

July 15, 2020

**Via Electronic Mail and Docket Filing**

Minnesota Public Utilities Commission  
c/o Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 530  
St. Paul, MN 55101

**Re: Letter from London Township and Oakland Township Objecting to  
Amendment to Permit Authorizing Permittee to Access Public Roads for  
Freeborn Wind Farm in Freeborn County in Freeborn County  
DOCKET NO. IP-6949/WS-17-410**

Dear Honorable Members of the Public Utilities Commission:

This firm represents London and Oakland Townships in Minnesota (collectively, the (“Townships”), both of which have a large portion of the turbines permitted by as part of this project. On behalf of the Townships, we request that this letter be made part of Docket IP-6949/WS-17-410 and reviewed by the Commission as part of its evaluation of the commissioner Tuma’s motion to consider Amendment to Permit Authorizing Permittee to Access Public Roads for Freeborn Wind Farm in Freeborn County in Freeborn County.

Commissioner Tuma’s request goes far beyond he power and authority granted to MPUC in Minn. Stat. § 216F.07. This request would seek to expand its powers and go well beyond the Commission’s power and authority contrary to the clear language of the statute which reads “A permit under this chapter is the only site approval required for the **location** of an LWECs. The site permit supersedes and preempts **all zoning, building, or land use rules**, regulations, or ordinances adopted by regional, county, local, and special purpose governments.” This request is an attempt to interfere in the sovereignty and regulatory powers of the Township.

The power of administrative agency in Minnesota is limited to “the authority delegated by law and in full compliance with its duties and obligations.<sup>1</sup>” Minn. Stat § 216F.07 specifically in clear, unambiguous language grants the PUC the limited power to preempt and supersede local zoning, land use and building codes for the LOCATION alone. The statute **does not** go so far as to give the PUC the power to supersede and preempt all local use of their police powers and ordinances, in addition to location, for an LWECs project.

There is no Minnesota or Federal statute that grants the MPUC authority to preempt all other regulation of non-locational matters for LWECs. In support of this

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<sup>1</sup> Minn. Stat. 14.05, Subd. 1

conclusion, the Minnesota Office of Administrative Hearings found that Chapter 216F is unambiguous and its plain meaning should be used when interpreting the interaction between MPUC Permit conditions and local ordinances<sup>2</sup>.

Since Minn. Stat. § 216F.07 is not ambiguous and the power granted to the MPUC for preemption is limited to the **location** of LWECs only the MPUC should reject Commissioner Tuma's request because it has no power to intrude into the regulatory sphere of local road use in violation of Minnesota statute.

If the Commission insists in proceeding in this fashion, the Townships will fight this attempted power grab with all administrative and judicial rights available to it. The mere consideration of this request by MPUC signals a disturbing policy by the Commission which will lead to a "slippery slope" which threatens local regulatory powers of all Counties, Cities and Townships in Minnesota.

We look forward to your response and please contact me if you have any questions.

Sincerely,

**MESSERLI KRAMER P.A.**



Daniel Schleck

- C. Clients
  - Minnesota Association of Townships
  - League of Minnesota Cities
  - Minnesota County Insurance Trust

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<sup>2</sup> See *In the Matter of the Application of AWA Goodhue Wind, LLC*, OAH-3-2500-21662-2 (Apr. 29, 2011).