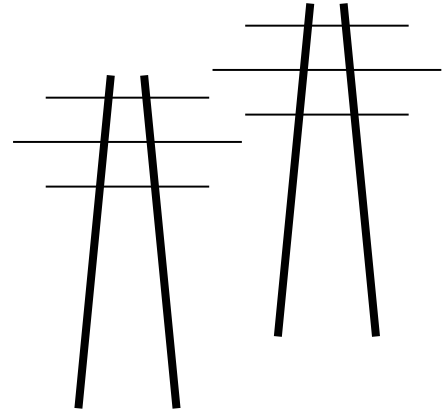


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January 26, 2024

James Mortenson
Administrative Law Judge
600 N Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

eFiled only

RE: Comment on Order Granting “Labor Intervenors” Intervention
PUC Dockets E015/CN-22-607 and TL-22-611

Dear Judge Mortenson:

:

Your order granting “Labor Intervenors” intervention arrived in my inbox just now. I am filing this correspondence as an individual and attorney licensed in the state of Minnesota.

I’m stunned to read footnote 1 in the Order, a threat to Mr. Runke and Mr. Kolodzieski that is cut and pasted here:

1 The Judge does not know if Runke or Kolodzieski are licensed attorneys in Minnesota. If either gentleman is not, he is reminded that this matter is a contested case, pursuant to the Public Utilities Commission’s Order of November 29, 2023. Importantly, Minn. Stat. § 481.02, governing the unauthorized practice of law, does not appear to permit a non-lawyer to represent a labor union in court. The exception is that a “bonafide labor organization [may give] legal advice to its members in matters arising out of their employment.” Minn. Stat. § 481.02, subd. 3(5) (2022). In short, while the Judge does not intend to manage the practice of law in this matter, parties should be aware that potential issues could arise for non-lawyers who are not statutorily exempted from the general prohibition of non-lawyer practice of law in Minn. Stat. § 481.02. The Lawyers Professional Responsibility Board may be a resource for more information on this topic.

The MARS Attorney Registration attorney look-up page is readily available to determine

whether someone is a Minnesota licenses attorney. However, as I understand it, neither Mr. Runke nor Mr. Kolodzieski are claiming to be attorneys, so a look-up is not necessary.

The Minnesota Power Plant Siting Act Rules expressly provide for representation by non-attorneys before OAH:

1405.0600 RIGHT TO COUNSEL.

All persons may be represented by legal counsel, or by a person of their choice, or they may represent themselves

See also Minn. R. 5800.00:

1400.5800 RIGHT TO COUNSEL.

Parties may be represented by an attorney throughout the proceedings in a contested case, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. Persons appearing in contested case proceedings in a representative capacity must conform to the standards of professional conduct required of attorneys before the courts of Minnesota. If any representative fails to conform to these standards, the judge may exclude the person from the proceeding.

This issue has come up in other dockets that I've participated in, and in each instance, the non-attorney persons representing Intervenors were allowed to represent those parties. In particular, this has most often occurred when a member, staff, or Board member of an environmental organization is participating in a Commission docket.

It's very disturbing to see this threat that is contrary to the PPSA and Administrative Rules in an Order, and contrary to the Public Participation charge of the Commission found in Minn. Stat. §216E.08.

Very truly yours,



Carol A. Overland
Attorney at Law

cc: Chief Judge Jenny Starr, via Denise Collins denise@state.mn.us