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Public Service Commission of Wisconsin/Solar Energy: Midwest Renewable Energy Association Judicial Challenge to Third-Party Financing Guidance

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The Midwest Renewable Energy Association (“MREA”) filed a February 25th Petition and Complaint for Declaratory Judgment and Injunction (“Petition”) against the Public Service Commission of Wisconsin (“PSCW”) challenging its issuance of certain guidance documents.

The Petition was filed in Portage County Circuit Court. See Case Code: 30701.

MREA alleges that certain guidance documents issued by PSCW are beyond the limits of its statutory authority. The organization further argues that the guidance documents will impede solar and other clean energy development.

MREA first asserts in the Petition that the guidance documents have incorrectly asserted:

. . . broad jurisdiction over privately owned solar panels located on customers’ roofs and connected behind the utility meter to provide a partial alternative to buying electricity from the utility. Those guidance documents incorrectly assert that private solar generation financed through a mechanism called “third-party financing” constitutes a “public utility” subject to regulation (and effective prohibition).

The Petition argues that solar equipment serving a single host customer through an individual contract between a solar panel provider and the host customer is not the type of monopoly public utility service that the PSCW is authorized to regulate.

Concern is expressed that solar companies may deem it a risk that the PSCW will interfere with such business relationships.

Second, MREA alleges that the PSCW is:

. . . unlawfully prohibiting households and private businesses from reducing their electricity consumption during peak hours in exchange for compensation through wholesale power markets.

The Petition asserts that federal law does allow states to preclude participation in wholesale markets through state law. However, it further asserts that the Wisconsin legislature has never done so and never authorized the PSCW to do so. The PSCW action is asserted to exceed its authority.

A copy of the Petition can be downloaded [here](#).

