

# ***RESOLUTION NO.: 46—2023-24***

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

***MAJORITY***

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

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

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 within Wis. Stat. § 59.69, the term “welfare” was not included with the reason for its omission uncertain.

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.

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; 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.

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

NOW THEREFORE, the undersigned members of the Agriculture, Extension Education, Zoning, and Land Conservation Committee recommend adoption of the following resolution.

BE IT RESOLVED, that the Outagamie County Board of Supervisors, 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.~~

~~(c) 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:

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.; and

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

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: \_\_\_\_\_

Board Chairperson

\_\_\_\_\_  
County Clerk

Approved: \_\_\_\_\_

Vetoed: \_\_\_\_\_

Signed: \_\_\_\_\_

County Executive