

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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Joint Application of Madison Gas and Electric  
Company and Wisconsin Public Service Corporation  
For Approval to Acquire Ownership Interests in  
Solar Electric Generating Facilities

5-BS-228

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**JEWELL JINKINS INTERVENORS  
REPLY TO APPLICANT'S OBJECTION TO INTERVENTION OUT-OF-TIME**

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Applicants Wisconsin Public Service Corporation and Madison Gas and Electric Company have jointly objected to intervention of Jewell Jenkins Intervenors in the above-captioned docket. Their objection should be denied, and Jewell Jenkins Intervenors should be granted full party status.

Jewell Jenkins Intervenors request for party status is admittedly out-of-time, having learned about the solar project CPCN and intervened immediately, and then learned of the solar transmission and acquisition dockets after the deadline had passed. The Notice of Proceeding was issued October 12, 2018, and the Notice of Prehearing Conference was issued October 25, 2018. Jewell Jenkins Intervenors had no way of knowing or guessing that this docket was before the Commission, as no notice was provided to them. Their request for intervention was filed November 12, 2018, just 3 days after retaining counsel and just two weeks after the deadline had passed.<sup>1</sup> This is a matter of equity. Intervention and Commission procedure is difficult to

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<sup>1</sup> Counsel was retained on very limited basis for filing the 9697-CE-101 intervention only, the day the filing was due. Counsel was retained for the project on November 8, 2018.

navigate and this level of involvement is not taken lightly by landowners. There was no delay – action was taken immediately upon learning the other dockets existed.

Because of the interrelated nature of the three (or five) solar dockets, 5-BS-228, 9697-CE-100 and 9697-CD-101, Jewell Jinkins Intervenors do have a “substantial interest that may be affected by the commission’s action or inaction.” Wis. Code PSC §2.21(1). If that interest is deemed “not substantial enough,” Jewell Jinkins Intervenors “participation likely will promote the proper disposition of the issues to be determined in the proceeding” and because the schedule has been set and agreed upon by Intervenors, “participation will not impede the timely completion of the proceeding or docket.” Wis. Code PSC §2.21(2).

Applicants’ objections focus on standing, yet ignore the repeated mantra in this group of dockets -- that they are proceeding together, that decisions for one are based on others, that this is essentially one docket broken into pieces.<sup>2</sup> As noted at the Prehearing Conference by Intervenor Kite’s counsel, it is not just the schedules that overlap, “issues overlap throughout this docket, they are running parallel to one another, and in the event an issue comes up that we feel needs to be addressed, we want the opportunity to do that...” Tr. 1-39, p. 6, l. 1-9; see also p. 5, l. 18-22. Jewell Jinkins Intervenors want nothing more than the ability to participate and address the full range of issues presented by and in these linked dockets. They cannot effectively participate in one of these three simultaneous dockets without ability to participate in the others as necessary.

Jewell Jinkins Intervenors have an interest in the linked Badger Hollow dockets (9697-CE-100 and 9697-CE-101) and the above-captioned acquisition docket to the extent it relates to Badger Hollow.<sup>3</sup> The inherent linkage of these dockets is seen in the frequent references in the

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<sup>2</sup> The Badger Hollow dockets (9697-CE-100 & 101) are also tied to the Cardinal-Hickory Creek 345 kV transmission line docket (5-CE-146), repeatedly referenced in PSC staff Discovery, and briefly in the Prehearing Conference. Tr. 1-39, p. 27, l. 21 et seq.

<sup>3</sup> Jewell Jinkins have no interest in the two Two Creeks dockets running concurrently with the Badger Hollow

transcript of the Prehearing Conference for Docket 5-BS-228, held November 13, 2018, to the other dockets, and scheduling the various events in an interwoven proceeding. See Tr. 1-39, p. 9, l. 2-5; p. 9 l. 25-p. 10, l. 2; p. 10, l. 8-17; p. 11, l. 10-p. 12, l. 25; p. 20, l. 12-17; p. 22, l. 11-14;

Applicants note that regarding Badger Hollow, they plan to acquire only half of the project, offered apparently as a reason for exclusion of Jewell Jinkins Intervenors, but instead, this is a reason for concern. Applicants claim Badger Hollow will be built “with or without Applicant’s involvement.” Applicant Response, p. 2. If the project were to go forward without regard to whether project or its output were purchased, which is not credible, if the nature of the community were to be changed so substantially on mere speculation, on a speculative market project, that is a great risk to the community, and one that would indeed be an injury in fact. *Id.*

Applicants WPS and MGE claim that Jewell Jinkins Intervention “would be disruptive and burdensome to the parties and administratively inefficiently” and object to Landowners’ discovery. How so? The schedule for these three dockets has been set. In the 5-BS-228 docket, it was CUB and RENEW Wisconsin that raised legitimate scheduling issues. In the 5-BS-228 docket, it is the Applicants delaying discovery as raised by CUB; there is inherent delay in the Applicants’ conflicting responses to Data Requests and failure to address linkage to Cardinal-Hickory Creek. Jewell Jinkins Intervenors have done nothing to delay the process. Jewell Jinkins Intervenors were present at both Prehearing Conferences, and are well aware of the compressed schedule, and have agreed to be bound by that schedule. Applicant appears from their filing to be worried that questions about “Applicants’ need for the proposed solar generation facilities and the facilities’ impact on Applicants’ cost and efficiency of electric service to their customers” would be disruptive. Applicant Response, p. 4. Disruptive? That’s an issue in this proceeding, one that is open to questions. Again, those issues for the proceeding are:

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dockets, nor have they any interest in the above-captioned acquisition docket to the extent it relates to Two Creeks.

1. Would acquisition of the proposed project substantially impair the efficiency of the service of a public utility?
2. Would acquisition of the proposed project provide facilities unreasonably in excess of the probable future requirements?
3. Would acquisition of the proposed project, when placed in operation, add to the cost of service without proportionately increasing the value or available quantity of service?

These issues were accepted by the Applicants. Tr. 1-39, p. 8, l. 11-15. These are issues that Jewell Jinkins Intervenors request leave to address these issues in 5-BS-228, through intervention by right or permissive intervention, on the schedule agreed upon at the Prehearing Conference.

For the above reasons, Jewell Jinkins Intervenors again respectfully request that they be granted this request to intervene as a party with all the rights, responsibilities and obligations of full party status in the above-captioned proceeding.

Dated this 20th day of November, 2018.



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