

RESOLUTION NO.: 46—2023-24

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 As a result of Wisconsin State law, counties possess limited authority to regulate
2 solar energy systems in their community.

4 The regulation of solar energy systems is generally dependent on size, with smaller
5 solar energy systems being subject to Wis. Stat. § 66.0401(1m) and larger solar
6 energy systems (those above 100 megawatts) being subject to Wisconsin Public
7 Service Commission (PSC) standards.

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

17 Public utilities and private developers are using a loophole in Wis. Stat.
18 196.491(3)(d) 2 and 3 that exempts wholesale merchant plants from meeting the
19 same standards as public utility companies in order to receive their Certificate of
20 Public Convenience and Necessity (CPCN) and then immediately turn around and
21 sell the project to a public utility company.

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

32 The Outagamie County Planning Staff and Zoning Committee both request the
33 State of Wisconsin revise the Solar Energy System Law.

35 NOW THEREFORE, the undersigned members of the Agriculture, Extension Education,

36 Zoning, and Land Conservation Committee recommend adoption of the following resolution.

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

45 **66.0401(1m)** Authority to restrict systems limited. No political
46 subdivision may place any restriction, either directly or in effect, on the
47 installation or use of a wind energy system that is more restrictive than
48 the rules promulgated by the Commission under s. 196.378 (4g) (b). No
49 political subdivision may place any restriction, either directly or in
50 effect, on the installation or use of a solar energy system, as defined in
51 s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction
52 satisfies one of the following conditions:

53 (a) Serves to preserve or protect the public health or safety.
54 (b) Does not significantly increase the cost of the system or
55 significantly decrease its efficiency.
56 (c) Allows for an alternative system of comparable cost and efficiency.

57
58 **196.491(3)(d)2** Except as provided under par. (e), the commission shall
59 approve an application filed under par. (a) 1. For a certificate of public
60 convenience and necessity only if the commission determines all of the
61 following:

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

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77 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a
78 certified copy of this resolution to Governor Tony Evers, the Outagamie County Lobbyist for
79 distribution to all members of the State Legislature representing Outagamie County, the Wisconsin
80 Counties Association and an electronic copy to all Wisconsin County Clerks.

81 Dated this ____ day of September 2023

Respectfully Submitted,

AGRICULTURE, EXTENSION EDUCATION, ZONING AND LAND CONSERVATION COMMITTEE

Debbie Vander Heiden

Daniel Rettler

Rick Lautenschlager

Sarah Weinberg

Dustin Koury

Duly and officially adopted by the County Board on:

Signed:

County Clerk

Approved:

Vetoed:

Signed: _____
County Executive