

## **Legistar #31258**

### **Third Party Solar Ownership – Case Study by the City of Monona**

#### **From Richard Heinemann**

The issue is that Wisconsin law (Wis. Stat. 196.01(5)(a)) defines a "public utility" as anyone who owns any part of equipment or facilities that generate heat, light, water or power (such as solar panel). If a 3rd party owner or manufacturer of solar equipment enters into an agreement to sell solar output to a retail customer, then that entity functions as a public utility, meaning it would need a certificate of authority from the PSCW. There are exemptions for customer-owned generation, or self-generators (which is why home owners can own roof top solar systems and not be considered utilities). MGE also has parallel generation tariffs that allow such facilities (less than 100 kW) to be run, with excess energy (i.e. energy not consumed by the customer) credited back to the customer.

The Monona arrangement apparently qualifies as one of the exemptions, though I'm not sure why. One of the documents we got suggests that the electricity is being generated behind the meter and provided to the City AT NO COST. At the same time, City is paying for Renewable Energy Credits (not energy as such) at an astronomical rate. Maybe the City is being deemed to be paying for RECs, not energy, and that's why the developer is not designated as a Public Utility. I'd need to look closer at the materials to figure it out.

In any case, it's the public utility question that is considered the biggest legal road block to third party financing arrangements and would likely require legislative change, not a change in PSC rules.

#### **From Jeanne Hoffman**

The only thing I would add to this is that the PSC does not seem to be aggressively enforcing this and it really is a complaint-driven issue. For instance, MGE has stated that they do not have a problem with 3rd party ownership as long as it is behind the meter, is limited to 100 kW, and any energy that goes on the grid, MGE basically gets for free... Alliant on the other hand - has fought 3rd party ownership structures.

We Energy came to an agreement with Kohl stores in Milwaukee that have a 3rd party solar project on their roofs (this was a national project with Con Edison I believe.)