

STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matthew Schuenger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

IN THE MATTER OF THE APPLICATION OF
FREEBORN WIND ENERGY, LLC
FOR A LARGE WIND ENERGY CONVERSION SYSTEM
SITE PERMIT FOR THE 84 MW FREEBORN WIND
FARM IN FREEBORN COUNTY

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

**LABORERS DISTRICT COUNCIL OF MINNESOTA & NORTH DAKOTA'S
EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S REPORT**

The Laborers District Council of Minnesota and North Dakota (“Laborers Union”) is not a formal party in the matter of the application by Freeborn Wind Energy, LLC (“Freeborn Wind”) for a site permit to build and operate an 84 MW Large Wind Energy Conversion System in Freeborn County. Nor has the Laborers Union taken a position on the merits of the proposed project. We are, however, a formal party to ongoing Certificate of Need and Site Permit proceedings for the Bitter Root Wind Project (CN-17-676/ WS-17-749), which could be materially affected by the outcome the Freeborn Wind case, and we have a substantial interest in many proposed LWECs that could be adversely impacted by a decision by the Commission to adopt Judge Schlatter’s proposed findings of fact regarding the project’s compliance with Minnesota Noise Standards.

The Laborers Union and fellow building trades represent more than 50,000 construction tradesmen and tradeswomen across Minnesota, including thousands that have worked in some aspect of wind energy construction. Large Wind Energy Conversion Systems have provided, and should continue to provide, needed middle-class wages, health and pension benefits and career opportunities that support families in areas of Greater Minnesota where such jobs are in short supply.

The Laborers Union and fellow trades strongly support the development of wind energy resources, and have advocated for policies that support the industry that range from advocating extension of the Production Tax Credit at the national level to testifying in favor of local projects to opposing a misguided policies that have the potential to harm the wind industry and the opportunities the industry can deliver to working Minnesotans. We take exception the report of the Administrative Law Judge (“ALJ”) in the Freeborn Wind case because we believe that the report’s findings and recommendations regarding compliance with Minnesota’s Noise Standards

could cause irreparable harm not only to Minnesota's wind industry, but also to the state's capacity to meet clean energy goals and standing as a clean energy leader.

In considering the ALJ's report, the words of legendary abolitionist and social reformer Frederick Douglass come to mind:

Those who profess to favor freedom and yet depreciate agitation, are people who want crops without ploughing the ground; they want rain without thunder and lightning; they want the ocean without the roar of its many waters.

As a labor union, we often have occasion to cite Douglass's metaphorical defense of agitation. In this case, however, the quote is a literal refutation of the reasoning offered by the ALJ. While Minnesota's Noise Standards are designed to regulate man-made noise, the ALJ has reinterpreted the standard to effectively hold regulated entities responsible for the sum total of naturally-occurring and man-made background noises. In effect, the report would only allow for the production of wind energy absent the noise of the wind from which the energy is derived.

In terms that our members and the general public would understand, the ALJ finds that wind is loud, and because wind energy facilities 1) are located in (loud) windy places, and 2) make noise, the report concludes that, virtually by definition, the proposed Freeborn Wind project is likely to violate state noise standards. It is hard to think of a more literal example of wanting "rain without thunder and lightning" or "the ocean without the roar" than the notion that wind energy facilities must be developed far from the places where winds howl.

The report's assertions are particularly difficult to understand given the fact that the controlling agency, the Minnesota Pollution Control Agency, has specifically declined to issue rules governing wind turbine noise because "the current understanding... is insufficient to support rulemaking at this time." In effect, the report asks the Commission to overstep MPCA by rejecting Freeborn Wind based on the uncertainty inherent the applicant's model model and suspicion that there could be more than meets the ear. Further, the report's conclusions appear to be based not on certain exceedences but on assumptions about how the margin of error will play out in reality.

Beyond freezing development of wind energy generation, a decision by the Commission to adopt the ALJ's recommendations would be inconsistent with past practice, which has focused analysis on man-made noise levels. The applicant in this case employed highly conservative methodology to derive estimates that show the operation of the turbines should remain consistently within state noise standards.

We urge the Commission to reject the ALJ's proposed findings related to the project's compliance with state noise standards and instead uphold a standard that is consistent with past practice and the best interest of Minnesota residents and workers.