# The PSC review process for utility scale solar projects in Wisconsin

Prepared For: Jefferson County Board October 23, 2018

Matt Frank 608-268-5616 mfrank@murphydesmond.com

MurphyDesmond<sup>U</sup> LAWYERS

### PSC review of large solar projects

- Presentation will cover:
  - PSC process
  - PSC review standards
  - Local pre-emption and practical considerations

# Certificate of Public Convenience and Necessity

- "CPCN" required for large electric generating facility of 100 megawatts or more
- Application must provide comprehensive information about the project
- Extensive review by PSC staff
- PSC Commissioners make decision through a "contested case hearing", with input from multiple agencies and the public

# **CPCN** Application

- Applicant notification to PSC and DNR
- Pre-filing consultation
- Engineering plans filed with DNR 60 days before application filing
- Within 30 days of filing of engineering plans, the DNR provides list of necessary DNR permits and approvals

# **CPCN** Application

- Filing of Application with PSC
  - Within 10 days of filing, PSC sends application to clerks of municipalities and towns in which the facility is proposed to be built; and to the main public library for the County
  - PSC makes "completeness" determination within 30 days
  - If application not complete, PSC notifies applicant of deficiencies; no limit on refiling the application

# **Contested Case Hearing**

- Docket opened after completeness determination
- Pre-hearing conference:
  - Administrative Law Judge assigned
  - ruling on requests to intervene as a party
  - identify issues and prehearing schedule including discovery deadlines

# **Contested Case Hearing**

- Technical Hearing: motions, submission of pre-filed testimony and exhibits, cross-examination, arguments and briefing)
- Decision matrix prepared by PSC staff
- Decision and order by PSC Commissioners
- Right of appeal, chapter 227 review in circuit court

# **CPCN** Timeline

- PSC required to take final action on application within 180 days after completeness determination
- PSC can extend review period an additional 180 days for "good cause"
- In general, process completed in 12 to 18 months

# PSC review standards \*

- The design and location of the facility is in the public interest considering:
  - alternative locations or routes
  - individual hardships
  - safety, reliability and environmental factors

\* review applicable to merchant power plants

# **PSC review standards**

- The proposed facility will "not have undue adverse impacts on other environmental values such as, but not limited to-
  - ecological balance
  - public health and welfare
  - historic sites
  - geologic formations
  - aesthetics of land and water
  - recreational use
- The proposed facility "will not unreasonably interfere with the orderly land use and development plans for the area involved."

# **PSC review standards**

- If an application does not meet these standards, the PSC must reject it, <u>or</u>
- Approve the application "with such modifications as are necessary for an affirmative finding..."

# **State Energy Policy**

 "It is the goal of the state that, to the extent that it is costeffective and technically feasible, all new installed capacity for electric generation in the state be <u>based on renewable energy</u> resources, including hydroelectric, wood, wind, <u>solar</u>, refuse, agricultural and biomass energy resources."

section 1.12(3)(b) Wisconsin Statutes

# **PSC Environmental review**

- Wisconsin Environmental Policy Act (WEPA)
  - section 1.11, Wisconsin Statutes
  - Applies to "major actions significantly affecting the quality of the human environment"
  - Requires detailed statement on the environmental impact of the proposed action(s)
  - PSC administrative rules categorize actions as Type I, II or III

# **PSC Environmental Review**

- WEPA (continued)
  - PSC rules categorize construction of a solar-powered electric generation facility as a Type III action
  - PSC rules provide that Type III actions do not necessarily require an environmental assessment (EA) or environmental impact statement (EIS)
  - But PSC can still require EA or EIS for Type III actions
    e.g., Two Creeks and Badger Hollow solar projects

### CPCN and pre-emption of local laws

- "If installation or utilization of a facility for which a certificate of convenience and necessity has been granted is precluded or inhibited by a local ordinance, the installation and utilization of the facility may nevertheless proceed." sec. 196.491(3)(i), Wisconsin Statutes
- see also <u>ATC v. Dane County</u>, 321 Wisconsin 2d 138 2009 (Court of Appeals)

# **Practical Considerations**

- Legal pre-emption does not prohibit discussions between local government and the developer
  - Identify "reasonable" concerns based upon local ordinances
  - Engage developer early, preferably before the filing of the CPCN application
  - Developer may have an interest in minimizing or eliminating objections in PSC review process, or, better yet, indicating local support
  - Developer may have an interest in establishing good relationships at local level (developer's reputational interest)

# **Practical Considerations**

- Nothing lost by engaging in discussions and negotiations
- Potential for issues to be resolved so that formal intervention as party in PSC review process is not necessary
- Options for participation short of full party status include written comments, public testimony, and submission of local resolutions

# **Thank You**

#### Matt Frank

Murphy Desmond, S.C. 33 East Main Street, Suite 500 P.O. Box 2038 Madison, Wisconsin 53701-2038 608-268-5616 mfrank@murphydesmond.com





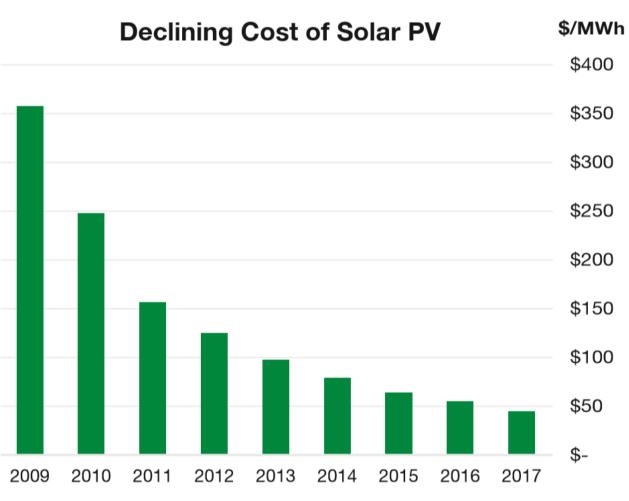


# 500 construction jobs\$35M in local taxes\$65M in landowner payments



# Why Wisconsin?

- Solar costs are way down
- Large decarbonization plans by utilities
- We can offer value
- WI is 38<sup>th</sup>, but similar sun as NJ (5th), MA (6th) and NY (11th)



Source: Lazard Report, 2017



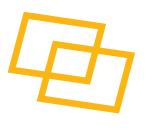
"Utility-scale solar produces energy at the time of year and day when our customers need it most, making it a reliable renewable-generation option in the marketplace."

- Gale Klappa, CEO of WEC, December 2017



### **Deep Experience Across Technologies**









Wind 90 Projects

**12,772** Megawatts

### Solar

21 Projects 1,249 Megawatts

### Storage

4 Projects 68 Megawatts

### **Natural Gas**

12 Projects 6,126 Megawatts

Invenergy

#### Investor-Owned Utilities

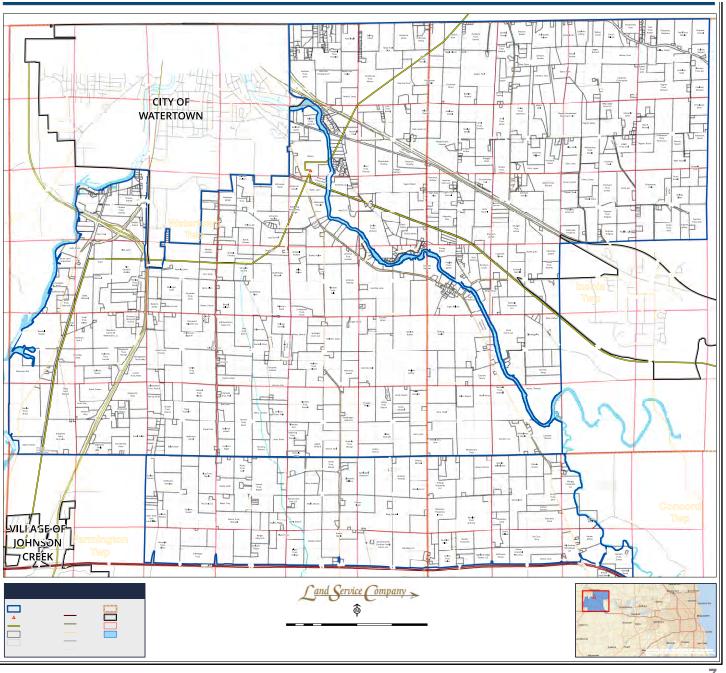


# Strong Partnerships



# Sinnissippi Solar Farm

- 300MW
- Approximately 2,100 acres
- Existing Transmission provides
   access to markets
- Permitting in 2019 or 2020, construction after, online by 2023
- 25-50 years of operations temporary use of land



# **Clean Energy**

- Enough for approximately 75,000 homes
- No air emissions or water
   use
- Operations are quiet and emit no odors
- Low profile
- Native site vegetation
- Fit with farming Invenergy



# **Ground Cover**

- Builds soil
- Reduces stormwater runoff
- Improves downstream
   water quality
- Pollinator habitat
- Grazing?

Invenergy



# Single-axis Tracking System





# Storage

- State of the art
- Smoothing the output
- Shifting supply





# **Key Question: Decommissioning**

- Need? Stable business model with no cost of fuel
  - See 18 yr old Montfort Wind Farm
- Badger Hollow proposal is to do approved site-specific cost estimate prior to construction, implement form of security in year 15 [or 18 years after signing in the lease, whichever is sooner]
  - Proposal is to remove everything aboveground and belowground to a depth of 4 ft
  - See section 1.7.3 for more info
- Multiple possible forms of security that will be in place prior to likely end of operating life of the project



# **Key Question: Recycling**

- Panels have no moving parts, only minor annual degradation
- After 25 year warranty, should still generate 80% of capacity could be re-used
- Many modules installed in the 1970s are still operating
- However, could experience technological obsolescence by 2050+
- Disposal is federally regulated by the Federal Resource Conservation and Recovery Act
- Many module manufacturers offer a take-back program
- more than 80% of module weight is glass and aluminum, which have cost effective recycling programs already

#### Invenergy

# **Key Question: Materials**

- Primarily glass, steel, aluminum and silicon
- Also copper or aluminum conductors in cables wrapped in plastic or rubber
- Will not leach harmful chemicals into soils
- Ground cover means significant reduction in herbicide use, likely no pesticide or fertilizers
- Power generated without air or water emissions, no solid fuel stockpiles, ash landfills, or high pressure pipelines
- This is safe.



# **Key Question: Fit with Farming**

- Ground cover plan will build soil, not gradually diminish it
- Better economic option that recent, current and foreseeable future commodity markets
- An alternative to residential sprawl
- Long term temporary use can remove and return land to ag
- Increased pollinator activity benefits adjacent farm production
- Improved storm water runoff
- Improved water quality due to avoided phosphorous
- We CAN integrate agriculture native seed production, honey, grazing and more

#### Invenergy

## We're Available

- Meetings with state, county and town elected officials
- Meetings with federal, state, and local agencies
- Local office at 136 Union Street, Johnson Creek, WI 53038
- Tammi Vetrano as a local rep
- Office hours Tuesdays 8a-1p and Wednesdays 12p-5p.
- www.sinnissippisolar.com
- Facebook.com/SinnissippiSolar





### Team

Bobby Howard rhoward@invenergyllc.com 617-610-3679

Tammi Vetrano tammi@sinnissippisolar.com 414-940-9463

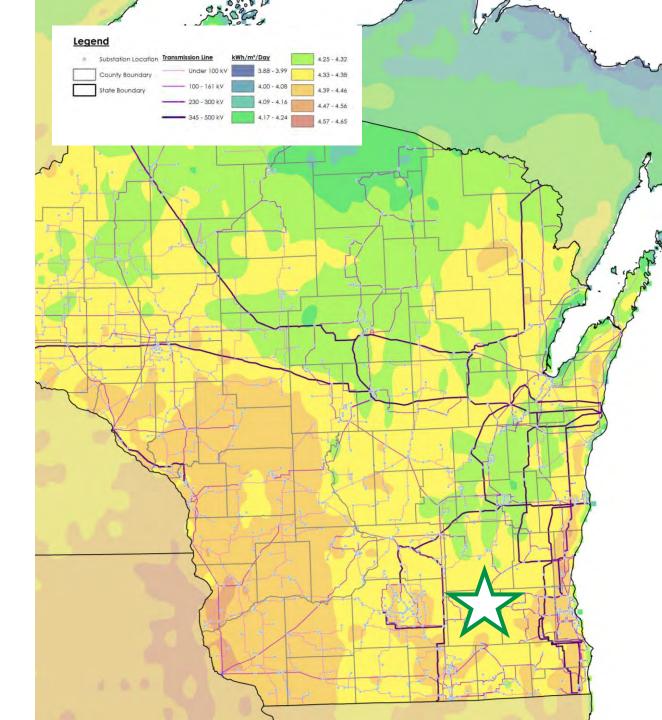
Neil Palmer nhpinvenergy@gmail.com 414-640-9351

Dan Litchfield dlitchfield@invenergyllc.com 773-318-1289



#### Invenergy

# Solar Resource





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# **JOB CREATION**

The project will create 500 new local jobs while in construction, and 5 operations and maintenance jobs once project is operational.







# TAX PAYMENTS

Iowa County and the host Townships will receive \$1.2 million annually from the Shared Revenue Utility Aid Formula.



badgerhollowsolar.com



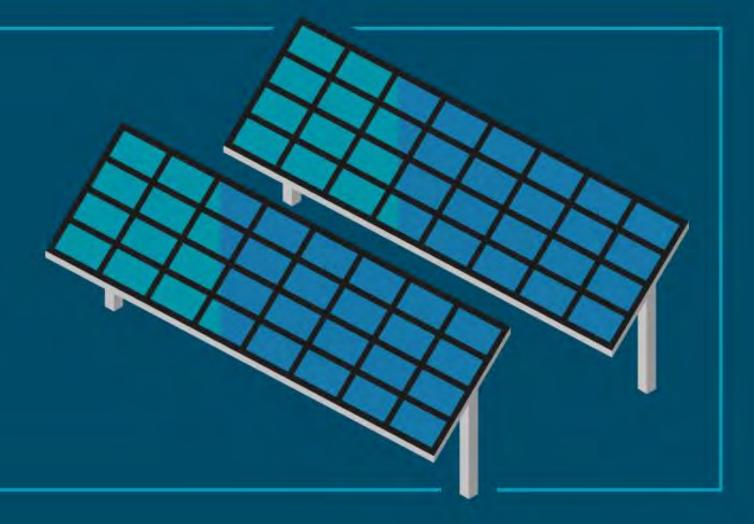
# **WISCONSIN BENEFITS**

Over \$27.6 million in new local earnings during construction and almost \$1.1 million in new local long-term earnings annually.



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# 300 megawatts generated





badgerhollowsolar.com Invener

# 77,000 homes powered annually





badgerhollowsolar.com Invene

# **370,000** tons of carbon production avoided





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