

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Roberts Street
St. Paul, Minnesota 55101

FOR THE PUBLIC UTILITIES COMMISSION
121 Seventh Place East Suite 350
St. Paul, Minnesota 55101-2147

**In the Matter of the Application of Freeborn
Wind Energy LLC for a Large Wind
Energy Conversion System Site Permit in
Freeborn County**

MPUC Docket No. IP-6946/WS-17-410
OAH Docket No. 80-2500-34633

**FREEBORN WIND ENERGY LLC'S MOTION TO STRIKE PORTIONS OF THE
TESTIMONY OF DORENNE HANSEN**

I. INTRODUCTION.

In accordance with the Administrative Law Judge's ("ALJ") Third Prehearing Order,¹ Freeborn Wind Energy LLC ("Freeborn Wind") hereby moves the ALJ for an Order to Strike certain portions, identified on attachment A hereto, of the Direct and Rebuttal Testimony of Dorene Hansen filed by the Association of Freeborn County Landowners ("AFCL"). Freeborn Wind moves to strike portions of Ms. Hansen's testimony on four grounds:

1. The portions of Ms. Hansen's testimony related to the Bent Tree Wind Farm noise report and noise monitoring have no relevance to this docket;
2. Ms. Hansen is not qualified to offer expert opinions concerning property valuation and marketability; efficiency, design, or construction costs of wind energy facilities; environmental impacts; health-related impacts, specifically relating to noise and shadow flicker; telecommunication and signal interference; commitment of resources, and agency rules. Portions of her direct and rebuttal testimony providing her opinions on these matters should be stricken;
3. Certain portions of her testimony constitute impermissible hearsay without probative value and for which no foundation has been offered to show reliability or relevancy; and
4. Schedules B, C, and D to Ms. Hansen's Rebuttal Testimony on the ground that their inclusion is unduly repetitious, as each was already in the record as a schedule for another witness or Ms. Hansen.

¹ Third Prehearing Order at 5 (Dec. 15, 2017) (eDocket No. [201712-137969-01](#)).

II. LEGAL STANDARD FOR ADMISSIBILITY OF TESTIMONY.

Pursuant to the ALJ's Third Prehearing Order, the procedural rules at Minnesota Rules, chapter 1405 govern these proceedings.² To the extent that they are consistent with chapter 1405, Minnesota Rules, chapters 7854 and 7829 also apply.³ To the extent that the foregoing rules are silent as to procedure, the ALJ will rely on Minn. R. 1400.5010-.8400 for the contested case portion of the docket.⁴

The ALJ may admit evidence, including hearsay,⁵ which possesses probative value, but only when "it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs."⁶ The ALJ may exclude "[e]vidence which is incompetent, irrelevant, immaterial, or unduly repetitious."⁷ Chapter 1405 is silent on the specific issue of the admissibility of expert testimony.

Where the rules governing contested case proceedings are silent, the ALJ shall apply the Rules of Civil Procedure "to the extent that it is determined appropriate in order to provide a fair and expeditious proceeding."⁸

The qualifications required of a witness who would render an expert opinion are set forth in Minn. R. Evid. 702, which provides in relevant part:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness *qualified as an expert by knowledge, skill, experience, training, or education*, may testify thereto in the form of an opinion or otherwise. The opinion must have foundational reliability.

An expert is allowed to rely on otherwise inadmissible hearsay⁹ and an expert can read into the record relevant portions of learned treatises under Minn. R. Evid. 803(18) to support her opinion. But there is nothing in the Rules of Evidence that would allow a *non-expert* to testify as to the expert opinions of third parties that do not present evidence in the proceeding. A lay witness may testify only to matters about which the witness has personal knowledge.¹⁰

² Third Prehearing Order at 2 (Dec. 15, 2017) (eDocket No. [201712-137969-01](#)).

³ Third Prehearing Order at 2 (Dec. 15, 2017) (eDocket No. [201712-137969-01](#)).

⁴ Third Prehearing Order at 2 (Dec. 15, 2017) (eDocket No. [201712-137969-01](#)).

⁵ "Hearsay" is defined as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Minn. R. Evid. 801(c).

⁶ Minn. R. 1405.1700, subp. 3.

⁷ *Id.*

⁸ *Chang v. Alliant Techsystems, Inc.*, 2000 WL 33321188, at *2 (Minn. Off. Admin. Hrgs., June 2000) (applying relevant expert standards under Minn. R. Evid. 702 within context of contested administrative hearing); *see also* Minn. R. 1400.6600.

⁹ Minn. R. Evid. 703.

¹⁰ Minn. R. Evid. 602.

Further, while the Minnesota Supreme Court has acknowledged that “lower standards of admissibility of evidence are used for administrative hearings,” the evidence relied upon “should be relevant and have probative value” and the administrative body “should not have to find support for its determination in hearsay.”¹¹

III. ANALYSIS.

A. Noise Monitoring and Assessments Conducted for the Bent Tree Wind Farm are Irrelevant to this Docket and Should be Excluded. (16:9-12; 19:9-17; 33:6-7; Schedule 11 (Direct); 6:8-7:4; Schedule D; Schedule E (Rebuttal)).

Ms. Hansen has provided testimony regarding the Bent Tree Wind Farm and noise monitoring conducted for that project. She included the Bent Tree Wind Farm Post-Construction Noise Assessment as Schedule 11 to her Direct Testimony and again as Schedule D to her Rebuttal Testimony. The Bent Tree Wind Farm is a separate project for which a site permit was issued in another MPUC docket (ET6657/WS-08-573). What the acoustic studies may show or not show for that project is a matter for a different docket involving different parties and different facts.

Noise monitoring and compliance are specific to each project. Noise impacts depend on the specific site, turbine model and a variety of other factors that are not the same across different projects.¹² Different turbines are used, each having its own noise emission levels.¹³ Additionally, the distance between turbines and residences is different for each project, as are the numbers of turbines near any individual residence.¹⁴

Each wind project has different noise characteristics. The Bent Tree Wind Farm site consists of a specific layout of 122 turbines, model Vestas V82-1.65 megawatts (“MW”).¹⁵ The Project, by contrast, is proposed to consist of only 42 turbines, Vestas V116 and V110 2 MW models, in Minnesota.¹⁶ It is neither reasonable nor defensible to apply wind monitoring or noise-related setbacks from one project to another project.¹⁷

¹¹ *In re Wang*, 441 N.W.2d 488, 495 (Minn. 1989); *see also Morey v. School Bd. of Ind. Sch. Dist. No. 492*, 136 N.W.2d 105, 107-08 (Minn. 1965).

¹² *See* Ex. FR-__ at 1-2 (Hankard Rebuttal).

¹³ Ex. FR-__ at 1-2 (Hankard Rebuttal).

¹⁴ Ex. FR-__ at 1-2 (Hankard Rebuttal).

¹⁵ Letter (Jan. 2, 2018) (eDocket No. [20181-138563-01](#)).

¹⁶ Ex. FR-__ at 6 (Litchfield Direct).

¹⁷ *See* Ex. FR-__ at 1-2 (Hankard Rebuttal).

Accordingly, the portions of Ms. Hansen’s testimony, including the schedules, discussing the Bent Tree Wind Farm noise monitoring and assessment should be excluded because they are not relevant to the Freeborn Wind Farm.

B. Ms. Hansen is not an Expert and is Not Qualified to Provide Expert Testimony and is Not Competent Even as a Lay Witness to Testify on Certain Matters.

Portions of Ms. Hansen’s testimony should be excluded because she testifies to matters beyond her experience, skill, and personal knowledge. By her own admission, she is “not an engineer, a sound expert, an environmental consultant, or an assessor, nor [is she] a professional in any wind related field.”¹⁸ She has never “participated in any sort of PUC proceedings.”¹⁹

Ms. Hansen’s experience has not, and cannot, be established sufficiently to provide a foundation for the admissibility of her analyses, assertions, and conclusions relating to these topics as either an expert or a lay witness. Without such foundation, there is a critical issue of fairness to Freeborn Wind and others with similar positions that goes far beyond evidentiary technicalities. Accordingly, Freeborn Wind moves to strike from the record the following portions of Ms. Hansen’s Direct Testimony:

1. Property Values (7:7-9:2 (Direct)).

Ms. Hansen’s testimony on page 7, line 7, to page 9, line 2, relates to assessment of property values and marketability. By her own explicit admission, Ms. Hansen is “not an assessor, nor [is she] a professional in any wind related field.”²⁰ She also identifies no personal experience or education that lays a foundation for offering an opinion about property values. Her testimony must, therefore be stricken.

In drawing her conclusions about the market analysis presented by Freeborn Wind, Ms. Hansen does not rely on particular training, education, or an analyses of data; instead, she relies on “[f]urther research by various landowners,” “[a]necdotal evidence” from other landowners,²¹ and conversations she claims to have had with unidentified individuals. These constitute foundationless hearsay which fails to provide any probative value.

AFCL cannot overcome these flaws by arguing that Ms. Hansen is not offering her opinion but merely attempting to bring to attention the findings and conclusions of the two studies she references. Ms. Hansen does considerably more than report the conclusions of the studies; she attempts to interpret and synthesize those conclusions, and presents her own conclusions.²²

¹⁸ Ex. AFCL-1 at 1 (Hansen Direct).

¹⁹ Ex. AFCL-1 at 27 (Hansen Direct); Ex. AFCL-1 at 3 (Hansen Direct).

²⁰ Ex. AFCL-1 at 1 (Hansen Direct) (emphasis added).

²¹ Ex. AFCL-1 at 7 (Hansen Direct).

²² See, e.g., Ex. AFCL-1 at 7 (Hansen Direct) (“The land-based economies of this project are in part property values of land in the area of the project. Aspects of this as set forth in the application are misstated due to erroneous assumptions, the garbage in – garbage out problem.”); Ex. AFCL-1 at 8 (Hansen Direct) (“[S]ales within a half mile almost never take place.”).

Moreover, in support of her attempt to cast doubt upon the market analysis presented by Freeborn Wind, Ms. Hansen purports to summarize the beliefs of Ben Hoen, one of the authors of a study cited by the author of Freeborn Wind's market analysis. However, she fails to provide any source for her comments other than a weblink to an unauthenticated audio recording of two men, one of whom states that he is Mr. Hoen without any way to verify his identity.²³

While it is true that one need not be the leading expert in a field to qualify as an expert under Minn. R. Evid. 702, given the complexity of the property valuation and marketability subject matter, some minimal level of professional accomplishment or at least background is required to provide testimony on the subject. Ms. Hansen, who admits to not being an assessor and having no prior experience in a similar proceeding, can hardly be considered qualified to render expert testimony on property values.

As a layperson, Ms. Hansen can offer no material evidence regarding property values. Also, as a layperson, she cannot simply summarize and refer to the reports of others. There is nothing in the Rules that allow a *non-expert* to testify as to the expert opinions of third parties who do not present evidence in the proceeding. Such testimony must be stricken as inadmissible hearsay.

2. Design, efficiency, and cost of construction (10:18-11:1; 11:13-11:14; 27:23-27:29, 28:1-28:5 (Direct)).

Ms. Hansen also testifies regarding the efficiency of the Project's design, and the effect of design on cost of construction, operation and maintenance of the Project.²⁴ She admits that she "do[es] not know how this specific project compares with other types of projects."²⁵ Ms. Hansen has never designed a wind facility, she has provided no foundation supporting her knowledge in the area of design efficiency, and she has never participated in the operation or maintenance of a wind farm. Therefore, her testimony has no probative value and must be stricken.

Ms. Hansen's conclusions regarding the Project's design rest on her unsubstantiated assertion that "one would have to believe" the costs of the Project as designed in Minnesota would be higher than in Iowa.²⁶ Ms. Hansen further alleges that the Project "as designed, is inefficient because wind is intermittent, the wind does not always blow," and "because there is no plan to use this energy in [her] area."²⁷

Ms. Hansen's testimony on this subject lacks foundational expertise or personal knowledge. Even if Ms. Hansen is permitted to testify as to a subject matter in which she has no experience,

²³ AFCL-1 at 8, fn 4 (Hansen Direct).

²⁴ By her own explicit admission, she "is not an engineer, or any type of energy professional," and has never "participated in any sort of PUC proceedings." Ex. AFCL-1 at 27 (Hansen Direct); Ex. AFCL-1 at 3 (Hansen Direct); *see also* Ex. AFCL-1 at 1 (Hansen Direct); Ex. AFCL-1 at 13 (Hansen Direct).

²⁵ Ex. AFCL-1 at 11 (Hansen Direct).

²⁶ Ex. AFCL-1 at 10 (Hansen Direct).

²⁷ Ex. AFCL-1 at 27 (Hansen Direct).

her conclusions and inferences are vague, and she provides no authoritative citation showing a basis for her assertions regarding design, efficiency, and cost.

3. Environmental Impacts.

- a. *Effect on water (13:15-13:24; 13:27-13:28; 14:1-14:3; 14:5-14:12; 14:16-14:20 (Direct)) and Vegetation (24:22-25:10, 25:24-25:26 (Direct)).*

On pages 13 through 14 of her Direct Testimony, Ms. Hansen provides testimony regarding potential impacts to water during and after the construction of turbine foundations, the use of concrete, and leaking of oil. On pages 24 and 25, she testifies to the potential effects on vegetation. Ms. Hansen is not qualified to draw conclusions about environmental risks and potential impacts to water or vegetation.²⁸ She relies on “a simple google search” and refers to incomplete “work by DNR” in support of her analysis of the impacts she asserts “one could expect.”²⁹ The record does not contain any foundation on which to support Ms. Hansen’s expertise on these matters. Further, she lacks personal knowledge. Her testimony must therefore be stricken.

Again Ms. Hansen attempts to synthesize the reports of non-parties without any expert qualifications to do so.³⁰ Moreover, Ms. Hansen refers repeatedly to yet-unfinished reports of the MDNR in her testimony on the potential impacts to water resources.³¹ Her testimony is based on her assumptions and inferences drawn from these unfinished reports, and the work of an unidentified person whose research and findings (of which “an AFCL member learned of”).³² As noted above, it is impermissible for her to simply report on others’ work as a lay witness.

²⁸ Ms. Hansen has explicitly acknowledged that she is “not a civil engineer, a hydrologist, and [is] not a construction expert.” Ex. AFCL-1 at 13 (Hansen Direct). She has also stated that she is “not an engineer, a sound expert, an environmental consultant, or an assessor, nor [is she] a professional in any wind related field.” Ex. AFCL-1 at 1 (Hansen Direct); *see also* Ex. AFCL-1 at 27 (Hansen Direct) (“I am not an engineer, or any type of energy professional.”).

²⁹ Ex. AFCL-1 at 13 (Hansen Direct).

³⁰ *See, e.g.*, Ex. AFCL-1 at 13 (Hansen Direct) (“[O]ne could expect issues of leaching with water running thru (sic) and around the turbine pads, and one could expect contamination of water to some extent.”); Ex. AFCL-1 at 25 (Hansen Direct) (“The blades of a turbine can change meteorological conditions near the ground inhibiting crop disease or by speeding moisture loss during a drought.”).

³¹ *See* Ex. AFCL-1 at 13 (Hansen Direct) (“[T]he work by DNR on some of these matters is not yet completed for most Minnesota counties.”); Ex. AFCL-1 at 14 (Hansen Direct) (“The DNR has not completed its analysis of Freeborn County water’s sensitivity to pollution.”).

³² Ex. AFCL-1 at 24 (Hansen Direct).

b. *Unavoidable adverse direct/indirect environmental impacts (31:8 – 31:11 (Direct)).*

Ms. Hansen also testifies “adverse direct and indirect environmental effects that cannot be avoided.” Her testimony on these subjects lacks foundational expertise or personal knowledge.³³

Further, this testimony lacks any probative value. Ms. Hansen’s “testimony” on this subject consists of a recitation of the siting criteria in the form of a conclusion. The statute provides for “evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted.”³⁴ Ms. Hansen vaguely restates: “There are adverse direct and indirect environmental effects that cannot be avoided should the proposed site be accepted.”³⁵ Ms. Hansen is merely reciting the siting criteria; her testimony fails to produce probative affirmative evidence that would guide the Commission in rendering its decision.

c. *Conversation with Peter Fasbender of the USFWS (26:2-26:8 (Direct)).*

Ms. Hansen’s testimony regarding her alleged conversation with Peter Fasbender of the United States Fish and Wildlife Service (“USFWS”) should be excluded because not only is Ms. Hansen not qualified to testify as to the subject matter, her testimony on this matter is based on impermissible hearsay.

She is not qualified to draw conclusions about impacts on wildlife and migration, specifically bats.³⁶ The record does not contain any foundational support for Ms. Hansen’s expertise on these matters and, again, Ms. Hansen’s opinions permeate her summary and characterization of her conversation with Mr. Fasbender.³⁷

4. Health Impacts. (*Noise (16:1-16:16; 20:11-20:17; 20:20-20:25; 22:14-22:18 (Direct)); Shadow Flicker (21:19-22:2 (Direct)); and Public Health Impacts (4:15-6:6 (Rebuttal)).*)

Ms. Hansen further testifies about potential health impacts, such as those relating to sound produced by wind turbines and shadow flicker, which should be excluded because Ms. Hansen is not competent to testify as to the subject matter and her testimony must be stricken.

³³ Ex. AFCL-1 at 13 (Hansen Direct) (“I am not an engineer, a sound expert, an environmental consultant, or an assessor, nor [is she] a professional in any wind related field”); Ex. AFCL-1 at 1 (Hansen Direct) (“I am not a civil engineer, a hydrologist, [or a] construction expert”); *see also* Ex. AFCL-1 at 27 (Hansen Direct) (“I am not an engineer, or any type of energy professional.”).

³⁴ Minn. Stat. 216E.03, subd. 7(b)(6).

³⁵ Ex. AFCL-1 at 31 (Hansen Direct).

³⁶ Ex. AFCL-1 at 1 (Hansen Direct), (“I am not an engineer, a sound expert, an environmental consultant, or an assessor, nor [is she] a professional in any wind related field.”)

³⁷ *See* Ex. AFCL-1 at 26 (Hansen Direct).

On page 16, lines 1 to 16, Ms. Hansen provides her analysis of health effects related to wind turbine sound, based on her reading of the Minnesota Department of Health's ("MDH") 2009 report titled "Public Health Impacts of Wind Turbines." On page 20, lines 11 to 17 and 20 to 25, Ms. Hansen provides further analysis of health impacts and setback distances relating to sound. On page 22, lines 14 to 18, Ms. Hansen summarizes and discusses a study titled "Effects of industrial wind turbine noise on sleep and health" ("Nissenbaum study"). Also, on page 21, line 19 to page 22, line 2, and page 22, lines 14 to 18, Ms. Hansen provides her analysis and conclusions regarding potential health effects from shadow flicker. On pages 4 through 6 of her Rebuttal Testimony, Ms. Hansen again provides analyses and draws conclusions regarding the MDH Report and a Massachusetts report titled "Wind Turbine Health Impact Study: Report of the Independent Expert Panel," which is included as Schedule 2 to Freeborn Wind witness Dr. Ellenbogen's Direct Testimony. Ms. Hansen is not qualified to provide testimony on these complex issues.³⁸

She relies on her reading and understanding of the MDH report, which she claims is sufficient because a medical doctor explained some of the terminology, her understanding of the Nissenbaum study, and her reading of other unspecified submissions in the Commission's "Public Health Impacts of Wind Turbines" docket.³⁹ She also relies on what she and members of AFCL have heard from others. Having a family member who is a medical doctor does not make Ms. Hansen a medical professional.⁴⁰ None of this independent reading or hearsay conversations qualifies Ms. Hansen to testify on this subject matter.

She provides no authoritative citation supporting her conclusions that the Project will violate Minnesota's noise limit if constructed using the 1,000-foot setbacks. Ms. Hansen is not a sound expert,⁴¹ nor has she provided any sound modeling of her own to support her conclusions. Ms. Hansen does not possess any qualifications which would render her testimony on this highly technical subject matter reliable or probative.

Similarly, Ms. Hansen's testimony regarding shadow flicker lacks a scientific, technical, or medical basis. Her testimony regarding shadow flicker consists entirely of a vague summary of comments she has read and "concerns" of which she is aware.⁴² The portions of this testimony in which she purports to provide an analysis of what shadow flicker is and its potential impacts should be excluded because Ms. Hansen is unqualified to provide analysis on the subject given her lack of expertise or personal knowledge.

AFCL cannot argue that Ms. Hansen is merely attempting to bring to attention the findings and conclusions of agencies and scientists such as the MDH or the other study she references.⁴³ Ms.

³⁸ Ex. AFCL-1 at 1 (Hansen Direct) ("I am not an engineer, a sound expert, an environmental consultant, or an assessor, nor [is she] a professional in any wind related field."); *see also* Ex. AFCL-1 at 27 (Hansen Direct) ("I am not an engineer, or any type of energy professional.").

³⁹ Ex. AFCL-1 at 16 (Hansen Direct).

⁴⁰ Ex. AFCL-1 at 16 (Hansen Direct).

⁴¹ Ex. AFCL-1 at 1 (Hansen Direct).

⁴² *See* Ex. AFCL-1 at 21-22 (Hansen Direct).

⁴³ Ex. AFCL-1 at 16, 22 (Hansen Direct).

Hansen's opinions on the potential health impacts from sound and shadow flicker are clearly stated throughout her interpretation and characterization of the work, complete and incomplete,⁴⁴ of actual specialists, agencies, and professionals.

Further, Ms. Hansen does considerably more than report the conclusions of qualified experts and professionals; she interprets those conclusions, synthesizes those conclusions and presents her own conclusions.⁴⁵ Ms. Hansen does not possess any qualifications which would render her testimony on this highly technical subject matter reliable or probative.

5. Interference with communication signals (23:5-23:6; 23:9-23:11; 23:14-23:19; 30:21-30:22 (Direct)).

Despite lacking a technical background or experience in the subject matter, Ms. Hansen provides analyses and conclusions about the potential impact of the proposed configuration on communications signals as well as potential or proposed mitigation strategies and their shortcomings.⁴⁶ Therefore this testimony should be stricken.

C. Unduly Repetitious (Schedules B, C, and D (Rebuttal)).

Schedules B, C, and D to Ms. Hansen's Rebuttal Testimony should be excluded as unduly repetitious. Ms. Hansen's Schedules B and C were already in the record as schedules to Freeborn Wind witnesses' Direct Testimony – a fact of which Ms. Hansen was clearly aware given her direct references to those witnesses' schedules.⁴⁷ Ms. Hansen created further unnecessary duplication in the record by including the Bent Tree Noise Monitoring Assessment as Schedule 11 to her Direct Testimony, and again as Schedule D to her Rebuttal Testimony. No value is gained by including multiple copies of the same studies and reports. Therefore, the ALJ should exclude these schedules.

IV. Conclusion.

Ms. Hansen is not a witness that the ALJ or the Commission can or ought to rely on in addressing the questions raised in this proceeding as to property values, health impacts, environmental impacts, design and cost, telecommunication interference, commitment of resources, and agency rules. There are a number of qualified professionals and experts who have offered prefiled testimony concerning these issues but Dorene Hansen is not one of them. There is no reason to believe that her many opinions on these issues are reliable, trustworthy or in any way useful in resolving the issues in this proceeding. If her testimony is left in the record,

⁴⁴ See Ex. AFCL-1 at 22 (Hansen Direct) (“At this time, a variety of proceedings and studies are ongoing in Minnesota regarding this issue [shadow flicker], including one at the University of Minnesota.”).

⁴⁵ See, e.g., Ex. AFCL-1 at 16 (Hansen Direct) (referencing the conclusions she has drawn on the effect of sound on health); Ex. AFCL-1 at 20 (Hansen Direct) (stating that a “1,000 foot setback is not enough” to “meet the noise standard’s requirement.”); Ex. AFCL-1 at 21 (Hansen Direct) (“[C]lose proximity to wind turbines can lead to reduced quality of sleep, a factor in mental health.”).

⁴⁶ Ex. AFCL-1 at 23, 30 (Hansen Direct).

⁴⁷ Ex. AFCL-16 at 4, 5 (Hansen Direct).

the Commission may be led to a determination on these issues that is not based on scientific evidence at all, but instead on an unqualified individual's characterizations of that evidence.

Freeborn Wind respectfully asks the ALJ to grant Freeborn Wind's Motion to Strike portions of Ms. Hansen's Testimony. Ms. Hansen's testimony related to the Bent Tree Wind Farm noise report is irrelevant to this docket. Ms. Hansen is not competent to testify as to the subject matter discussed in this motion. Further, the statements in Ms. Hansen's Direct Testimony are not the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs and are incompetent. They are not admissible under Minn. R. 1405.1700 and should be stricken from the record of this case. Finally, the ALJ should also exclude the repetitive Schedules attached to Ms. Hansen's Rebuttal Testimony.

Dated: January 26, 2018

Respectfully submitted,

/s/ Christina K. Brusven

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ATTACHMENT A

Irrelevant.

Direct Testimony (Ex. AFCL-1)

1. Page 16, lines 9 – 12.
2. Page 19, lines 9 – 17.
3. Page 33, lines 6 – 7.
4. Schedule 11.

Rebuttal Testimony (Ex. AFCL-16)

5. Page 6, line 8 – page 7, line 4.
6. Schedule D.
7. Schedule E.

Unqualified Witness.

Direct Testimony (Ex. AFCL-1)

8. Page 7, line 7 – page 9, line 2.
9. Page 10, line 18 – page 11, line 1.
10. Page 11, lines 13 –14.
11. Page 27, lines 23 – 29.
12. Page 28, lines 1 – 5.
13. Page 13, lines 15 – 24.
14. Page 13, lines 27 – 28.
15. Page 14, lines 1 – 3.
16. Page 14, lines 5 – 12.
17. Page 14, lines 16 – 20.
18. Page 24, line 22 – page 25, line 10.
19. Page 25, lines 24 – 26.

20. Page 31, lines 8 – 11.
21. Page 26, lines 2 – 8.
22. Page 16, lines 1 – 16.
23. Page 20, lines 11 – 17.
24. Page 20, lines 20 – 25.
25. Page 22, lines 14 – 18.
26. Page 21, lines 19 – page 22, line 2.
27. Page 23, lines 5 – 6.
28. Page 23, lines 9 – 11.
29. Page 23, lines 14 – 19.
30. Page 30, lines 21 – 22.

Rebuttal Testimony (Ex. AFCL-16)

31. Page 4, line 15 – page 6, line 6.

Unduly Repetitious.

Rebuttal Testimony (Ex. AFCL-16)

32. Schedule B.
33. Schedule C.
34. Schedule D.