

**SERVICE DATE**  
**Feb 15, 2022**

PSC REF#:431156

Public Service Commission of Wisconsin  
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**PUBLIC SERVICE COMMISSION OF WISCONSIN**

Joint Application of Wisconsin Public Service Corporation and Madison Gas and Electric Company for a Certificate of Authority to Purchase the Red Barn Wind Energy Center Generation Facility in the Towns of Wingville and Clifton, Grant County, Wisconsin

5-BS-256

**FINAL DECISION**

This is the Final Decision on the application filed by Wisconsin Public Service Corporation (WPSC) and Madison Gas and Electric Company (MGE) (together, applicants) seeking approval from the Commission for a Certificate of Authority (CA) allowing applicants to acquire, own, and operate a nominal 92 megawatts (MW) of wind-powered generating facility known as Red Barn Wind Energy Center Generation Facility (project) located in Grant County, Wisconsin, for an estimated total project cost of approximately \$162 million.

The application is GRANTED, subject to the conditions in this Final Decision.

**Introduction**

The proposed project is being developed and constructed in the Towns of Wingville and Clifton, Grant County, Wisconsin. As set out in Exhibit A to the purchase and sale agreement (PSA), ALLETE Clean Energy (ALLETE) will construct the project for Red Barn Energy LLC (Seller), under an engineering, procurement, and construction contract between ALLETE and the Seller. Since the project is being developed and constructed by a wholesale merchant and has a nominal 92 MW alternating current (AC) nameplate capacity, the project does not come to the Commission for construction authorization and siting review.

The applicants' proposed acquisition of the project is through a PSA with the Seller. The applicants state that they seek approval of the purchase as part of a larger effort to transition their respective generation fleets to lower carbon emitting resources. The applicants also state that, if the proposed CA is approved, WPSC will acquire 90 percent (approximately 83 MW), and MGE 10 percent (approximately 9 MW), ownership of the approximately 92 MW of wind generating nameplate capacity.

On October 14, 2021 the Commission issued a Notice of Investigation in this docket. ([PSC REF#: 423133](#).) Citizens Utility Board of Wisconsin (CUB) and RENEW Wisconsin (RENEW) requested and were granted intervention. ([PSC REF#: 425439](#).) On December 7, 2021 the Commission issued a Commission staff memorandum for comment by parties and the public. ([PSC REF#: 426981](#).) In total, five comments were received in this docket. Two public comments were received from non-parties Wisconsin Conservative Energy Forum and Wisconsin Health Professionals for Climate Action. ([PSC REF#: 427444](#), [PSC REF#: 427460](#).) Comments were also received from the applicants, CUB and RENEW. ([PSC REF#: 427274](#), [PSC REF#: 427486](#), [PSC REF#: 427538](#).)

On November 9, 2021 Commission staff applied for and the Commission approved a request for an extension of time pursuant to Wis. Stat. § 196.49(5r)(b). ([PSC REF#: 424998](#).) Commission staff cited staff workload on several large construction dockets and several buy/sell dockets, including this docket, as the rationale for a time extension. The approved extension moved the date for taking final action in this docket to April 13, 2022.

The Commission considered this matter at its open meeting of January 5, 2022.

### **Findings of Fact**

1. The applicants are public utilities as defined in Wis. Stat. § 196.01(5)(a) and provide electric service in Wisconsin.
2. The applicants seek to acquire, own, and operate the project with a nameplate capacity of 92 MW AC in Grant County, Wisconsin.
3. The project is being developed and constructed in the Towns of Wingville and Clifton, Grant County, Wisconsin by ALLETE on behalf of the Seller.
4. The project is being developed and constructed by a wholesale merchant and has a 92 MW nameplate capacity.
5. The applicants propose to acquire the project under a PSA with the Seller at a total cost of approximately \$162 million, or \$1,761/kilowatt (kW). The applicants seek to include the full amount of the acquisition in rate base. The acquisition price, subject to the conditions enumerated in this Final Decision, is reasonable based on comparison to the cost of meeting the applicants' capacity and energy needs through market purchases or alternative generating technologies.
6. The applicants will acquire the project upon mechanical completion and after the project is commercially operational.
7. The Seller is required to obtain all required state, federal, and local regulatory authorities for construction and operation of the project prior to the applicants' acquisition.
8. Given the structure of this acquisition and the scope of the Commission's environmental review, it is reasonable to prohibit the applicants, in connection with any work

associated with the application, from engaging in construction activities associated with the project without prior authorization from the Commission.

9. The applicants' acquisition of the project is consistent with the energy priorities laws under Wis. Stat. §§ 1.12 and 196.025.

10. The acquisition is not expected to affect any historic properties under Wis. Stat. § 44.40, or any threatened nor endangered species under Wis. Stat. § 29.604.

11. The approval of the purchase is a Type III action under Wis. Admin. Code § PSC 4.10(2) and is unlikely to have a significant impact on the human environment as defined by Wis. Stat. § 1.11.

12. To the extent applicable, the proposed acquisition complies with Wis. Stat. § 196.49(4) because the use of a brownfield site for the project is not practicable.

13. The purchase will not substantially impact the efficiency of the applicants' service, provide facilities unreasonably in excess of the applicants' probable future requirements, or add to the applicants' cost of service without proportionally increasing the value or available quantity of service.

14. The acquisition satisfies the reasonable needs of the public for an adequate supply of electric energy.

15. The acquisition, as amended by the conditions prescribed by the Commission, is reasonable and in the public interest after considering alternative sources of supply, engineering, economic, safety, reliability, and environmental factors.

### **Conclusions of Law**

1. The Commission has jurisdiction under Wis. Stat. §§ 1.11, 1.12, 44.40, 196.02, 196.025, 196.395, 196.49, and Wis. Admin. Code chs. PSC 4 and 112, to issue a Certificate and Order authorizing the applicants, as electric public utilities, to acquire, own, and operate the facility described in this Final Decision, subject to the conditions stated in this Final Decision.

2. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stat. §§ 196.02, 196.395, and 196.49.

3. The project is being developed and constructed as a wholesale merchant plant as defined in Wis. Stat. § 196.491(1)(w) with a nominal 92 MW nameplate capacity which does not require construction authorization from the Commission.

4. The acquisition is consistent with the public interest.

5. The proposed acquisition of the project complies with the Energy Priorities Law as required under Wis. Stat. § 1.12 and 196.025(1).

6. The acquisition the project is a Type III action under Wis. Admin. Code § PSC 4.10(3); therefore, neither the preparation of an environmental impact statement (EIS) nor an environmental assessment (EA) is necessary.

### **Opinion**

#### **Purchase Sale Agreement**

The applicants have negotiated a PSA with the Seller for the applicants' proposed purchase of the project. The project is being developed by the Seller, an affiliate of PRC Wind. The project will be constructed by ALLETE. Both PRC Wind and ALLETE are experienced, U.S.-based wind farm developers.

Under the PSA, the Seller will undertake all development, construction, and initial operation of the project. The Seller is responsible for obtaining all environmental and other governmental permits for construction and operation of the project. (PSA, Article 2.1(c).) Upon mechanical completion and commercial operation of the project, closing under the PSA will occur and the project will be transferred to the applicants in exchange for payment of the \$162,000,000 purchase price. (Application, page 2.)

The PSA also requires the Seller to construct the project in accordance with the applicants' technical specifications, prudent utility practice, applicable law, applicable permits, and manufacturer warranties and recommendations. Transfer of title to the project from the Seller to the applicants after the project has achieved commercial operation allows for the establishment of a fixed price that the applicants will pay for the defined set of assets that make up the project, including land agreements, transmission interconnection rights, and permits. However, the fixed price is subject to certain unanticipated scope changes or *force majeure* events that are beyond the applicants' control that could increase the cost to complete the project. The applicants are permitted to terminate the PSA as set forth in Article 10 of the PSA. Together, the provisions of the PSA are designed to ensure that the Seller develops, builds, brings to commercial operation, and transfers to the applicants a well-constructed and fully-permitted generation asset capable of performing well, with adequate warranties and with the limited set of liabilities set out in Articles 2.1.3 and 6.7 of the PSA.

### **Standard for Approval**

The applicants seek approval to acquire the project upon mechanical completion under Wis. Stat. § 196.49. Wisconsin Stat. § 196.49(2) states:

[n]o public utility may begin the construction, installation or operation of any new plant, equipment, property or facility, nor the construction or installation of any extension, improvement or addition to its existing plant, equipment, property, apparatus or facilities unless the public utility has complied with any applicable rule or order of the commission.

The Commission may require by rule or special order that no addition to a plant “may proceed until the Commission has certified that public convenience and necessity require the project.” Wis. Stat. § 196.49(3). The Commission may refuse to certify a project if it appears that the completion of the project will do any of the following:

1. Substantially impair the efficiency of the service of the public utility.
2. Provide facilities unreasonably in excess of the probable future requirements.
3. When placed in operation, add to the cost of service without proportionately increasing the value or available quantity of service unless the public utility waives consideration by the commission, in the fixation of rates, of such consequent increase of cost of service.

Wis. Stat. § 196.49(3)(b). Electric utilities must obtain Commission authorization to place in service a generating plant or unit whose costs exceed the threshold established in Wis. Admin. Code § PSC 112.05(3), such as the proposed wind facilities. Wis. Admin. Code § PSC 112.05(1)(a).

### **Acquisition of Red Barn**

The applicants state that acquiring the project presents an opportunity to take advantage of cost-effective and zero-emissions solutions to meet the applicants’ capacity needs and to be a part of a larger effort to transition their respective generation fleets. The applicants cited a number of benefits resulting from its acquisition of the project. Additionally, each applicant provided an economic analysis demonstrating that acquiring the project may have significant cost savings for their customers over the useful life of the facility.

The applicants stated that construction for the project is scheduled to begin in early 2022 and be completed by December 31, 2022. As such, acquiring the project will allow them and

their customers to take advantage of the 80 percent production tax credits. The applicant's analysis demonstrates that acquiring the project is a reasonable cost alternative when compared to securing needed capacity and energy from other types of generating technologies.

### **Applicants' Needs, Alternatives, and Economic Analysis**

The applicants state that in order to manage market risk and reliably serve their customers, they will need to build a substantial amount of replacement generating capacity over the next several years. The project is proposed as a part of this needed replacement generating capacity. Other stated drivers for adding renewable energy resources to the generation fleet in the near-term are reserve margin requirements (reliability/capacity needs), cost-effectiveness (economics), and risk mitigation (environmental standards).

### **WPSC System Need and Modeling Overview**

In preparing the application, WPSC used the PLEXOS market simulation software to assess its long-term growth plan in its generation reshaping plan. PLEXOS permitted WPSC to project future generation portfolios and locational marginal prices (LMP) across the Midcontinent Independent System Operator (MISO) footprint, to find low cost resource options to meet the WPSC's future system needs, and to simulate the dispatch, costs, and revenues of those portfolios as part of the MISO market.

Commission staff reviewed WPSC's PLEXOS modeling analysis, and conducted discussions with staff at WPSC about the PLEXOS modeling, assumptions of the model and the model results.

WPSC illustrated two scenarios for the PLEXOS analysis. The first scenario contemplated adding the proposed project to WPSC's portfolio. The second scenario was a

Status Quo Alternative. WPSC then performed a sensitivity analysis to determine the effect of 11 different, independent assumptions across the following modeling input variables: gas price forecast; avoided dispatch costs from reshaping the combined generation fleet; CO<sub>2</sub> content for market energy purchases; must run status on Oak Creek and Columbia electric generation units; escalation rate; bulk energy storage system ancillary revenue estimates in the generation reshaping plan; and fixed O&M estimates in the generation reshaping plan. Other model input variables use similar scenarios. Commission staff reviewed the model assumptions and their analysis did not find them to be unreasonable. The Commission concludes that its review of WPSC's modeling and staff's analysis shows Red Barn will provide valuable and needed energy and capacity to WPSC system customers across a broad range of future market conditions.

### **WPSC Economic Model**

Commission staff's analysis of WPSC's PLEXOS modeling analysis suggested , that the project will provide additional megawatt-hours (MWh) of zero fuel cost energy, which would reduce WPSC's reliance and customers' possible price exposure to swings in future MISO market purchases.

WPSC's PLEXOS modeling shows, and the Commission confirmed, that having the project facility in its portfolio will provide customers with approximately \$88 million in net present value (NPV) savings and a 20-year nominal savings of \$107 million compared to the Status Quo Alternative.

### **WPSC Financial Analysis**

Commission staff reviewed WPSC's financial analysis and the assumptions embedded in that analysis. The total NPV Revenue Requirement (NPVRR) calculation for the project is

approximately \$63.720 million. WPSC used 7.22 percent, which is the weighted average cost of capital (WACC) approved for the utility in their most recent rate case, as the discount rate applied to the project's economic analysis. Commission staff altered this assumed discount rate when reviewing WPSC's model because the 7.22 percent discount rate is reflective of the analysis of market conditions dating back to 2019, and therefore may not reflect current market conditions. Commission staff raised the discount by 2 percent (200 basis points) to 9.22 percent. This resulted in a total NPVRR calculation of \$53.373 million, which continued to suggest a positive economic benefit resulting from the acquisition of the project.

Commission staff also applied a 2 percent adjustment to the discount rate to determine how a large increase in the discount rate could alter the avoided costs NPV savings. Although changing the discount rate to 9.22 percent would reduce the NPV savings of the avoided costs associated with having the project in WPSC's electric generation portfolio, staff's analysis continued to demonstrate a positive NPV savings, compared to the Status Quo Alternative. Based on this analysis, the Commission finds that the acquisition by the applicant is reasonable based on the proportion of the projected cost to the value of the additional capacity, and is in the public interest.

### **MGE System Need and Modeling Overview**

MGE used the Electric Generation Expansion Analysis System (EGEAS) model to evaluate the acquisition of the proposed project over a range of possible futures. Additionally, MGE used the PROMOD model to forecast annual LMP differentials and used those results as inputs into its EGEAS modeling.

MGE analyzed a range of scenarios including its Reference Scenario. The Reference Scenario contemplated the approval of the application presented in this docket and the retirement of existing, aging generating units and other renewable energy facilities, such as the proposed Paris Solar project. The other scenarios that were analyzed considered futures such as the possibility of carbon constraints, higher natural gas prices, and higher energy market prices; and lower MISO assigned capacity credit values for solar resources as the penetration of solar capacity in MISO increases in the future. MGE stated that the results for all scenario and sensitivity analyses that it performed showed that adding the project is part of the least cost plan as optimized by EGEAS.

Commission staff reviewed and independently reran the modeling and economic analysis submitted by MGE as part of the application in this docket. Commission staff checked the PROMOD analysis for replicability and to see how the outputs might vary under different input assumptions. Commission staff then implemented a number of changes to the PROMOD model to see if there would be any change to the LMP differential. The staff changes resulted in relatively small changes to LMPs between the proposed project's electrical bus and the MGE load zone. Based on these results, Commission staff concluded that LMP differentials are relatively invariant to a variety of factors that staff has tested in the past, which lent credibility to the differentials that MGE provided in its original analysis.

Commission staff then completed a limited set of EGEAS runs to determine the value at which the proposed project would no longer be picked due to the LMP differential. The value of the LMP differential necessary for EGEAS not to select the project was considerably larger than the LMP differentials being predicted by PROMOD, which led to the conclusion that EGEAS

would likely use other inputs to determine the inclusion of the proposed project in the MGE portfolio. Commission staff also modeled each MGE scenario, inputting a higher mature forced outage rate for the project than MGE used in its modeling. Increasing the mature forced outage rate had the effect of lowering the project's annual capacity factor and therefore the amount of energy produced on an annual basis. The EGEAS modeling performed by Commission staff show that the project remained part of a least cost plan as optimized by EGEAS even at lower capacity factors than forecast by MGE. The results of these additional sensitivities show that the project acquisition would remain part of the least cost plan as optimized by EGEAS. Based on this analysis and other information in the record, the Commission finds acquiring the Red Barn project is part of a least-cost alternative when compared to securing needed capacity and energy from generating technologies that use other fuel sources or from market purchases.

### **MGE Economic Model**

MGE's approach to modeling the economic impact of the proposed project was similar to WPSC's in that MGE also utilized the approved WACC (7.21 percent) from their most recent rate case (docket 3270-UR-123) as the discount rate in their model. Due to the size and scale of MGE's ownership in this project, a discount rate stress test was not performed by Commission staff. However, MGE's analysis did include capital costs for the project on a per kilowatt basis. MGE projects the installed capital cost of the proposed project to be \$1,774 per kW (\$16.25 million). Commission staff compared this capital cost with other similarly sized announced or under construction wind projects in the MISO footprint. The results of this analysis show that the projected capital cost is in range with other similar MISO wind projects.

### Acquisition Price

The applicants state that the acquisition price for the project is \$162 million. This price does not include allowance for funds used during construction (AFUDC) or construction work in progress (CWIP). The applicants are not requesting the recovery of either AFUDC or CWIP since the development, construction, and initial commercial operation will be performed by the Seller. In their application, the applicants state that each applicant will reflect their portion of the approximately \$162 million acquisition cost in their rate base. The applicants requested approval to acquire the project at a cost of up to 110 percent of the \$162 million acquisition price. The applicants state they requested this flexibility in acquisition price because the fixed price is subject to certain unanticipated scope changes or *force majeure* events that are beyond the applicants' and the Seller's control that could increase the cost to complete the project. (PSA, Articles 2.3 and 5.14.)

The results of Commission staff's analysis show that the projected capital cost is in the range of other similar MISO wind projects. Commission staff did not identify any concerns with the applicants' revenue requirement modeling. Upon review of the entirety of the record in this proceeding, the Commission finds the acquisition by the applicants is reasonable based on the proportion of the projected cost to the value of the additional capacity, and is in the public interest.

In prior dockets considering applications for a CA similar to this one, the Commission has found it reasonable to include a condition specifying how **construction** cost increases might be considered by the Commission. In addition to contractual protections intended to shield ratepayers from unexpected construction cost overruns, such a condition governing the recoverability of acquisition costs can further ensure that any construction cost overruns (except

for costs caused by *force majeure* events) are not borne by ratepayers without Commission approval. The Commission finds it reasonable to include a similar condition here. The Commission thus approves an acquisition price of \$162 million, with conditions. In particular, the Commission shall review in a future rate case the recoverability of costs associated with the acquisition, O&M costs, and revenues associated with the project; provided, however, the recoverability of acquisition payments to ALLETE Clean Energy and the Seller shall not exceed \$162 million. Notwithstanding the foregoing, the applicants may request in a future rate case recovery of acquisition costs in excess of \$162 million in the event acquisition costs increase as a result of *force majeure* event(s) (provided, however, that the applicants have provided notice to the Commission within 30 days of learning of any such *force majeure* event(s)). This exception does not bind the Commission to any specific treatment or recoverability of acquisition costs in any future rate case proceeding.

### **Energy Priorities Law**

Wisconsin Stat. § 196.025 provides that “[t]o the extent cost-effective, technically feasible and environmentally sound, the Commission shall implement the priorities under s. 1.12(4) in making all energy-related decisions.” The proposed project will be the acquisition and operation of a new wind electric generation facility. As such, it is a “noncombustible renewable energy resource” and is entitled to the highest priority of all energy generation resources under the Energy Priorities Law. It is uncontested that energy and capacity from the proposed project cannot be replaced by energy conservation and efficiency, the highest priority alternative. No circumstances exist that would lead a decision-maker to conclude that any of the higher energy priorities listed in Wis. Stat. §§ 1.12 and 196.025, would be applicable or provide a cost-effective

alternative to the proposed project. There is no dispute that the applicants need additional capacity, nor any evidence in the record that energy conservation or efficiency meets the stated capacity needs of the applicants.

### **Environmental Impacts**

The proposed acquisition of the project is different in several respects from many of the more recent renewable energy facility acquisitions the Commission has considered. First, in the instant case, the wind electric generating facility to be constructed by ALLETE on behalf of the Seller is less than 100 MW and therefore does not require a Certificate of Public Convenience and Necessity (CPCN) from the Commission prior to commencement of construction. In many prior renewable energy facility acquisition dockets, the public utility sought to acquire from a merchant a greater than 100 MW solar electric generating facility that required a CPCN.<sup>1</sup> In those proceedings, the Commission considered the CPCN in a separate docket and examined whether the facility design and location was in the public interest considering alternative locations or routes, individual hardships, safety, reliability, and environmental factors. Wis. Stat. § 196.491(3)(d). In those separate dockets, the Commission fulfilled its obligations under the Wisconsin Environmental Policy Act with the preparation of an EA.<sup>2</sup>

This acquisition is also distinguishable from many prior renewable energy facility acquisitions in that here, the applicants have represented and the terms of the PSA provide that they will not be acquiring the facility until after the completion of construction and commercial

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<sup>1</sup> See, e.g., dockets 5-BS-226 and 5-BS-234.

<sup>2</sup> While the Commission's action regarding a solar or wind electric generation facility is considered a Type III action under Wis. Admin. Code § PSC 4.10(3) and does not require the preparation of an EA or an environmental impact statement, the Commission has completed an EA for such facilities due to the size and amount of land that is typically covered by such projects.

operation of the facility. In other words, the Seller and ALLETE will not only be siting and developing the project, but will also be constructing and initially operating it. In many prior acquisitions, the merchant sites and develops the project (which, as noted above, has required a CPCN in those dockets), but the acquisition by the public utility occurs prior to completion of construction with the public utility doing some or all of the construction work. In those acquisition dockets, the Commission has relied upon the environmental analysis completed in the separate CPCN proceeding, and focused its analysis in the acquisition dockets on whether the acquisitions would substantially impair the efficiency of the service of the public utility, or, when placed in service, provide facilities unreasonably in excess of the probable future requirements or add to the cost of service without proportionately increasing the value or available quantity of service. Wis. Stat. § 196.49(3).

This docket is more similar to the application the Commission considered, and conditionally approved, for acquisition of the Western Mustang solar facility, in docket 4220-BS-100. As was the case in the 4220-BS-100 docket the environmental factors relating to the **construction** of the project have not been reviewed in this or another docket. This is because ALLETE is undertaking the construction and the project does not require a CPCN. Pursuant to the PSA, the Seller is required to obtain all required construction and environmental permits. In light of the applicants' representation that they will only acquire the project upon mechanical completion and commercial operation, the Commission finds that it is reasonable to condition approval of the acquisition on imposition of a requirement that, in connection with any work associated with this application, the applicants are prohibited from engaging in construction activities associated with the project without prior authorization from the Commission. This

condition will ensure that the Commission can undertake any required environmental review that may be required associated with any future construction requiring Commission authorization.

The developer is required to obtain all local permits, including environmental permits, from relevant agencies including the Department of Natural Resources, prior to and during construction of the solar facility. The applicants would adhere to any operational requirements of the permits after the transfer of the facility. The Commission finds that it is reasonable to condition approval of the acquisition on a requirement that the applicants shall uphold all agreements made by the developer of the project, including but not limited to good neighbor agreements, shared economic payments, and other local agreements, that mitigate environmental impacts of the project operation.

As there is no construction by the applicants associated with the approval of the acquisition, the Commission's action is considered a Type III action under Wis. Admin. Code § PSC 4.10(3). Type III actions normally do not require preparation of an EA nor an EIS under Wis. Admin. Code § PSC 4.10(3). No unusual circumstances suggesting the likelihood of significant environmental effects on the human environment have come to the Commission's attention. Preparation of an EIS under Wis. Stat. § 1.11 is not required. The proposed ownership transfer is not expected to affect any historic properties under Wis. Stat. § 44.40, nor any threatened or endangered species under Wis. Stat. § 29.604.

### **Use of Brownfields**

When considering issuing a CA for the construction of electric generating equipment and associated facilities, the Commission may only grant a CA if it determines that brownfields were used to the extent practicable. Wis. Stat. § 196.49(4). Because this is an acquisition, the

applicability of this requirement is questionable. The applicants stated that they are not aware of any Wisconsin brownfield sites that would be of sufficient size and would meet the siting criteria for land and electric infrastructure for this project. No party introduced any evidence contrary to that representation. Accordingly, to the extent applicable, the Commission finds that the proposed acquisition complies with Wis. Stat. § 196.49(4).

### **Public Interest Considerations and Approval**

Commission staff's review demonstrated that there is a need for replacement generation capacity for both of the applicants. The acquisition of the wind facility will increase the quantity of service, adding a total of approximately 92 MW to the applicants' generating capacity. Based upon the economic analysis demonstrating the customer benefits of the transaction and the other considerations discussed above and in the record for this docket, and with the conditions imposed by this Final Decision, the Commission finds that the public convenience and necessity require the acquisition, and approves the application. The Commission finds that the project will not add to the applicants' cost of service without proportionately increasing the value or available quantity of service. In addition, the Commission concludes that the project will neither substantially impair the efficiency of the applicants' service nor provide facilities unreasonably in excess of the applicants' probable future requirements. As such, the Commission finds the proposed project is consistent with the public interest.

Pursuant to Section 196.49 of the Wisconsin Statutes, the Commission finds it reasonable and necessary to impose a number of conditions on its approval of the application, many of which are similar to those that have been imposed in prior similar dockets, and which the

Commission finds will be useful here to ensure that the project continues to meet the statutory requirements for approval.

### **Certificate**

The Commission certifies that the applicants are authorized to acquire, own, and operate 92 MW of wind generating capacity project known as Red Barn Wind Energy Center Generation Facility at a cost of approximately \$162 million, as described in the application and as modified by this Final Decision.

### **Order**

1. The proposed acquisition, ownership, and operation of the project, as described in the application, is authorized, subject to conditions identified in this Final Decision.

2. The Commission, consistent with its past practice, shall review in a future rate case the recoverability of costs associated with the acquisition, O&M costs, and revenues associated with the project; provided, however, the recoverability of acquisition payments to ALLETE and the Seller shall not exceed \$162 million. Notwithstanding the foregoing, the applicants may request in a future rate case recovery of acquisition costs in excess of \$162 million in the event that acquisition costs increase as a result of *force majeure* event(s) (provided, however, that the applicants have provided notice to the Commission within 30 days learning of any such *force majeure* event(s).) This exception does not bind the Commission to any specific treatment or recoverability of acquisition costs in any future rate case proceeding.

3. The applicants are expressly prohibited from engaging in construction activities associated with the project without prior authorization from the Commission.

4. The applicants shall notify the Commission of the effective date of the purchase of the project within 30 days of the effective date of the transfer. If the applicants do not proceed to closing or enter into any arrangement with another party regarding ownership or operation of the project, they shall provide prior notice to the Commission. Further, within 60 days of the effective date of the transfer, the applicants shall file with the Commission the final closing purchase price.

5. After the purchase of the facility, the applicants shall uphold all agreements made by the developer of the project, including but not limited to good neighbor agreements, shared economic payments, and other local agreements, that mitigate environmental impacts of the project operation. The applicants shall be bound by all consumer protections outlined in the PSA, including but not limited to:

a. The applicants must obtain all environmental and other governmental permits from the Seller, in final and non-appealable form, for construction and operation of the facility. (PSA, Section 5.5 and Schedule 6.1 Exhibit E (list of permits).)

b. The applicants must conduct environmental site assessments to ensure that the Seller's transfer of the facility will not include future environmental liability. (PSA, Article 6.7.)

6. All required governmental permits must be issued for the proposed project before the applicants may purchase and operate the facility, and the applicants must comply with the requirements and conditions in all such permits, including without limitation the Grant County-issued conditional use permit and all requirements of landowner agreements associated with the proposed project.

7. All commitments made by the applicants in their application and subsequent filings shall apply to the applicants, any agents, contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project. To the extent the applicants transfer any ownership or operational interest in the project, in whole or in part, to a third party, such transfer does not confer either additional rights or obligations upon that third party other than what is afforded to the original owners of the project as specified in this docket.

8. The Final Decision takes effect one day after the date of service.

9. Jurisdiction is retained.

Dated at Madison, Wisconsin, the 15<sup>th</sup> day of February, 2022.

By the Commission:

A handwritten signature in black ink that reads "Steffany Powell Coker". The signature is written in a cursive, flowing style.

Steffany Powell Coker  
Secretary to the Commission

SPC:JAK;jlt:DL:01846482

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN  
4822 Madison Yards Way  
P.O. Box 7854  
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE  
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE  
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

*PETITION FOR REHEARING*

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

*PETITION FOR JUDICIAL REVIEW*

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.<sup>3</sup> The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

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<sup>3</sup> See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.