

November 22, 2010

Via E-Docket Filing

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square
121 Seventh Place East
St. Paul, MN 55101

RE: *In the Matter of the Application of Goodhue Wind, LLC for a Site Permit and Certificate of Need for a 78 MW Large Wind Energy Conversion System in Goodhue County*
Docket Nos. IP-6701/WS-08-1233 and CN-09-1186

Dear Dr. Haar:

The above matter is scheduled before the Commission tomorrow on Applicant AWA Goodhue's request for reconsideration. In that request, AWA has argued that because no material issues of fact have been identified, and because sufficient information already exists in the record, a contested case is unnecessary before the Commission can reasonably decide not to apply Goodhue County's unprecedented wind standards.

The purpose of this letter is to propose a more efficient alternative, in lieu of a contested case that will easily last a minimum of six months. Instead of a contested case, the Commission should appoint a "lead commissioner" pursuant to Minn. Stat. § 216A.03, subd. 9. Under that statute, the Commission has broad discretion to appoint one of its members for the purpose of, among other things, holding a hearing and requesting oral or written comments, and making an overall recommendation in the case.

This matter appears a perfect candidate for alternative resolution under Minn. Stat. § 216A.03. As AWA stated in its reply comments, project representatives have continued to meet individually with county representatives in an effort to reach a compromise, and AWA has already proposed a significant compromise as outlined in its reply comments (34 turbines (from 50), 1/3rd mile setbacks, and unprecedented noise standards). There appeared to be some willingness recently on the county's part to accept a compromise and allow the project to move forward, as reflected in individual board members' letters to this Commission and in recent articles like the one attached. However, the county board appears unwilling to engage in an official capacity, as was the case at the November 16 county board hearing. We don't know why

the full county board has been unable to engage, and can only presume it is because of political pressure from project opponents.

AWA has always been willing to discuss the matter with county and other stakeholders, but lack a forum in which to do it. The county process is cumbersome and dominated by politics, and adherence to open meeting laws, while critically important, hinders open dialogue. A contested case isn't an answer either, as the parties only interest at that point will be to "win" their side of the argument.

If done correctly, designating a lead commissioner would seem to make much more sense than a full-blown contested case.

First, the lead commissioner could conduct a hearing, but doesn't need to conduct contested case hearings. This means that a lead commissioner could make inquiry into the reasonableness of the county's standards, but could do so on a much more informal and importantly, expedited manner.

Second, as AWA stated in its request for reconsideration, the questions that the Commission outlined to be addressed are less factual than they are policy related. There is little material issue of fact that a 10 RD setback is unnecessary to protect health and safety. If it were otherwise, the Commission would not be conducting a contested case in an isolated case, but instead establishing a rulemaking in which it invited all industry stakeholders to participate.

Last, a lead commissioner could also do something more efficiently than the OAH likely could: get the parties to negotiate. At the October 21 hearing, the Commission hinted that it wanted the parties to talk. At this point, there is little objective indicia that that remains important to the Commission. Instead, all the parties are left with is a referral to a contested case with some direction for the OAH to make a recommendation on two and possibly more issues, likely not until six months or more. If the Commission is interested in working out a compromise – and we suggest that it should be because of the terrible ramifications of a 10 RD setback – then a lead commissioner, as a member of the body with preemptive authority over LWECS, is certainly in a better position to drive a compromise than is the OAH.

On its face, designating a lead commissioner presents the potential for a much more informal, less expensive, and more efficient resolution of this matter. But the premise of this proposition, however, is based on the assumption that a lead commissioner process actually turned out to be more efficient. AWA believes that if the Commission is interested in exploring a creative way to address what has thus far been an intractable dispute, then it will be necessary that the alternative process for it be successful, take no more than four to six weeks, compared to the six to seven months that is expected from a full contested case.

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Because time is of the essence for this project, AWA wanted to raise the lead commissioner idea as soon as possible and before the Commission takes up this matter on November 23. Project representatives will be available to answer any questions about this proposal at tomorrow's hearing.

Thank you for your consideration.

Sincerely,

/s/ Todd J. Guerrero

Todd J. Guerrero

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c: Service List (w/attach.)

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Samuelson's shifting wind position draws fire

Richard Samuelson changed his position and the resulting outcry -- from two fellow County Board members and opponents of the proposed Goodhue Wind project -- has left him feeling caught in the middle.

By: **Eric Ludy**, The Republican Eagle

- [PHOTO: Richard Samuelson](#)



Richard Samuelson

Richard Samuelson changed his position and the resulting outcry -- from two fellow County Board members and opponents of the proposed Goodhue Wind project -- has left him feeling caught in the middle.

"I will not be held hostage for my thoughts and beliefs," the Goodhue County commissioner said Friday. "It's just something to be considered."

The point for consideration: Samuelson wants the county to revert from its stance on setbacks for commercial wind turbines -- over a half mile from those not participating in a wind project -- and enact universal noise standards instead.

He thinks it would be a fair compromise between project opponents, who have cited wind turbine noise as a major health concern, and project developers, who have said the setbacks would effectively end their project.

But some people have raised questions about the commissioner's motives for the change. They have expressed concerns that it could hurt the county's efforts to advocate for its recently passed ordinance.

The problem, they say, is that the commissioner supported those setbacks at an October County Board meeting, giving the deciding vote to an ordinance that ultimately could delay a state decision on the Goodhue Wind for several months.

Now, as the Minnesota Public Utilities Commission votes Tuesday on whether to reconsider its decision to conduct further research on Goodhue County's wind ordinance, it is faced with the added complication that a majority of county commissioners no longer support the law -- and have sent letters to the body saying so.

"It makes it look like we don't know what were doing -- like down here, locally, we can't seem to get it together," said Commissioner Ted Seifert, who voted in support of the ordinance.

Samuelson and Commissioners Jim Bryant and Dan Rechtzigel all sent letters to the state energy regulator early this week arguing against the setback and instead writing in favor of universal safety standards.

But Seifert and Commissioner Ron Allen -- both supporters of the setback -- have accused Samuelson of a deliberate case of post-election amnesia.

Samuelson's opponent in the November election, Jeff Hommedahl, advocated for 10-rotor-diameter setbacks like those the county ultimately passed. To curry favor with voters in his district, Seifert and Allen said, Samuelson supported the same thing.

"Evidently, Richard thought he had to support the setback because his opponent did," Seifert said.

But Samuelson said his change of heart had nothing to do with the election, but came out of a desire to find a middle ground for the project that has pitted supporters and opponents - often neighbors - against each other for more than two years.

"I'm just looking for a compromise position to keep the county out of this long, drawn-out process," he said.

Reached Friday, Rechtzigel said the new majority opposed to the setbacks on the County Board would probably not lead to an updated ordinance anytime soon, though he said he would continue to make his position against the ordinance language known to the state.

"The board did what it did," he said. "We'll just have to see how this plays out."

Meanwhile, county staff will prepare to advocate for the ordinance at the planned series of administrative law judge hearings. The fact that the ordinance no longer has majority support will make no difference in the county's case, according to Goodhue County Attorney Steve Betcher.

"The only official action that the board has taken is to adopt the ordinance and also the vote to intervene," he said.

Tags: [goodhue county board](#), [news](#), [politics](#), [wind](#)

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