

RENEW Issue Brief: Regulatory Environment of Renewable Energy

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Uniform Wind Permitting Rules and PSC 128

PROBLEM: Under current law, the Public Service Commission of Wisconsin (PSCW) reviews proposed wind energy installations only if they exceed 100 megawatts (MW). All other proposals are reviewed by the responsible local permitting authority. For developers of such proposals, the local permitting landscape resembles a minefield. In some cases, the local permitting process has resulted in moratoria or excessively stringent ordinances that make wind development impossible within that jurisdiction. In the vast majority of instances, these restrictions go well beyond the scope of review allowed under Wisconsin Statute 66.0401, which limits municipal review of wind energy systems matters involving public health and safety. Onerous restrictions have even been placed on small wind systems, despite the modest nature of their impacts.

In response to the deteriorating permitting environment for wind energy, the Wisconsin legislature passed the Wind Siting Law (2009 Act 40). The new law directed the PSCW to promulgate rules that would set the maximum restriction on local wind project permitting requirements. In developing these rules (PSC 128), the PSCW engaged stakeholders with a wide variety of perspectives in a public process. The PSCW completed the rulemaking process in December 2010. However, in March 2011, the new Legislature suspended the rule a few hours after it took effect. Bills have been introduced to repeal PSC 128 outright. However, if the repeal bills do not clear both chambers within the current legislative session, PSC 128 will become the enduring statewide policy on siting wind turbines.

POLICY NEED: Uniform statewide rules that impose reasonable requirements on developers while limiting local restrictions on wind development will have a positive impact on the market for wind systems in Wisconsin. Such rules would create a sense of certainty and predictability that has been largely absent in recent years. PSC 128, while imperfect, does provide a workable framework and still represents the best opportunity for ensuring uniformity and predictability when siting wind systems.

BENEFICIARIES: Residential, agricultural, commercial and industrial energy customers, landowners, local units of government, nonprofit energy users, municipalities, farmers, state and national developers, local installers, and contractors.

PROGNOSIS: There are several strident anti-wind legislators holding leadership positions. However, wind energy siting is an issue that cuts across partisan lines, and most state legislators believe that wind energy delivers significant economic benefits to Wisconsin.

COMPLICATING ISSUES: The real estate industry has significant influence with the Governor and many legislators. This group has been the principal constituency opposed to statewide siting standards, motivated by the mistaken belief that wind turbines lower the resale value of neighboring properties.