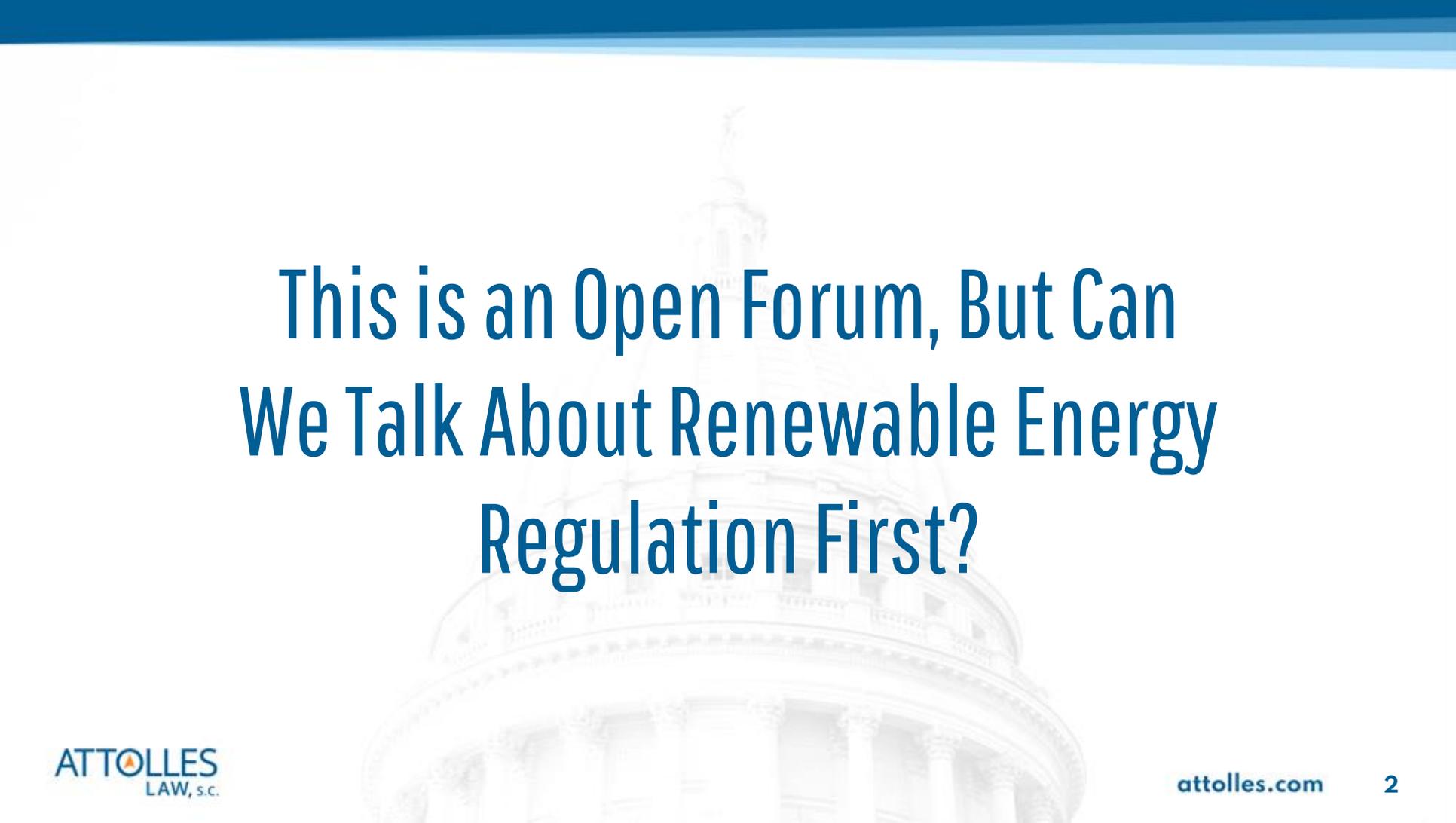


WCA Legislative Conference

February 11, 2026

“Ask the Attorney”





This is an Open Forum, But Can We Talk About Renewable Energy Regulation First?

Overview

- After years of decline, demand for electricity and water are on the rise.
 - Any guesses as to why?
- Each individual data center planned for Wisconsin would use about 1.5% of the total energy being produced in the state.
 - We may have had capacity 20 years ago, but several power plants have closed or downsized.
 - How will the new demand for energy be met?
- Is renewable energy (wind and solar) viewed as an opportunity to meet the demand for increased energy in a responsible way?
 - If yes, do we think that we will see an increase in the applications for renewable projects?

What is the County Role in Regulating Renewable Energy Projects?



- Statutory Preemption – the PSC Process
 - No person may commence the construction of a facility unless the person has applied for and received a certificate of public convenience and necessity (“CPCN”) from the PSC. *See Wis. Stat. § 196.491(3).*
 - Facility means a “large electric generating facility” designed for nominal operation at a capacity of 100 megawatts or more.
 - ***Key point: If installation or utilization of a facility (i.e. ≥ 100 MW) for which a CPCN has been granted is precluded or inhibited by a local ordinance, the installation and utilization of the facility may nevertheless proceed. Wis. Stat. 196.491(3)(i).***

Projects Smaller than 100MW



Wis. Stat. § 66.0401 (1m): A county may only place a restriction, either directly or in effect, on the installation or use of a solar energy system (as defined in Wis. Stat. § 13.48(2)(h)l.g.) if the restriction satisfies at least one of the following conditions:

- The restriction serves to preserve or protect the public health or safety;
- The restriction does not significantly increase the cost of the system or significantly decrease its efficiency; or
- The restriction allows for an alternative system of comparable cost and efficiency.

What are a County's Interests in "Regulation?"



- Minimize liability
- Environmental – Ground water, water bodies, wildlife corridors, forests, other natural resources
- Recreational and park resources
- Light
- Physical sizing – setbacks, fencing, landscaping
- Roads
- Decommissioning
- Financial – Shield from future liability
- Emergency Plan and Response

“Let’s Get PSC to Deny the Permit Application!!”



- Solar’s record before the PSC is 15-0 since 2020
- PSC has issued 30+ approvals since the last denial
- It will be a war of attrition...

The Decision Matrix



In the face of a PSC application for a large scale renewable energy project, a county can:

- Do nothing
- Negotiate a Joint Development Agreement
- Intervene in the PSC proceeding
- Litigate (i.e., war of attrition)

(Or employ a solid strategy using some or all of the above.)

Joint Development Agreement Considerations



- Address the impacts of a proposed development and project operations
- Obtain “concessions” not otherwise available through the PSC process
- Avoid reliance on PSC to protect a county’s interests



Now You Can Ask Away!

THANK YOU.

