

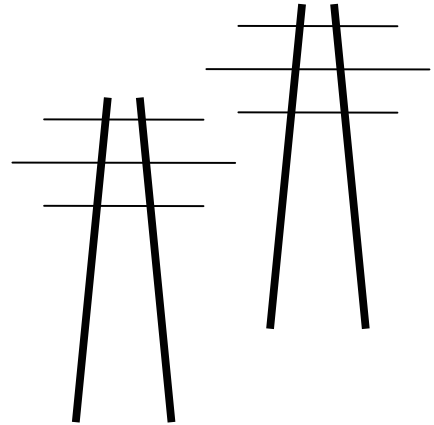
# Legalelectric, Inc.

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February 1, 2012

Clerk of Appellate Court  
Minnesota Court of Appeals  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

RE: In the Matter of the Application of AWA Goodhue Wind, LLC, for a Large Wind Energy Conversion System Site Permit for the 78 MW Goodhue Wind Project in Goodhue County  
MPUC Docket: IP-6701/WS-08-1233  
OAH Dockets 8-2500-21395-2 and 15-2500-19350-2  
**Appeals Court No. A11-2229**

Dear Clerk of Appellate Court:

Enclosed for filing on behalf of Goodhue Wind Truth, please find original and three copies of:

1. Goodhue Wind Truth Motion to Intervene in Appeals Court Case No. A11-2229 and Memorandum of Support;
2. Notice and Request for Leave to Participate as Amicus Curiae (in the alternative) and Memorandum of Support;
3. Affidavit of Carol A. Overland; and
4. Affidavit of Service by U.S. Mail on counsel of record.

If you have any questions, or require anything further, please let me know.

Very truly yours

Carol A. Overland  
Attorney at Law

cc: Parties of Record – Attached Service List

No. A11-2229

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

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*In the Matter of the Application of AWA Goodhue Wind, LLC, for a Large Wind Energy Conversion System Site Permit for the 78 MW Goodhue Wind Project in Goodhue County*

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**GOODHUE WIND TRUTH'S  
NOTICE OF MOTION AND MOTION TO INTERVENE  
AND IN THE ALTERNATIVE  
NOTICE AND REQUEST FOR LEAVE TO PARTICIPATE  
AS AMICUS CURIAE**

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**NOTICE: IN THE ABSENCE OF OBJECTION BY AN EXISTING PARTY TO THE ACTION WITHIN 30 DAYS AFTER SERVICE THEREOF UPON THE PARTY, SUCH INTERVENTION SHALL BE DEEMED TO HAVE BEEN ACCOMPLISHED.**

Pursuant to Rule 127 of the Minnesota Rules of Civil Appellate Procedure, and Rule 24 of the Minnesota Rules of Civil Procedure, Goodhue Wind Truth brings this Motion to Intervene in the above-captioned case and, in the alternative, pursuant to Rule 129 of the Minnesota Rules of Civil Appellate Procedure for leave to participate as amicus curiae.

**GROUND FOR MOTION TO INTERVENE**

1. One week ago, the Goodhue Wind Truth Appeal of the Public Utilities Commission's AWA Goodhue Site Permit Order, Appellate Case No. A11-2228, was dismissed, solely for the jurisdictional issue of failure to personally serve or serve by Certified Mail the Petition for Writ. That case (A11-2228)

was an appeal arising from the same PUC Order and Site Permit as the above-captioned case<sup>1</sup> (A11-2229).

2. Goodhue Wind Truth claims an Intervention of Right, an interest relating to the property and transaction which is the subject of the action. Goodhue Wind Truth is Bruce and Marie McNamara, organic dairy farmers who own property within the AWA Goodhue project footprint. The disposition of this appellate action, if the PUC's Order and Permit is affirmed, will impair or impede the McNamara's ability to protect their property interest and right to quiet enjoyment. Goodhue Wind Truth's interest is distinct from any other party and is not represented by any party to this proceeding.
3. Goodhue Wind Truth claims Permissive Intervention, as active participants and intervenors in each and every AWA Goodhue docket at the Public Utilities Commission and in the Goodhue County hearings and deliberative process as the county enacted the ordinance which is the subject of this appeal.
4. Goodhue Wind Truth's intervention will not delay the schedule for this appeal, and Goodhue Wind Truth, if granted intervention, will abide by all schedules, and submit its initial brief on or before February 4, 2012. Minn. R. Civ. App. P. 114.04.

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<sup>1</sup> The Goodhue Wind Truth appeal included the Public Utilities Commission Siting Order and Order Granting Certificate of Need, PUC Docket 09-1186. Appeal A11-2229, is limited to Siting and does not address the Certificate of Need.

5. Goodhue Wind Truth's intervention will not impair or prejudice other parties, as Goodhue Wind Truth is not requesting time for oral argument, only for briefing, and Goodhue Wind Truth's positions are well known to all parties, particularly AWA Goodhue, through years of proceedings at the Public Utilities Commission and with great specificity in its prior Statement of the Case (Appellate Docket No. A11-2228).
6. Goodhue Wind Truth requests intervention as a matter of right and permissive intervention in the above-entitled appeal for the limited purpose of briefing, and no Oral Argument

**GROUNDS FOR REQUEST FOR LEAVE TO PARTICIPATE**

**AS AMICUS CURIAE**

Goodhue Wind Truth's grounds for its request for leave to participate as Amicus Curiae stem from its private and public interest as a years' long participant in the multiple AWA Goodhue Wind Project dockets at the PUC and in the Goodhue County ordinance process which is the subject of the above-captioned appeal. Goodhue Wind Truth supports the position of the Coalition for Sensible Siting and its brief will suggest reversal of the Public Utilities Commission Order and that it utilize the Goodhue County wind siting standards as provided by Section 18 of the Goodhue County Ordinance and Minn. Stat. §216F.081, and that the matter of the AWA Goodhue Wind Project be remanded to the Commission for reworking the permit in light of Minn. Stat. §216F.01 and the Section 18 of the Goodhue County Ordinance.

An amicus curiae is desirable because Goodhue Wind Truth has a perspective different from other parties and a broad base of knowledge and participation to inform the court to facilitate its decision in this issue of first impression.



Dated: January 31, 2012

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No. A11-2229

STATE OF MINNESOTA  
IN COURT OF APPEALS

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**MEMORANDUM IN SUPPORT OF INTERVENTION MOTION**

Goodhue Wind Truth submits this Motion and requests intervention as a matter of right and permissive intervention in the above-captioned appeal for the limited purpose of briefing. Goodhue Wind Truth is not requesting oral argument. Goodhue Wind Truth's positions are well known to all parties. No party will be impaired or prejudiced if this Motion to Intervene is granted, and the interests of justice will be served if Goodhue Wind Truth participates.

Goodhue Wind Truth has been an active participant and intervenor in public meetings since November 2008, and at each and every AWA Goodhue docket at the Public Utilities Commission, meetings and hearings at Goodhue County and the deliberative process as the county enacted the ordinance which is the subject of this appeal. Exhibit A, PUC eDocket Record for AWA Goodhue Wind Project Siting Docket (08-1233); Exhibit B, AWA Goodhue Certificate of Need Docket (09-1186); Exhibit C, AWA Goodhue Power Purchase Agreement for Goodhue North (09-1349); Exhibit D, AWA Goodhue Power Purchase Agreement for Goodhue South (09-1350);

see also Index of Administrative Record filed by Public Utilities Commission in this case, the corrected version filed January 19, 2012.

One week ago, Goodhue Wind Truth learned that it was dismissed from its Appeal of the Public Utilities Commission's AWA Goodhue Site Permit Order, as captioned above, Appellate Case No. A11-2228. The above-captioned case arises from the same Public Utilities Commission Order and Site Permit, in docket 08-1233. Goodhue Wind Truth participated extensively in that docket and has knowledge of this case that will assist the court in its decision and which is crucial to a fair and just determination of the issues presented. Goodhue Wind Truth also has a different perspective than any other party to the proceedings before the Public Utilities Commission, as evidenced in its Motion for Reconsideration. Exhibit E, Goodhue Wind Truth Motion for Reconsideration.

Goodhue Wind Truth claims an Intervention of Right, an interest relating to the property and transaction which is the subject of the action. Goodhue Wind Truth was founded by Bruce and Marie McNamara, who are the only members. The McNamara's are organic dairy farmers who live, farm and who own property and livestock within the AWA Goodhue project footprint. The AWA Goodhue Wind Project, if built, will have an irreversible impact on their property, including decreased valuation, impacts on the health of their family and their livestock, impacts of low frequency infrasound, stray voltage, and shadow flicker as the area is transformed from a rural dairy setting to an industrial wind site and residents lose their right of

quiet enjoyment. The disposition of this appellate action, if the PUC's Order and Permit is affirmed, will impair or impede the McNamara's ability to protect their property interest. Goodhue Wind Truth's interest is distinct from any other party and is not represented by any party to this proceeding -- the distinction between the positions of the Coalition for Sensible Siting, Relator in this appeal, and Goodhue Wind Truth, is clear in the difference in issues set forth in their Motions for Reconsideration. Exhibit E, Goodhue Wind Truth Motion for Reconsideration; Exhibit F, Coalition for Sensible Siting Motion for Reconsideration. In the interest of equity and justice, Goodhue Wind Truth must be afforded the opportunity to state its case in this appeal.

Granting Goodhue Wind Truth's motion for intervention will not delay the schedule for this appeal, because Goodhue Wind Truth is not requesting any delay or change in schedule, will abide by all schedules, and submit its brief on or before February 4, 2012.

Goodhue Wind Truth's intervention will not impair or prejudice other parties, as Goodhue Wind Truth is not requesting time for oral argument, only to submit briefing to inform the court based on the significant and voluminous record developed at the Commission, much of which was submitted by Goodhue Wind Truth. Goodhue Wind Truth's positions are well known to all parties, particularly AWA Goodhue, through its years of proceedings at the Public Utilities Commission, and there are no surprises. These positions were stated with great specificity in its Motion for

Reconsideration and Statement of the Case. Exhibit E; Exhibit G, Goodhue Wind Truth Statement of the Case, Appellate Court Docket No. A11-2228.

Goodhue Wind Truth requests intervention as a matter of right and permissive intervention in the above-captioned appeal for the limited purpose of briefing.

Goodhue Wind Truth is not requesting oral argument. No party will be impaired or prejudiced if this Motion to Intervene is granted.

Dated: January 31, 2012



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**MEMORANDUM IN SUPPORT OF REQUEST, IN THE ALTERNATIVE,  
FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE**

Goodhue Wind Truth (hereinafter “GWT”) requests leave to participate as Amicus Curiae to submit briefing in the above-captioned case, should the Motion for Intervention be denied. GWT incorporates the Notice and Memorandum in Support of Intervention as if fully related here.

GWT was dismissed from its Appeal of the Public Utilities Commission’s AWA Goodhue Site Permit Order, Appellate Case No. A11-2228, for the jurisdictional issue of failure to personally serve or serve by Certified Mail the Petition for Writ. The Order was issued just one week ago, and GWT submits this Request no later than 15 days after this Order was filed.

Goodhue Wind Truth’s interest is both private and public in nature. Goodhue Wind Truth’s interest is private in that Goodhue Wind Truth is Bruce and Marie McNamara, who founded it upon learning that the AWA Goodhue Wind Project footprint surrounded their organic dairy farm. Goodhue Wind Truth’s private interests include the McNamaras’ concerns over valuation of their organic farm,

whether they will be able to continue their livelihood, support their family, and questions regarding the health impacts of wind turbines from noise, stray voltage and shadow flicker. Goodhue Wind Truth's public interests include persistent efforts to encourage and facilitate public participation in this docket, to disseminate information to the public regarding public health impacts of wind turbines, to bring in an expert on sound to testify in the AWA Goodhue Wind Project Public Hearing, and to educate the public about avenues to participate at the Public Utilities Commission, at Goodhue County, at Belle Creek Township, at the legislature, and in federal agency and governmental venues. Goodhue Wind Truth has been educating, advocating, participating and filing in the Commission dockets for nearly four years.

Goodhue Wind Truth supports the positions of the Coalition for Sensible Siting, Relator in this case, and their positions are aligned, but not identical in perspective. Because of GWT's extensive participation, including filing appeal regarding the Commission's Siting Order and Permit, its positions are common knowledge to AWA Goodhue and other parties, and the distinctions in positions are verified by the record in this case. There would be no surprise to AWA Goodhue if GWT is given leave to participate.

The Goodhue Wind Truth brief is nearly complete, drafted prior to dismissal of A11-2228.. No other party has authored or coauthored the Goodhue Wind Truth brief, in whole or in part, and no other party has provided monetary contribution to the preparation or submission of the Goodhue Wind Truth brief. Specifically, the

Coalition for Sensible Siting has not contributed, in whole or in part, to the authoring of the Goodhue Wind Truth brief, nor has it made any monetary contribution to the preparation or submission of the Goodhue Wind Truth brief.

The Goodhue Wind Truth will suggest that the decision of the Commission regarding Minn. Stat. §216F.081 be reversed, that Section 18 of the Goodhue County applies to this project, and that a permit should only be issued in compliance with the County ordinance.

Amicus curiae participation and an amicus curiae brief is desirable because this is a voluminous record and Goodhue Wind Truth has participated extensively and submitted much of that record to the Commission. Goodhue Wind Truth has extensive knowledge and a perspective necessary for fully informed judicial review of this case. Goodhue Wind Truth has a stake in this proceeding, and has demonstrated its ability to credibly build the record through its participation thus far at the Public Utilities Commission. On that basis, Goodhue Wind Truth respectfully request leave to participate as amicus curiae.

Dated: January 31, 2012



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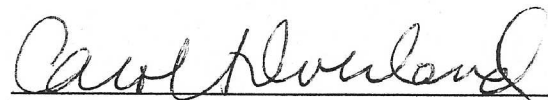
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5. Attached as Exhibit D is a true and correct copy of AWA Goodhue Power Purchase Agreement for Goodhue South (09-1350).
6. Attached as Exhibit E is a true and correct copy of Goodhue Wind Truth's Motion for Reconsideration filed with the Public Utilities Commission (08-1233 and 09-1186).
7. Attached as Exhibit F is a true and correct copy of Coalition for Sensible Siting Motion for Reconsideration filed with the Public Utilities Commission.
8. Attached as Exhibit G is a true and correct copy of Goodhue Wind Truth Statement of the Case, Appellate Court Docket No. A11-2228.
9. No other party has authored or coauthored the Goodhue Wind Truth brief, in whole or in part, and no other party has provided monetary contribution to the preparation or submission of the Goodhue Wind Truth brief. Specifically, the Coalition for Sensible Siting has not contributed, in whole or in part, to the authoring of the Goodhue Wind Truth brief, nor has it made any monetary contribution to the preparation or submission of the Goodhue Wind Truth brief.

Further your affiant sayeth naught.

Dated: January 31, 2012



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Signed and sworn to before me  
this 31<sup>st</sup> day of January, 2012.

  
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Notary Public