

1 **RESOLUTION – R2023-09-13**

2
3 To: The Honorable Chair and Members of the Oconto County Board of Supervisors

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5 Re: **Recommending Revisions to the Solar and Wind Energy Regulations as Established by**
6 **the Wisconsin Administrative Code and the Wisconsin Statutes**

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8 WHEREAS, the Wisconsin Legislature has limited how counties can regulate solar and wind energy
9 systems pursuant to sections 66.0401 and 196.491 of the Wisconsin Statutes; and

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11 WHEREAS, the Wisconsin Public Service Commission (“PSC”) has promulgated rules that limit
12 how counties can regulate wind energy systems under PSC 128 of the Wisconsin Administrative Code; and

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14 WHEREAS, the regulation of solar energy systems is generally dependent on size, with smaller
15 solar energy systems being subject to sec. 66.0401(1m) Wis. Stat., and those above one hundred (100)
16 megawatts being subject to the PSC; and

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18 WHEREAS, planning and zoning are fundamental regulatory functions of Wisconsin counties; and

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

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27 WHEREAS, while sec. 66.0401(1m) Wis. Stat. provides a mechanism for counties to consider
28 areas of local concern, it provides little ability for counties to restrict or even deny a project based on local
29 concerns from residents, environmental impact, or economic impact; and

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31 WHEREAS, an untold number of acres of prime farmland, wildlife habitat, threatened and
32 endangered species of plants and animals, scenic country views, lives, and livelihoods could be destroyed
33 with little to no opportunity for the county to intervene.

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35 WHEREAS, the Wisconsin County Association Resolutions Committee, has gone on record to
36 request the Wisconsin Legislators make revisions to secs. 66.0401(1m) and 196.491 Wis. Stats.

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38 NOW, THEREFORE, BE IT RESOLVED that the Oconto County Board of Supervisors hereby
39 supports WCA’s requests that the Wisconsin Legislature revise secs. 66.0401(1m) and 196.491 Wis. Stats.
40 as follows in order to grant Wisconsin counties the authority to responsibly site utility-scale solar installations
41 in order to maintain orderly planning and comply with the statutory requirement laid out in sec. 66.1001(3)
42 Wis. Stat. to adhere to the objectives, goals, and policies contained in the county’s comprehensive plan:

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44 ~~66.0401(1m) Authority to restrict systems limited. No political subdivision may place any~~
45 ~~restriction, either directly or in effect, on the installation or use of a wind energy system~~
46 ~~that is more restrictive than the rules promulgated by the commission under~~
47 ~~s.196.378(4g)(b). No political subdivision may place any restriction, either directly or in~~
48 ~~effect, on the installation or use of a solar energy system, as defined in s.13.48(2)(h)1.g.,~~
49 ~~or a wind energy system, unless the restriction satisfies one of the following conditions:~~
50 ~~(a) Serves to preserve or protect the public health or safety.~~
51 ~~(b) Does not significantly increase the cost of the system or significantly decrease its~~
52 ~~efficiency.~~
53 ~~(c) Allows for an alternative system of comparable cost and efficiency.~~

56 196.491(3)(d) Except as provided under par. (e), the commission shall approve an
57 application filed under par. (a) 1. for a certificate of public convenience and necessity
58 only if the commission determines all of the following:
59 2. The proposed facility satisfies the reasonable needs of the public for an adequate supply of
60 electric energy. ~~This subdivision does not apply to a wholesale merchant plant.~~
61 3. The design and location or route is in the public interest considering alternative sources of
62 supply, alternative locations or routes, individual hardships, engineering, economic, safety,
63 reliability and environmental factors, ~~except that the commission may not consider alternative~~
64 ~~sources of supply or engineering or economic factors if the application is for a wholesale merchant~~
65 ~~plant.~~ In its consideration of environmental factors, the commission may not determine that the
66 design and location or route is not in the public interest because of the impact of air pollution if
67 the proposed facility will meet the requirements of ch. 285.

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69 BE IT FURTHER RESOLVED that the County Clerk will send a copy of this resolution to Governor
70 Tony Evers, all members of the State Legislature representing Oconto County, and the Wisconsin Counties
71 Association.

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73 Dated this 21st day of September, 2023.

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75 By: LAND AND WATER RESOURCES COMMITTEE

76
77 Tim Cole, Chair
78 Patrick J. Scanlan
79 Keith Schneider
80 Dennis Kroll-Alternate

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83 Electronically Reviewed by Corporation Counsel on 08.28.2023 - BLE

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85 *Adopted by an electronic vote: 25 Ayes, 2 Nays, 3 Absent, 1 Abstain, 0 Vacant*

STATE OF WISCONSIN
COUNTY OF OCONTO

*I, Kim Pytleski, do hereby certify that the above is true and correct copy of the original now on file in the office of the County Clerk and that it was adopted by the Oconto County Board of Supervisors on this date. DATE: 09/21/2023
Kim Pytleski, County Clerk*