar Facilities will be an integral part of its Blueprint, which will allow billions in avoided costs to customers. The applicant provided an economic analysis showing that acquiring the Solar Facilities may have significant cost savings for customers.

The applicant stated that acquiring the Solar Facilities now will allow the applicant and its customers to take advantage of solar PV technology as federal tax credits are still available. The applicant stated that when compared to maintaining existing facilities at the Edgewater and Columbia plants, the Solar Facilities will save customers money over the economic life of the assets, in part by avoiding capital and operations and maintenance (O&M) expenses at those facilities. The applicant contended its analysis demonstrates that acquiring the Solar Facilities is part of a least-cost alternative when compared to securing needed capacity and energy from generating technologies that use other fuel sources.

Applicant's Needs, Alternatives, and Economic Analysis

The Commission may refuse to issue a CA in this docket if the Commission finds the acquisition, construction, or operation of the Solar Facilities will result in any of the three factors listed in Wis. Stat. § 196.49(3)(b). The record in this matter does not indicate that the proposed transaction would substantially impair the efficiency of the service of the applicant. The record indicates there is consensus on the need for additional generation capacity for the applicant. The

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applicant showed, and Commission staff's analysis confirmed, the need for approximately 1 GW of capacity by the end of 2024. This grouping of solar projects, with nameplate capacity of 675 MW, will be a portion of the applicant's projected capacity shortfall, should Edgewater 5, Columbia 1, and Columbia 2 be retired in the projected timeframes.

The applicant's stated Blueprint Parameters included an assumption that the regulatory assets associated with the book value of coal-fired generation assets, which may be retired early, will be recovered at a pace matching the current depreciation schedule. The applicant's Blueprint Parameters further assume that those regulatory assets will be authorized a rate of return equal to that authorized by the Commission for the applicant's rate-based assets still in service. These assumptions are noteworthy because annual and cumulative revenue requirement scenarios will vary materially depending on the length of time chosen for recovery and authorized rate of return for assets decommissioned prior to being fully depreciated. The Commission will most likely make determinations related to these factors in the context of future rate case proceedings.

The remaining issue for the Commission to address is whether the acquisition, construction and operation of the Solar Facilities will add to the cost of service without increasing the value or quantity of service. The applicant's acquisition, construction, and operation of the Solar Facilities will increase the quantity of service, adding a total of 675 MW to the applicant's generating capacity fleet. The remaining question revolves around the economics of the acquisitions, construction, and operation, and whether they will increase the cost of service and, if so, whether the potential cost increase is proportional to the increased value or quantity of service.

The applicant used the AURORA model to evaluate a number of changes to the applicant's generator fleet as part of a holistic assessment of its needs. The AURORA program contains elements of capacity expansion planning models such as the Electric Generation Expansion Analysis System and production cost models such as PROMOD. The applicant contracted with Charles River Associates to assist in its modeling efforts. The applicant and Charles River Associates developed five futures to represent a range of plausible future states that could possibly come to pass. These futures included: (1) continuing industry change, with current economic and technology trends persisting into the future; (2) market and economic stagnation, with a downturn in economic activity and minimal load growth; (3) new environmental regulations, featuring new government-imposed mandates forcing alterations to generating fleets; (4) advanced customer-side technology, with wider adoption of behind-the-meter generation and efficiency measures; and (5) electrification and economy-wide carbon limits, with a cap on carbon emissions.

Within these futures, further sensitivity studies were performed, including thousands of stochastic analyses that allow for random variations of key variables such as natural gas prices and solar PV energy production using various probability distributions. Other sensitivities applied in some futures included increasing or decreasing natural gas or coal fuel prices by 10 percent, when compared to a Wood Mackenzie reference point. The Commission finds that this grouping of futures and sensitivity runs represents reasonable due diligence on the applicant's part to cover plausible changes that may affect the potential savings these projects may offer, enumerating a range of possible economic outcomes. The conclusion of all these

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futures and sensitivities indicated that the acquisition, construction, ownership, and operation of these facilities are in the interest of the applicant and its ratepayers.

Commission staff reviewed the modeling and economic analysis submitted by the applicant as part of the application in this docket. In addition to the modeling originally submitted by the applicant, Commission staff requested that the applicant perform additional AURORA modeling to update some aspects of the electrical generator and transmission topology in Wisconsin and surrounding states. Included in these changes were different retirement assumptions for some electric generating units, an increase in solar PV electric generating facilities' annual performance degradations, inclusion of some new capacity in Load Resource Zone 1 in Wisconsin, increased transmission capability into Wisconsin, and changes to capacity factor assumptions for existing electric generating units. These requested changes resulted in improved customer benefits in four of the five futures checked, with the fifth future realizing a reduction of approximately \$9 million. These modeling outcomes demonstrate that the benefits asserted by the applicant are relatively invariant under changes to regional generator and transmission assumptions. Therefore, Commission staff concluded that other variables, such as natural gas pricing assumptions and solar PV electric facility energy production play a larger role in projected customer benefit outcomes.

Commission staff also witnessed a rerun of one of the base model runs, including the model run setup and post-processing of run outcomes. Commission staff then received the model rerun data, verifying that it matched exactly with the originally submitted data, with the exception of timestamps. Thus, Commission staff felt comfortable that the applicant's modeling results could be replicated even though Commission staff could not perform an independent

verification. Commission staff also requested that the applicant perform an analysis using the PROMOD program, to demonstrate that locational marginal pricing (LMP) values predicted by AURORA could be recreated, within reasonable error ranges to account for the different programs' analysis methodologies. The applicant performed this modeling in PROMOD and Commission staff verified the replicability of the PROMOD results. Comparing the outputs of AURORA and PROMOD, Commission staff felt there was reasonable agreement behind the LMPs predicted.

The applicant's set of assumptions that portray its proposal as more economically justifiable relative to the alternatives does not necessarily establish its proposal as the factually superior option, since a different range of conditions may have led to a different conclusion. Although material uncertainty exists across the range of potential scenarios examined that will impact the realized costs and benefits associated with the applicant's proposal, material deficiencies do not exist in the applicant's financial analysis in terms of its stated economic objectives, the tax equity financing proposal, or the reasonableness of the range of assumptions. Based on this analysis, the Commission finds that the acquisition by the applicant is reasonable and in the public interest.

Acquisition Price

The Commission, consistent with its past practice, shall review in a future rate case the recoverability of costs associated with the acquisition, O&M costs, and revenues associated with the applicant's purchase of the Solar Facilities. The total estimated cost of the proposed project is \$924,692,985, including AFUDC. Under a tax equity financing structure the total project cost is based off of the project fair market value less the investor capital contribution. The net present

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value of the revenue requirement related to the proposed projects is \$167,533,141. The acquisition and construction of the Solar Facilities would increase the revenue requirement by an estimated \$5,584,438, which represents approximately 0.47 percent of the estimated annual revenues in the first full year after all projects are completed.

Estimated Project Cost

Construction Expenditures (Excluding AFUDC)	\$861,625,000
AFUDC	63,067,985
Total Project Cost under Traditional Ownership Structure	\$924,692,985
Adjustment to Fair Market Value	(78,289)
Project Fair Market Value (Estimated at Applicant Book Value)	\$924,614,696
Investor Capital Contribution	(349,825,963)
Total Project Cost under Tax Equity Financing Structure	\$574,788,733

Accounting and Escrow Treatment

The applicant requested authorization to recover the net investment in the tax equity partnership by utilizing Account 182.3 Other Regulatory Assets and to recover the amortization of the net investment in the tax equity partnership over the 30-year useful life of the project. This accounting treatment is consistent with past Commission decisions in dockets 6680-CG-168 ([PSC REF#: 387537](#)) and 6680-CG-169, ([PSC REF#: 398836](#)) and it is reasonable to apply the same methodology to the net investment in the tax equity partnership.

The Commission finds it reasonable to approve the applicant's request to record any difference between the cash distribution of net operating benefit from the tax equity partnership and future authorized revenue requirements in an escrow and for the escrowed amount to be included in future authorized revenue requirements. This escrow accounting treatment will

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ensure that both the applicant and its ratepayers remain whole, as an escrow will capture any differences in the cash distributions related to the tax equity partnership.

The applicant has requested deferral and escrow accounting treatment for any net costs or benefits related to the CfD and potential ZRC and REC purchases. Any activity associated with these agreements shall be recorded as a regulatory asset or regulatory liability to be netted against cash distributions. The Commission finds the requested deferral and escrow accounting treatment to be reasonable.

The treatment for the AFUDC for these projects shall be consistent with the Commission's Final Decision in docket 6680-AF-100, where the applicant was ordered to record pre-construction costs in Construction Work in Progress and accrue AFUDC on 100 percent of the pre-construction costs associated with the docket.

Cost Notification and Cost Caps

The Commission considered whether the project cost recoverability should be capped and at what level. The applicant requested that the Commission not set a cost cap and instead proposed to notify the Commission of any cost overruns. Further, if there were concerns that the applicant did not deliver the ratepayer benefits consistent with the tax equity financing structure it has proposed, the applicant noted that the Commission could address those issues in a future rate case.

More particularly, the applicant originally requested that if the cost of the Solar Facilities, including *force majeure* costs, exceeds the total estimated construction costs identified as \$925 million (including \$63 million of AFUDC) by more than 10 percent, the applicant would promptly notify the Commission as soon as it became aware of the possible change or cost

increase. Commission staff testimony stated that under a traditional ownership structure, the requested threshold would be appropriate. However, under a tax equity financing structure, staff recommended setting the notification threshold at \$575 million, which is the estimated project fair market value less the investor capital contribution. In response to the decision matrix, the applicant provided a modified alternative where the applicant agreed to notify the Commission if construction costs exceed the current estimate (\$862 million) by more than 10 percent, or if the amount the applicant seeks to include in rate base net of the investor's minimum 35 percent contribution exceeds the current estimated rate base amount (\$585 million, excluding AFUDC) by more than 10 percent.

In its comments, CUB recommended that the Commission consider the following conditions:

- a. A condition limiting the total approved cost of the solar projects to 100 percent of the estimated acquisition cost, plus AFUDC.
- b. A condition limiting the total amount recoverable through retail rates to the total capital cost less contributions from tax equity partners.
- c. A condition requiring that the applicant provide notice to the Commission within 30 days of learning of any factor, including *force majeure* events, that increases the acquisition cost, with increases to the cost basis for calculation of AFUDC only at the Commission's discretion.
- d. A condition requiring the execution of agreements relating to the tax equity financing that are consistent with or substantially in the form of what has been

represented by the applicant in this proceeding, or better, from the standpoint of customer rate benefit.

CUB stated the above recommended conditions are needed to protect the applicant's customers. The applicant requested that the Commission not find any of these additional financial conditions reasonable or necessary and instead adopt the applicant's proposed cost notification condition. In addition, the applicant requested that: "the Commission should not condition approval of the Application on WP&L securing tax equity financing. This may make it more difficult for WP&L to obtain such financing and could foreclose WP&L from pursuing simpler but equally beneficial financing mechanisms for the Solar Projects, should they arise."

The Commission determines that since the docket contains a request to acquire, construct, and operate the Solar Facilities, it is necessary to impose a cost cap similar to past Commission decisions under the acquisition format. Such a cap ensures that any cost overruns are not borne by ratepayers without prior Commission authorization. Therefore, the Commission finds it reasonable to impose a cap of \$585 million, which is the estimated project fair market value less the investor capital contribution, provided however, that the applicant may request authorization from the Commission to recover excess costs in a future rate case proceeding. The Commission finds it reasonable to approve a modified condition requiring the applicant to notify the Commission within 30 days if the construction costs exceed the current estimate (\$862 million) or if the amount the applicant seeks to include in rate base, net of the investor's minimum 35 percent contribution, exceeds the current estimated rate base amount (\$585 million, excluding AFUDC).

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The Commission declines to include CUB's proposed conditions, finding that those conditions are not necessary, given the other conditions imposed.

In addition to the conditions discussed above, Commission staff also recommended a number of docket-wide acquisition conditions for the Commission to consider, given the unique nature of this docket, and the timing of the various related dockets. Because the Commission had not yet authorized the Grant County and Onion River CPCN applications at the time of its discussion of this docket, the Commission initially found it reasonable to expressly condition its approval of the acquisition of Grant County and Onion River as part of this authorization upon the Commission's determination in dockets 9804-CE-100 and 9805-CE-100 to authorize CPCNs for those projects. Since those CPCNs have now been authorized, the Commission finds that imposition of such a condition is no longer necessary.

The Commission finds, however, it reasonable to impose a number of conditions, similar to those imposed in prior similar acquisition dockets, which will further the public interest, statutory compliance, and minimize risks to customers, which are discussed more particularly below.

Conditions Related to Transfer of the CPCNs

While the timing of this application to acquire the Solar CPCNs before construction has been completed is somewhat unique, the approval of a wholesale merchant CPCN with knowledge that ownership of the facility will transfer to a regulated utility is not. In *Application of Power Ventures Group, LLC, for a Certificate of Public Convenience and Necessity to Construct a Large Electric Generating Facility in Sheboygan County*, No. 05-CE-131 (Wis. PSC 2004), the Commission included conditions binding any new owner of the proposed electric

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generation plant to the terms and conditions of the Commission's order citing protection of ratepayer interests. In this docket, the Commission is similarly considering, among other issues, the transfer of CPCNs issued to wholesale merchants to a regulated utility. The applicant has stated that the acquisition of the Solar CPCNs includes the transfer of the CPCN rights from the wholesale merchant developers to the applicant. The Commission's authorizations of the Solar CPCNs were similarly conditioned to bind any new owner of the proposed electric generation facilities to the terms and conditions of the Commission's CPCN orders. *See e.g. Application for Certificate of Public Convenience and Necessity for Wood County Solar Project, LLC to Construct a Solar Electric Generation Facility in the Town of Saratoga, Wood County, Wisconsin, No. 9803-CE-100, Final Decision (Wis. PSC March 4, 2021) at 34, Order Points 16-17* ("All commitments made by Wood County Solar in its application, subsequent filings, and the provisions of this Final Decision shall apply to Wood County Solar, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project. . . . The transfer of rights and obligations under this CPCN to a third-party does not confer either additional rights or obligations upon that third-party than what is afforded to Wood County Solar 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. §§ 33.02 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).")

Because the rights granted or that could be granted under each CPCN for the Wood County, Grant County, and Onion River facilities were only those applicable to the developers and the applications submitted by those entities, the Commission finds it reasonable to include conditions requiring that the applicant be bound by all commitments made by the developers in their applications in dockets 9803-CE-100, 9803-CE-101, 9804-CE-100, and 9805-CE-100, and to limit the authority granted under each CPCN to only those rights afforded the developers at the time of the Commission's issuance of each CPCN. These conditions include limitations on the use of eminent domain. The Commission also finds it reasonable to prohibit the applicant from proceeding with any substantial change in scope, design, size, or location of the Wood County, Grant County and Onion River projects except as provided in the final decisions in the CPCN dockets. Inclusion of conditions like these is not new, and is consistent with the conditions imposed in the CPCN dockets themselves. Such conditions will ensure that any ambiguity between the rights and authority granted in the CPCNs to the wholesale merchants will remain constant despite ownership by public utilities that may possess rights and authority beyond that available to a non-regulated wholesale merchant.

Conditions Relating to Acquisitions

The acquisition of the proposed Solar Facilities is among the first of its kind in Wisconsin. Accordingly, the Commission finds it reasonable to require, for informational purposes only, the applicant to provide copies of the executed acquisition agreements between the applicant and the project developers. The Commission's ability to have access to the terms of these agreements will provide clarity on the timelines for transfer and operation, the division of responsibility between the applicant and developers for operation of the facilities, and

confirmation of the final terms of the acquisitions. The applicant shall also submit to the Commission, after completion of each acquisition, the proposed accounting entries to record the acquisition of the Solar Facilities. The applicant shall also notify the Commission of the effective date of the purchase of the projects within 30 days of the effective date of the transfer. Further, within 60 days of the effective date of the transfer, the applicant shall file with the Commission the final closing purchase price. If the applicant does not proceed to closing or enters into any arrangement with another party regarding ownership or operation of the projects, the applicant shall provide prior notice to the Commission. The Commission also finds it reasonable to include a condition requiring that all commitments made by the applicant in its application, subsequent filings, and the provisions of this Final Decision shall apply to the applicant, and any agents, contractors, successors, assigns, affiliates, or future owners or operators of the project or any part thereof, and that transfer of ownership or operations interest in the project shall not confer additional rights or obligations on the third party.

Public Interest Considerations and Approval

Based upon the economic analysis demonstrating the customer benefits of the transaction and the other considerations discussed above, and with the conditions imposed by this Final Decision, the Commission approves the acquisition, construction and operation of the Solar Facilities. The Commission finds that the acquisition, construction and operation of the Solar Facilities will not add to the applicant's cost of service without proportionately increasing the value or available quantity of service. In addition, the Commission concludes that the acquisition, construction and operation of the Solar Facilities will neither substantially impair the efficiency of the applicant's service nor provide facilities unreasonably in excess of the

applicant's probable future requirements. As such, the Commission finds the proposed acquisition, construction and operation of the Solar Facilities is consistent with the public interest.

Energy Priorities Law

Wisconsin Stat. § 196.025 provides that “[t]o the extent cost-effective, technically feasible and environmental sound, the Commission shall implement the priorities under s. 1.12(4) in making all energy-related decisions.” The proposed project will be the acquisition, construction, and operation of new solar electric generation facilities. As such, it is a “noncombustible renewable energy resource” and is entitled to the highest priority of all energy generation resources under the Energy Priorities Law. It is uncontested that energy and capacity from the proposed project cannot be replaced by energy conservation and efficiency, the highest priority alternative. No circumstances exist that would lead a decision-maker to conclude that any of the higher energy priorities listed in Wis. Stat. §§ 1.12 and 196.025, would be applicable or provide a cost-effective alternative to the proposed project. There is no dispute that the applicant needs additional capacity, nor any evidence in the record that energy conservation or efficiency would meet the applicant's stated capacity needs.

Findings Related to Project Construction

As discussed above, while the construction of the Solar CPCN facilities was considered individually in the separate Wood County, Grant County, and Onion River CPCN dockets, in which conditions on the construction of those facilities were imposed, the Crawfish River, North Rock, and Richland Center sites did not require separate CPCN dockets, and the Commission considers the construction of the sub-100 MW facilities associated with the Solar Projects

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(North Rock, Crawfish River, and Richland County) for the first time in this docket. The Commission has typically included a number of conditions in its prior electric construction orders, and considered whether such conditions would be appropriately imposed on the construction of the Solar Projects. For the reasons discussed below, the Commission finds certain project-specific conditions on the construction of the Solar Projects, discussed below, to be reasonable and in the public interest.

Electric Code Compliance

In general, the National Electrical Code (NEC) applies to non-supply facilities owned by non-utility entities, and the National Electrical Safety Code (NESC) applies to supply facilities owned by utilities. Based on the response from testimony by Ben Lipari for the applicant, the applicant agreed that the Solar Projects will comply with NEC or NESC, as appropriate.

(Rebuttal-WPL-Lipari-2, [PSC REF#: 404300](#).) Previous Commission Final Decisions, including those for Glacier Hills Wind Park,⁴ Badger Hollow Solar,⁵ Two Creeks Solar,⁶ Point Beach Solar,⁷ Badger State Solar,⁸ and Paris Solar Farm⁹ have included language with compliance of NEC or NESC, as appropriate.

The Commission finds it reasonable to require the applicant to construct, maintain, and operate all project facilities at the Solar Project sites to comply with NEC or NESC and Wis. Admin. Code ch. PSC 114, as appropriate. In case of conflict or overlap between code

⁴ See docket 6630-CE-302.

⁵ See docket 9697-CE-100.

⁶ See docket 9696-CE-100.

⁷ See docket 9802-CE-100.

⁸ See docket 9800-CE-100.

⁹ See docket 9801-CE-100.

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requirements, the applicant shall construct, maintain, and operate all applicable project facilities to comply with the more stringent code requirement. This will ensure public safety.

Stray Voltage Testing

Specific concerns about stray voltage were raised in previous Commission-authorized utility-scale solar dockets, specifically dockets 9696-CE-100, 9697-CE-100, 9800-CE-100, and 9802-CE-100. Wisconsin Admin. Code § PSC 128.17 deals with stray voltage testing associated with wind energy systems, but the Commission has also employed the language of the code to address stray voltage concerns in utility-scale solar dockets. Previous Commission Final Decisions, including those for Glacier Hills Wind Park,¹⁰ Badger Hollow Solar,¹¹ Two Creeks Solar,¹² Point Beach Solar,¹³ Badger State Solar,¹⁴ and Paris Solar Farm¹⁵ have included language requiring stray voltage testing. Stray voltage has the potential to cause adverse impacts on agricultural property. Commission staff suggested that any Final Decision language requiring pre- and post-construction stray voltage testing be consistent with Wis. Admin. Code § PSC 128.17 and previous Commission decisions on solar electric generation facilities. These previous decisions required that stray voltage testing be offered to agricultural properties with confined animal operations within a half-mile of project facilities.

For the Solar Project facilities, the Commission finds it reasonable to include an order condition requiring the applicant to work with the applicable distribution utility to make available the testing for stray voltage at each agricultural confined animal operation within one

¹⁰ See docket 6630-CE-302.

¹¹ See docket 9697-CE-100.

¹² See docket 9696-CE-100.

¹³ See docket 9802-CE-100.

¹⁴ See docket 9800-CE-100.

¹⁵ See docket 9801-CE-100.

half-mile of project facilities, prior to construction and after the projects are energized. The applicant shall work with the distribution utility and farm owner to rectify any identified stray voltage problem arising from the construction or operation of the projects. Prior to testing, the applicant shall work with the applicable distribution utility and Commission staff to determine where and how it will conduct the stray voltage measurements. The applicant shall report the results of its testing to Commission staff.

Post-Construction Noise Study

There has been long-standing Commission precedent of requiring pre-construction and post-construction noise studies for any new proposed electric generation facility, for both renewable and conventional electric generation resources. Previous Commission decisions have included language that required noise studies by a project developer. The applicant completed and submitted an initial pre-construction noise study report for the Solar Project facilities.

The Commission finds it reasonable to require the applicant to perform post-construction noise studies as described in the most current version of the Commission's Noise Measurement Protocol for the Solar Project facilities. This will ensure that any noise created by the Solar Project facilities will be identified and mitigated in accordance with the Commission's standards. In the event of a substantial change to the proposed facility layout, the applicant should confer with Commission staff to determine whether a new pre-construction noise study must be completed. The applicant shall file a copy of the post-construction noise study report with the Commission.

Environmental Impacts

The environmental review in this docket focused on the construction of the three sub-100 MW Solar Projects that are not covered by separate CPCN dockets.¹⁶ In reviewing this application to acquire the facilities associated with all six Solar Facilities sites, including both the three Solar CPCNs and the three Solar Projects, Commission staff also considered the collective impacts of all six projects, and was mindful of the cumulative impacts that could occur given the large number of applications for utility-scale solar facilities throughout the state. ([PSC REF#: 405120](#) at 9-10, 178-79.) The EA concluded that “approval and construction of these projects is unlikely to have a significant impact on the human environment.” ([PSC REF#: 405120](#) at 181.)

Wetlands and Waterways

DNR participated in the review process with the Commission as required under Wis. Stat. § 30.025. As part of its review, DNR determines whether the proposed project is in compliance with applicable state water quality standards. Wis. Admin. Code chs. NR 102, 103, and 299. If the project is found to be in compliance with state standards, DNR issues a waterway permit as promulgated under Wis. Stat. ch. 30, and/or a wetland permit, as promulgated under Wis. Stat. § 281.36.

Wetlands within the project areas for the three Solar Project facilities were field delineated in 2018 (Crawfish River) and 2019 (Richland County and North Rock). The North Rock and Crawfish River facilities would require permitting under Wis. Stat. § 281.36 for discharges of fill material into wetlands. No wetland fill permitting would be needed at the Richland County solar facility, as impacts to wetlands would be avoided. No regulated waterway impacts would occur at

¹⁶ The three Solar CPCNs, Wood County, Grant County, and Onion River, each had their own EAs conducted in their respective dockets (9803-CE-100 and 9803-CE-101, 9804-CE-100, and 9805-CE-100, respectively).

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the North Rock and Richland County solar facilities. Waterway navigability determination requests were submitted to DNR staff for the Crawfish River solar facility, and three waterways were determined to be non-navigable for the purpose of that project. As such, as described, the Crawfish River solar project would be permissible under the legal requirements of Wis. Stat. § 30.025.

Flood Hazard Review

The Solar Projects were reviewed for potential flood hazard exposure per Order 73. As no flood-sensitive facilities are to be located in or near any designated flood plain or flood-prone areas, there is no significant flood risk to the proposed project.

Rare Species

The Solar Projects were reviewed in this docket for the presence of threatened and endangered species and the potential to impact rare species. These reviews consisted of a certified Endangered Resources (ER) Review for each specific Solar Project facility, which included a review of the DNR Natural Heritage Inventory database for endangered and threatened species and species of special concern. Each ER Review was checked, modified (if needed), and approved by DNR staff in the ER Review Program. The Natural Heritage Inventory database is updated regularly, and the Commission finds it reasonable to require that the applicant conduct an updated ER Review closer to the start date of construction of the Solar Project facilities (no more than one year prior to construction start for each facility).

The Solar Projects had ER Reviews to identify rare species within the project area. The ER Reviews included DNR-recommended actions that could reduce the impacts to those species. In the proceedings of this docket, the applicant's staff stated that it will adhere to the

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recommendations that DNR provided in the ER Reviews for the Solar Project facilities.

(Direct-WPL-Skalitzky-r, [PSC REF#: 405228](#) at 15.) The Commission finds it reasonable to include an order condition stating that the applicant shall implement DNR-recommended actions described in each ER Review in its construction of the Solar Project facilities as an informed way to minimize and avoid impacts to endangered resources as a result of the construction and operation of those facilities.

Historic Resources

For the Solar Projects, the developers hired a qualified contractor to conduct a review of historic resources within a proposed project study area for each facility. The study areas included the array sites as well as all other areas of potential ground disturbance associated with the proposed project. The review consisted of a literature and archival review of the project study areas at the Wisconsin Historical Society using the Wisconsin Historic Preservation Database maintained by the Wisconsin State Historic Preservation Office. These reviews identified a list of sites within and adjacent to each project study area as well as associated site documentation and reports. The contractors also developed archaeological probability models for the project study areas to prioritize areas for field surveys. Archaeological field surveys were done in accessible “high-priority” areas identified by the probability models that had not been subject to previous archaeological surveys.

No historic resources were identified in the immediate areas of construction for the Richland County facility. One historic resource was identified in the project area for the Crawfish River facility, but evaluation of the resource did not identify any recommended actions. The North Rock facility had one nearby site with follow-up actions. The site would be fenced

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off and discrete signage would be posted. Flagging tape would be used to cordon the area and create project maps showing the area as being off limits. All project workers would be given a safety briefing prior to starting work onsite, which will include the direction to avoid this sensitive area. The applicant does not anticipate any impacts to the burial site from the North Rock solar arrays. In the final project design, no array area would intersect with the boundary of the sensitive area. If necessary, the applicant would have a state archaeologist define the boundary of the site for avoidance purposes. The applicant would comply with all Wisconsin Historical Society requirements for the archaeological and human burial site. Overall, the project as proposed is not anticipated to cause significant impacts to historic resources.

Residential and Property Owner Impacts

The Solar Projects were evaluated for impacts to local residences and property owners. The analysis for each facility described in the EA the potential for changes in property values, increased noise, glare from the panels, and the change of land use from rural, farmed landscapes to many acres of panels and fencing. None of these areas were found to have the likelihood of significant impacts to local residences and property owners. An evaluation of setback distances was done, as has been completed in other solar generation facility dockets that have come before the Commission. Commission staff raised the question of whether the Commission should evaluate how standardized setback distances might mitigate impacts to adjacent non-participating residences. The Commission finds it unnecessary to include an order condition on this topic. Each project that comes before the Commission is evaluated separately to determine whether setback distances or other effects of a project cause significant impacts to local residences.

Photovoltaic Heat Island Effect (PVHI)

The heat island effect is a term used when local air and surface temperatures are higher than nearby natural areas as a result of heat-absorbing surfaces at a developed site. A heat island effect created from solar PV generation facilities is referred to in the literature as the PVHI effect. Some members of the public in recent solar dockets before the Commission have raised the issue of whether solar facilities create a heat island effect similar to facilities such as parking lots. The EA sections for the Solar Project facilities discuss several studies on this topic, which have found that solar panels can create a heat island effect, which alters the temperature of the air near and around the panels. However, no studies have examined the heat island effect in the environment of the Upper Midwest. Therefore, it is unknown whether this effect will occur, and to what degree it would change local temperatures, at solar facilities in Wisconsin. The scientific literature reviewed in the EA found that temperatures close to the panels only rose slightly by a few degrees at those facilities, and temperatures mostly dissipated overnight.

Commission staff raised the topic of potential studies that could be done or other investigation mechanisms that could be utilized to examine whether the PVHI effect is observed at solar facilities in Wisconsin. The applicant disagreed with the potential for an order condition that would require that the applicant conduct studies into this topic at the Solar Facilities that form this project. The applicant stated that the scope, expense, and duration of any such study is unclear, and requiring such a study would require the applicant's ratepayers to shoulder research costs that affect solar projects throughout the state. The Commission finds it unnecessary to include any order condition on the PVHI effect as part of this decision for any of the Solar Projects. At this time, there is insufficient data to support such a requirement.

Other Wildlife Impacts

The construction of the Solar Projects will convert the vegetation at the Solar Project facilities from agricultural land, primarily row crops like corn and soybeans, to areas of grassland. The applicant plans to use perennial plant seed mixes within the solar production areas, predominately consisting of grass species, with some pollinator-friendly plant species within areas of the property outside of the solar arrays but within the facility fences. This change in vegetation will provide a more open grassland ecosystem, which may attract new species of animals not present when the landscape was in agricultural production. Small mammals, birds, and certain insect species will likely reside within the boundaries of the facilities.

Ground-nesting birds and animals could be impacted by vegetation management at the facilities after construction is complete. During operation, and after initial ground vegetation establishment, management of array vegetation should avoid mowing from May 15 through August 1 of each year. The applicant is willing to schedule mowing activities outside this avoidance period to the extent feasible. The applicant stated that if mowing is required during the avoidance period, personnel will be trained to look for sensitive wildlife before engaging in such activities to avoid impacts.

Commission staff recommended, and the Commission finds that it is reasonable to require, for the Crawfish River solar project, that an updated vegetation management plan fully describing operational activities, including maintenance schedules, shall be provided to Commission and DNR staff prior to operation of the project. During construction, there could be direct impacts to species as a result of tree-clearing activities. Roosting bats and nesting birds can be damaged or killed by tree-clearing. During construction, tree-clearing should be timed to avoid the period of

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May 15 through August 15. The plan shall thus schedule tree-clearing and mowing activities outside of the avoidance periods, to the extent feasible.

Utility-scale solar PV facilities are a relatively new addition to temperate landscapes and research is ongoing to determine potential impacts to avian resources. Commission staff discussed the potential for recommending an order condition that would require the applicant to work with Commission and DNR staff on developing and conducting a post-construction avian mortality study. The applicant objected to the imposition of this condition based on cost, scope, and duration of such a study. The applicant did not oppose the Commission considering the subject in a generic docket or other methods, if the Commission is interested in pursuing that as an option.

The Commission finds that a post-construction avian mortality study is unnecessary for the Solar Projects.

Commissioner Huebner dissented, and would have required annual wildlife monitoring and incident reporting for the Crawfish River and North Rock Solar Project locations, and would have required a third-party study for the Richland County Solar Project location.

Vegetation Impacts

Solar facilities in the Upper Midwest typically have vegetation growing on the array sites around the site perimeter, as well as between and underneath panels. This vegetation decreases the amount of impervious surface associated with the site and assists in managing storm water runoff and erosion. The vegetation needs to be established and managed in a way that avoids conflicts with the operation of the solar generation facility. Native plant species can create a healthy and sustainable groundcover on the site.

As described above, the Solar Projects provided preliminary vegetation management plans as part of the application materials, but did not describe actions during the operational phase of the solar facilities. The vegetation management plans also do not include consequential details regarding the placement of pollinator-enhanced seed mixtures and vegetative buffers. The use of vegetative buffers for residences within 1,000 feet of the proposed facilities is a requirement of the Conditional Use Permit issued by Richland County for the Richland County solar facility, though the specific location and composition of those buffers have not been determined. Due to the regional location of the Richland County solar facility near the Lower Wisconsin Riverway, strategic placement of those vegetative buffers with native flowering species could improve soil health and water quality, reduce soil erosion, and increase resources and diversity of native pollinators and wildlife.

The Commission finds that for the Richland County solar facility, it is reasonable, given the location of this facility near the Lower Wisconsin Riverway, to direct the applicant to work cooperatively with Commission staff on the composition and placement of vegetative buffers and pollinator enhancement plantings in that site-specific vegetation management plan.

Pre-Construction Meeting

There are a number of topics that require additional documentation subsequent to the Commission's decision, including the final design layout, the status of any permit conditions, and selected construction methods or best management practices. Final engineering for projects often will establish the details of construction and mitigation methods that will actually be instituted by the applicants. The use of a pre-construction meeting would allow Commission and DNR staff to review the final designs and construction plans of each Solar Project facility once a

contractor is selected, and raise any issues or concerns at a time when they may be addressed prior to construction. Pre-construction meetings are an opportunity for the regulatory agencies and project proponents to discuss expectations, answer questions, and avoid confusion.

To facilitate an effective meeting, construction plans, project designs, and any documents that should be provided prior to the start of construction should be given to Commission and DNR staff at a point where designs are finalized to a point where subsequent changes would be limited, and early enough to allow for staff review prior to the meeting. The Commission finds it reasonable to require the applicant and its selected contractor to participate in a pre-construction meeting with Commission and DNR staff to discuss construction plans and/or final site designs, permits, and associated requirements and best management practices (BMP) for Solar Project facilities. Materials shall be provided to DNR and Commission staff a minimum of 14 days prior to the meeting date to allow time for review. Due to the scale of the projects authorized in this CA, each project pre-construction meeting should be specific to that project in terms of the timeline and information to be provided.

Minor Siting Adjustments

The Commission recognizes that detailed engineering is not complete prior to it authorizing the project, and that minor siting adjustments may be needed to accommodate the final design of the Solar Projects. Situations may be discovered in the field that were not apparent based on the information available to the applicant in development of the proposed project or to the Commission in making its decision. When the applicant identifies such situations, it shall consult with Commission staff familiar with the project to determine whether the change rises to the level where Commission review and approval is appropriate. If

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Commission review is appropriate, the applicant shall request Commission authorization. A request for a minor siting adjustment shall take the form of a letter to the Commission describing:

1. The nature of the requested change;
2. The reason for the requested change;
3. The incremental difference in any environmental impacts;
4. Communications with potentially affected landowners regarding the change;
5. Documentation of discussions with other agencies regarding the change; and,
6. A map showing the approved layout and the proposed modification, property boundaries, relevant natural features such as woodlands, wetlands, waterways, and other sensitive areas.

These requests will be reviewed by Commission staff knowledgeable about the project.

Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis with the advice and consent of the Administrator of the Division of Digital Access, Consumer, and Environmental Affairs. The requested change may be granted if the proposed change:

1. Does not affect new landowners who have not been given proper notice and hearing opportunity;
2. Does not impact new resources or cause additional impacts that were not described in the EA; and,
3. Is agreed to by affected landowners, and agreement is affirmed in writing.

Changes that do not meet all three of the criteria listed above would require reopening of the docket. For any minor siting adjustment, the Commission typically also requires that the applicant:

- Obtain all necessary permits;
- Comply with all requirements included in agreements with local units of government, such as conditional use permits or memoranda of understanding;
- Comply with all landowner agreements;
- Avoid of any part of the project area that the Commission finds unacceptable; and,
- Comply with the applicant's own environmental siting criteria.

The Commission finds that it is reasonable that the applicant be granted the ability to conduct minor siting adjustments for the Solar Project facilities (up to the authorized nameplate capacity for each facility) during final design. The Commission spends considerable time reviewing and selecting areas for a generation project layout, and it is therefore of utmost importance that if the chosen project layout must be changed, the Commission must receive appropriate notification. The applicant shall follow the described process to obtain authorization for any minor siting adjustments.

Compliance with the Wisconsin Environmental Policy Act (WEPA)

The construction or acquisition of a solar electric generating facility project are Type III actions under Wis. Admin. Code § 4.10(3). Type III actions do not usually require the preparation of an EA or EIS, but any given action can prompt the preparation of those documents if determined to be necessary by the Commission's WEPA Coordinator under Wis. Admin. Code § PSC 4.80(e). Three of the sites proposed to be purchased by the applicant require CPCNs and

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were evaluated for environmental impacts through EAs in those dockets. Due to the size of the Crawfish River, North Rock, and Richland County solar facilities, Commission staff prepared an EA to analyze those sites, and the cumulative impacts of all six project facilities to determine whether an EIS is warranted under Wis. Stat. § 1.11(2)(c). For the reasons discussed in the Environmental Review section, the Commission finds that an EIS under Wis. Stat. § 1.11 is not required. The Commission also determines that its EA for the proposed project complies with WEPA, pursuant to Wis. Stat. § 1.11 and Wis. Admin. Code ch. PSC 4.

Use of Brownfields

When considering issuing a CA for the construction of electric generating equipment and associated facilities, the Commission may only grant a CA if it determines that brownfields were used to the extent practicable. Wis. Stat. § 196.49(4). An evaluation of brownfields was done in each of the respective EAs for the Solar CPCNs. As discussed in those EAs, no suitable brownfields were identified. The review of the sub-100 MW Solar Project sites in this docket did not identify any suitable brownfield sites that could accommodate construction of the proposed facilities in Crawfish River, North Rock, or Richland County. The Commission finds that the use of brownfields was not practicable.

General Conditions

In addition to the more-specific conditions discussed above, Commission staff suggested the Commission could consider including a number of conditions similar to those the Commission has found to be reasonable in its past prior electric construction orders to the construction of the Solar Project facilities.

Sierra Club supported the adoption of the proposed conditions, and CUB took no position on them. The applicant did not object to the imposition of the suggested typical conditions, but requested that one condition, relating to the requirement that it obtain permits before commencing construction, be modified.

The applicant's requested modification relates to a condition the Commission frequently requires in final decisions authorizing construction projects, which mandates that an applicant obtain all necessary federal, state, and local permits prior to commencement of construction.¹⁷ The reason for this requirement is to ensure that the Commission does not approve, and the applicant does not begin work on, a section of a project that would not be able to obtain permits from other regulatory agencies, or begin construction in an area without following mitigation or construction requirements required by another regulatory agency permit. Commission staff suggested a similar condition in this docket, in a slightly different form than has been implemented in prior project approvals, to account for the fact that the "project" (acquisition and construction of the six Solar Facilities) is made up of six discrete sites/solar facilities, each subject to its own permitting requirements. Commission staff's proposed condition thus would have required only that all permits necessary for a given Solar Project facility must be obtained before work on that Solar Project facility would begin, but not that all permits across all Solar Facilities would be required for construction to occur on any of the sites. The applicant requested a further modification, so that it would be required to obtain necessary federal, state, and local permits prior to the commencement of construction of a particular Solar Project facility

¹⁷ A list of all anticipated permits for the Solar Project facilities is included in the project application and EA. DNR participated in the environmental review of this project, and it is anticipated that the proposed project will meet wetland and waterway permit requirements.

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only on the portion of the project requiring that particular permit. The Commission finds it reasonable to adopt each of the typical conditions suggested by Commission staff for the Solar Projects with the modification requested by the applicant. For that condition, the applicant shall be required to obtain all necessary federal, state, and local permits prior to commencement of construction on the portion of the Solar Project requiring the permit.

In addition to the conditions recommended by Commission staff, some parties and members of the public suggested various order conditions that could be imposed on the construction of the Solar Projects, including but not limited to a condition requiring the applicant to identify solar panels, and a condition requiring a study on the impact of fencing and utility-scale solar projects generally on wildlife. The applicant opposed these conditions, and noted that several were raised in non-party briefs and related to concerns with the Grant County and Onion River solar projects, each of which is the subject of its own separate CPCN proceeding, in which conditions on those projects could be considered and imposed. Commission staff did not find these conditions to be necessary additions. The Commission does not find the additional proposed conditions raised by parties or members of the public to be necessary for approval.

Certificate

The Commission certifies that the applicant is authorized to acquire, construct, own, and operate 675 MW of solar PV generating capacity to be developed at six sites at a cost of approximately \$862 million, excluding AFUDC, as described in the application and as modified by this Final Decision.

Order

1. The proposed acquisition, construction, and operation of the Solar Facilities as described in the application and as modified by this Final Decision, is authorized, subject to conditions.

2. The applicant is to construct the proposed Crawfish River, North Rock, and Richland County Solar Projects, as described in the application and data request responses, and as modified by the Final Decision.

3. The applicant shall recover the net investment in the tax equity partnership by utilizing Account 182.3 Other Regulatory Assets and shall recover the amortization of the net investment in the tax equity partnership over the 30-year useful life of the project.

4. The applicant shall escrow any difference between the cash distribution of net operating benefit from the tax equity partnership and future authorized revenue requirements and the escrowed amount shall be included in future authorized revenue requirement.

5. The applicant shall utilize deferral and escrow accounting treatment for any net costs or benefits related to the CfD and potential ZRC and REC purchases.

6. The applicant shall notify the Commission within 30 days if the construction costs of the Solar Facilities exceed the current estimate (\$862 million) or if the amount the applicant seeks to include in rate base net of the investor's minimum 35 percent contribution exceeds the current estimated rate base amount (\$585 million, excluding AFUDC).

7. The applicant shall seek Commission approval for recovery of any cost increases that exceed a cost cap of \$585 million, which is the estimated project fair market value less the investor capital contribution.

8. After completion of a proposed acquisition, the applicant shall submit to the Commission the proposed accounting entries to record the acquisition of the facilities.

9. The applicant shall provide copies of all agreements between it and the developers of the Solar Facilities as they become available, for informational purposes.

10. The applicant shall inform the Commission of the effective date of the purchase of any part of the Solar Facilities within 30 days of the effective date of the transfer.

11. If the applicant does not proceed to closing or enters into any arrangement with another party regarding ownership or operation of the Solar Facilities or part thereof, it shall provide notice to the Commission.

12. Within 60 days of the effective date of a transfer, the applicant shall file with the Commission the final closing purchase price.

13. The applicant shall be bound by all commitments made by developers in their applications, subsequent filings, and the provisions of the Commission's Final Decisions in dockets 9803-CE-100, 9803-CE-101, 9804-CE-100, and 9805-CE-100. The assignment of the CPCNs for the projects, does not confer additional rights to the applicant than what was afforded to the developers at the time of the application and as specified in the Final Decisions in those dockets. Notwithstanding Wis. Stat. §§ 32.02 and 32.03(5)(a), such transfer shall not confer any right to use eminent domain.

14. All commitments made by the applicant in its application, subsequent filings, and the provisions of the Final Decision in this docket shall apply to the applicant, any agents, contractors, successors, assigns, corporate affiliates and any future owners or operators of the

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Solar Facilities or any party thereof. To the extent the applicant transfers any ownership or operational interest in the project, in whole or in part, to a third party, such transfer does not confer either additional rights or obligations upon that third party than what is afforded to the original developers of the project in this Final Decision or in the Final Decision in dockets 9803-CE-100, 9803-CE-101, 9804-CE-100, and 9805-CE-100. If the successor, assign, or future owner or operator of the project is a public utility and notwithstanding Wis. Stat. §§ 32.02 and 32.03(5)(a), such transfer shall not confer any right to use eminent domain.

15. The applicant may not proceed with any substantial changes in scope, design, size, or location of the approved projects except as provided for in this Final Decision, or for the Solar CPCNs that have been approved in 9803-CE-100, 9803-CE-101, 9804-CE-100, and 9805-CE-100, the Final Decisions in those dockets.

16. Should the scope, design, or location of the Solar Project facilities change significantly, the applicant shall notify the Commission within 30 days of becoming aware of possible changes. The applicant shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, and location of the approved Solar Projects.

17. If the applicant cancels the Solar Projects or enters into any arrangement with another party regarding ownership or operation of the proposed facilities, the applicant shall provide prior notice to the Commission.

18. All commitments made by the applicant in its application, subsequent filings, and the provisions of this Final Decision shall apply to the applicant, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the Solar Projects.

19. The applicant shall obtain all necessary federal, state, and local permits for the Solar Project facilities prior to commencement of construction on the portion of the Solar Project requiring the permit.

20. The applicant shall conduct an updated ER Review for the Solar Project facilities closer to the start date of construction (no more than one year prior to construction start for each Solar Project facility).

21. Beginning with the quarter ending September 30, 2021 and within 30 days of the end of each quarter thereafter and continuing until the authorized Solar Project facilities are fully operational, the applicant 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.

22. The CAs for the Solar Projects are valid only if construction of the project 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 applicant has received every federal and state permit, approval, and license that is required prior to commencement of construction of the Solar Projects, by construction spread under the applicable CA;

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

d. The date when the applicant receives the Final Decision, after exhaustion of judicial review, in every proceeding for judicial review concerning the CA and the permits, approvals, and licenses described in par. (b.);

23. If the applicant has not begun on-site physical construction of an authorized Solar Project within one year of the effective date of this Final Decision, the Certificate authorizing the approved for which construction has not commenced shall become void unless the applicant:

a. files a written request for an extension of time with the Commission before the effective date on which the Certificate becomes void, and

b. is granted an extension by the Commission.

24. If the applicant has not begun on-site physical construction of an authorized Solar Project and has not filed a written request for an extension before the date this Certificate becomes void, the applicant shall inform the Commission of those facts within 20 days after the date on which the Certificate becomes void.

25. The applicant shall mitigate impacts to line-of-sight communications and landowners who can show disruption to broadcast communications post-construction of the Solar Project facilities.

26. The applicant may propose siting adjustments to the approved Solar Project layouts for the protection of social, cultural, or environmental resources (up to the authorized nameplate capacity for each of the projects), but any changes from the approved layouts may not

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affect resources or cause impacts not discussed in the EA, nor may they affect new landowners who have not been given proper notice and hearing opportunity. The applicant shall consult with Commission staff regarding whether the change rises to the level where Commission review and approval is appropriate. For each proposed adjustment for which Commission review is appropriate, the applicant shall submit for Commission staff review and approval a letter describing: the nature of the requested change; the reason for the requested change; the incremental difference in any environmental impacts; communications with potentially affected landowners regarding the change; documentation of discussions with other agencies regarding the change; and, a map showing the approved route and the proposed modification, property boundaries, relevant natural features such as woodlands, wetlands, waterways, and other sensitive areas. Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis with advice and consent from the Administrator of the Division of Digital Access, Consumer, and Environmental Affairs.

27. Prior to the start of construction at the Solar Project sites, the applicant and its selected contractors for the particular site shall participate in a pre-construction meeting with Commission and DNR staff to discuss construction plans and/or final site designs, permits, and associated requirements and BMPs for the Solar Project facilities. Materials shall be provided to Commission and DNR staff a minimum of 14 days prior to the meeting to allow time for review. Due to the scale of the projects authorized in this CA, the project pre-construction meetings shall be specific to project (Crawfish River, Richland County, and North Rock projects) in terms of timeline and information to be provided.

28. The applicant shall work with the applicable distribution utility to make available stray voltage testing at each agricultural confined animal operation within one-half mile of the Solar Project areas, prior to construction and after the particular Solar Project is energized. The applicant shall work with the distribution utility and farm owners to rectify any identified stray voltage problem arising from the construction or operation of the Solar Projects. Prior to testing, the applicant shall work with the applicable distribution utility and Commission staff to determine where and how it will conduct the stray voltage measurements. The applicant shall report the results of its testing to Commission staff.

29. The applicant shall perform post-construction noise studies as described in the most current version of the PSC Noise Measurement Protocol at the Solar Project sites. For each project, in the event of a substantial change to the proposed facility layouts, the applicant shall confer with Commission staff to determine whether a new pre-construction noise study must be completed. The applicant shall file a copy of the post-construction noise study reports with the Commission.

30. The applicant shall construct, maintain, and operate all applicable Solar Project facilities to comply with the NEC or the NESC and Wis. Admin. Code ch. PSC 114, as appropriate. In case of conflict or overlap between code requirements, the applicant shall construct, maintain, and operate all applicable Solar Project facilities to comply with whichever code has the more stringent requirements.

31. For the Crawfish River Solar Project, the applicant and its contractor shall adhere to time-of-year restrictions on vegetation clearing activities during the construction and operational phases of the project to reduce impacts to wildlife. During construction,

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tree-clearing shall be timed to avoid, to the extent feasible, the period of May 15 through August 15. During operation, and after initial ground vegetation establishment, management of array vegetation shall avoid, to the extent feasible, mowing between May 15 and August 1 of each year. An updated vegetation management plan fully describing operational activities, including maintenance schedules, shall be provided to Commission and DNR staff prior to operation of the project.

32. For the North Rock and Richland County Solar Projects, during operation, and after initial ground vegetation establishment, management of array vegetation shall avoid mowing, to the extent feasible, between May 15 and August 1 of each year.

33. The applicant shall work cooperatively with Commission staff on the composition and placement of vegetative buffers and pollinator enhancement plantings in the Richland County site-specific vegetation management plan.

34. The Final Decision takes effect one day after the date of service.

35. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 24th day of June, 2021.

By the Commission:

A handwritten signature in cursive script that reads "Steffany Powell Coker".

Steffany Powell Coker
Secretary to the Commission

SPC:DG:cmb:pc DL: 01798297

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.¹⁸ 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

¹⁸ 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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(Not a party but must be served per Wis. Stat. § 227.53)

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