

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of AWA  
Goodhue Wind, LLC, for a Large Wind  
Energy Conversion System Site Permit  
for the 78 MW Goodhue Wind Project in  
Goodhue County

**FOURTH PREHEARING ORDER**

This matter came before the Administrative Law Judge on the Motion for Reconsideration filed by Goodhue Wind Truth (GWT) and the Coalition for Sensible Siting (CSS) on February 7, 2011. The motion record closed on February 22, 2011, the deadline for filing any response to the motion. AWA Goodhue Wind, LLC (Applicant), did not file any response to the motion. In addition, the Administrative Law Judge has reviewed the rebuttal testimony efiled in this docket on February 24-26, 2011.

Based upon the files, records, and proceedings herein, and for the reasons further explained in the Memorandum attached hereto, it is hereby ORDERED that:

1. The motion for reconsideration of the Order on Motion for Protective Order and Motion to Compel Discovery (Feb. 4, 2011) is DENIED;
2. Goodhue Wind Truth and Goodhue County have not complied with Paragraph 18 of the Second Prehearing Order (Jan. 4, 2011) with regard to the exhibits filed electronically. The deficiencies discussed in the attached Memorandum shall be corrected by March 4, 2011; and
3. The deadline for OES to provide comments and for the Applicant to provide surrebuttal is extended from March 4, 2011, to March 10, 2011.

Dated: March 1, 2011

s/Kathleen D. Sheehy  
KATHLEEN D. SHEEHY  
Administrative Law Judge

## MEMORANDUM

In the Order on Motion to Compel Discovery (Feb. 4, 2011), the Administrative Law Judge required Goodhue Wind Truth (GWT) and the Coalition for Sensible Siting (CSS) to respond to discovery requests issued by the Applicant seeking the address of each member who has a property interest in the project or buffer area and the identification of all parcels owned or rented, either directly or through a trust or business entity, by those individuals. The motion was granted on the basis that these organizations are parties to this proceeding, and it is appropriate to require their members to disclose property interests as requested. In response to the Order, GWT and CSS filed affidavits stating generally that they had no members other than the persons who organized the groups but that they would “provide a weekly report of our membership each Friday throughout this proceeding.”<sup>1</sup>

GWT and CSS have moved for reconsideration, arguing that “the relevant fact in this proceeding is whether landowners are participating or whether they are not participating,” and the Applicant is the best source for determining who all the participating landowners are. It is true that the Applicant knows who the participating landowners are. What the Applicant sought to determine through discovery is which nonparticipating landowners are represented in GWT and CSS. GWT and CSS have provided no reason to change the decision previously made. Their request for reconsideration is denied.<sup>2</sup>

Moreover, the Administrative Law Judge notes that in reviewing the rebuttal testimony electronically filed by GWT and Goodhue County, it is apparent that those parties have failed to comply with Paragraph 18 of the Second Prehearing Order, which provides:

Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

Goodhue County, in particular, has simply collected a large number of documents and called them “Exhibit A,” without providing any table of contents or other identifier that would explain what the documents are or permit them to be easily located and cited. The DVD that was mailed to the parties and the ALJ provides a little more insight into how the documents are intended to be organized, but it is not clear how the various appendices that appear on the DVD

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<sup>1</sup> Affidavit of Marie McNamara ¶ 11 (Feb. 8, 2011); Affidavit of Steve Groth ¶ 8 (Feb. 8, 2011).

<sup>2</sup> The Administrative Law Judge did not require GWT or CSS to make “weekly membership reports,” as stated in the McNamara and Groth Affidavits. They are required to advise the Applicants only if new information renders their previous responses to the information requests incomplete or incorrect. *Cf.* Minn. R. Civ. P. 26.05.

correspond to the exhibits referred to as A and B in the efiled material. GWT at least provided a table of contents, but there is no apparent organizational method that would permit citation to a particular page. The way this information has been efiled would make it very difficult or impossible to use in preparing responsive testimony or in questioning witnesses at the hearing.

The County and GWT shall prepare paper versions of these exhibits that are (1) organized in a logical manner, with a table of contents, and in a way that would permit citation to a particular page (for example, through the use of numbered tabs, or by stamping with sequential bates numbers); and (2) marked with the unique e-File identifying number assigned to each portion of the exhibit. Copies of the paper versions of these exhibits shall be provided to the other parties and the Administrative Law Judge no later than March 4, 2011. It is not necessary to efile them again at this time, as long as the paper version has the correct efile number.

So that the OES and the Applicant have an opportunity to refer to the paper version of these exhibits, their deadlines for filing comments and surrebuttal are extended to March 10, 2011.

**K.D.S.**