

Wisconsin Public Service Commission Presented Final Recommendations For Rule to Site and Permit Wind Farms

Article By:

Energy Practice Michael Best

This week the Public Service Commission of Wisconsin (“PSC”) received a final report from the Wind Siting Council (“Council”) that outlined their recommendations to standardize statewide rules to site and permit wind farms. As required under 2009 Wisconsin [Act 40](#) (“Act 40”), the PSC appointed the Council to research and discuss various wind energy siting issues and provide recommendations that the PSC will utilize as they work to develop final rules to site and permit wind farms.

In the past, wind farm developers were presented with a patchwork of local regulations that, at times, effectively prevented substantial wind farm development in Wisconsin. Act 40 directed the PSC to promulgate rules to specify maximum restrictions that a local government can impose on installation and use of wind energy projects in Wisconsin. The goal of the final rules is to put in place uniform consistent standards for the local regulation of wind energy systems.

As part of the ongoing rulemaking process, the PSC issued a proposed wind siting rule draft in May, 2010, and accepted public comments through July 7, 2010. The PSC plans to complete the rulemaking by the end of this month. A summary of the key recommendations from the Council’s report includes:

- The Council concluded there is not sufficient evidence to warrant requiring a developer to offer any landowner a property value protection plan for properties neighboring wind turbines. However, recognizing this is an area of fairly significant concern, the Council concluded that developers should offer neighboring landowners a financial stake, or a wind easement in a project. The Council concluded wind easements would provide neighboring landowners and opportunity to participate in the siting process.
- The rules should not specify mandatory content requirements that must be included in leases and easements. Additionally, developers should not be subject to any licensing requirements in order to negotiate with landowners regarding leases and easements.
- Developers/owners of wind energy systems should be required to establish a complaint resolution process, provide general notice of avenues for making complaints and initially respond to any received complaint within 30 days. Political subdivisions should also be responsible for implementing a complaint resolution process. Complainants should be allowed

to take their complaints directly to the PSC, without using the developer's or political subdivision's process, if they choose.

- Although the Council concluded that scientific evidence does not support a conclusion that wind turbines cause negative health outcomes, they did recommend establishment of minimum setback distances for wind turbines covering noise and shadow flicker. For the purpose of differentiating regulatory standards placed on wind energy facilities they should be divided into the following three categories: 1) the small wind category should be for up to three wind turbines no greater than 100 kW in size each; 2) the community wind category includes systems up to 15 MW in size, so long as the system was either locally owned or the electricity was used locally; and 3) all other wind energy systems should be considered large wind. For all system size categories the minimum setback to any property line, residence, or occupied community building should be 1.1 times the maximum blade tip height of the turbine. The noise attributable to the all system size categories can not exceed 45 dBA at night or 50 dBA during the day. For large and community systems, shadow flicker on residences should not exceed 40 hours per year and developers should be required to offer mitigation in certain circumstances. Small systems should not be subject to shadow flicker limitations or mitigation requirements. Property owners at their own choosing should be allowed to waive the noise and/or shadow flicker performance standards. Property owners should also be allowed to waive the minimum setback distance from property lines. Property owners should not be allowed to waive the minimum setback distance from a residence or occupied community building, except in the case of small systems.
- Developers of large systems should be required to notify the PSC, all affected political subdivisions, and all landowners adjacent to host properties or within one mile of any planned turbine at least 90 days before filing a construction application. Developers of community systems should be required to notify the PSC, all affected political subdivisions, and all landowners adjacent to host properties at least 90 days before filing a construction application. Developers of small systems should be required to notify all affected political subdivisions and all landowners adjacent to host properties at least 60 days before filing a construction application.

In addition to these key recommendations, the Council also reviewed the Commission's proposed draft rule and made recommendations regarding how to approach signal interference, decommissioning, construction and operation standards, emergency procedures, conflicts of interest, application process, political subdivision process and stray voltage.

The Wind Siting Council's recommendations and supporting documentation can be viewed [here](#).

©2025 MICHAEL BEST & FRIEDRICH LLP

National Law Review, Volume , Number 226

Source URL: <https://natlawreview.com/article/wisconsin-public-service-commission-presented-final-recommendations-rule-to-site-and-permit->