

RESOLUTION 10-23
REQUESTING THE STATE TO REVISE SOLAR ENERGY SYSTEM LAW

WHEREAS, Wisconsin counties possess limited authority to regulate solar energy systems in their communities as a result of Wisconsin State law; and

WHEREAS, the regulation of solar energy systems is generally dependent on size, with smaller solar energy systems being subject to within Wis. Stat. § 66.0401(1m), and those above one hundred (100) megawatts the Wisconsin Public Service Commission (PSC); and

WHEREAS, while Wis. Stat. § 66.0401(1m) provides a mechanism for counties to consider areas of local concern, it provides little ability for counties to restrict or even deny a project based on local concerns from residents, environmental impact, or economic impact. Within Wis. Stat. § 66.0401(1m), terms like "public health" or "safety" are undefined, a clear evidentiary threshold was never included; and, while found with Wis. Stat. § 59.69, the term "welfare" was not included with the reason for its omission uncertain; and

WHEREAS, public utilities and private developers are using a loophole in Wis. Stat. 196.491(3)(d) 2 and 3 that exempts wholesale merchant plants from meeting the same standards as public utility companies in order to receive their Certificate of Public Convenience and Necessity (CPCN) and then immediately turn around and sell the project to a public utility company; and

WHEREAS, the State has given planning and zoning authority to the County through Wis. Stat. § 59.69, specifically in order to "promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base" and to "preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy surroundings for family life." However, when it comes to utility-scale solar, the County process and authority is completely circumvented.

NOW, THEREFORE, BE IT RESOLVED, that the Lafayette County Board of Supervisors at the request of the Planning and Zoning Committee, hereby requests that the Wisconsin State Legislature revise Wis. Stat. § 66.0401(1m) and Wis. Stat. § 196.491 as follows in order to grant Wisconsin counties the authority to responsibly site utility-scale solar installations in order to maintain orderly planning and comply with the statutory requirement laid out in Wis. Stat. § 66.1001(3) to adhere to the objectives, goals, and policies contained in the County's comprehensive plan:

~~66.0401(1m) Authority to restrict systems limited. No political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). No political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g. or a wind energy system, unless the restriction satisfies one of the following conditions:~~

~~(a) Serves to preserve or protect the public health or safety.~~

~~(b) Does not significantly increase the cost of the system or significantly decrease its efficiency.~~

~~66.0401 (1m)(e)~~

~~(e) Allows for an alternative system of comparable cost and efficiency.~~

196.491(3)(d)2 Except as provided under par. (e), the commission shall approve an application filed under par. (a) 1. for a certificate of public convenience and necessity only if the commission determines all of the following:

196.491(3)(d)2.

2. The proposed facility satisfies the reasonable needs of the public for an adequate supply of electric energy. ~~This subdivision does not apply to a wholesale merchant plant.~~
3. The design and location or route is in the public interest considering alternative sources of supply, alternative locations or routes, individual hardships, engineering, economic, safety, reliability and environmental factors, ~~except that the commission may not consider alternative sources of supply or engineering or economic factors if the application is for a wholesale merchant plant.~~ In its consideration of environmental factors, the commission may not determine that the design and location or route is not in the public interest because of the impact of air pollution if the proposed facility will meet the requirements of ch. 285.

BE IT FURTHER RESOLVED, that the County Clerk will send a copy of this Resolution to Governor Tony Evers, all members of the State Legislature representing Lafayette County, the Wisconsin Counties Association and an electronic copy to all Wisconsin county board supervisors and the full State Legislature.

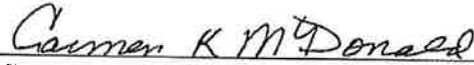
Respectfully submitted

PLANNING & ZONING COMMITTEE



 John Reichling, Chair


 Larry Ludlum


 Luke McGuire

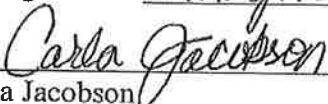

 Carmen McDonald


 Dan Morrissey

LEGAL NOTE:  Within County Board Authority

FISCAL NOTE: No direct fiscal impact from the passage of this resolution

I, Carla Jacobson, Clerk of the County of Lafayette, State of Wisconsin, do certify that the Lafayette County Board of Supervisors at a meeting held on May 16, 2023 adopted this resolution.


 Carla Jacobson
 Lafayette County Clerk