

OFFICE OF ADMINISTRATIVE HEARINGS / MN PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Flying Cow Wind, LLC for a Certificate of Need and Site Permit for the 150 MW Large Wind Energy Conversion System in Yellow Medicine County, Minnesota		Reply to Flying Cow, LLC Regarding Request for Contested Case Hearing and Petition for Intervention  Laborers District Council of Minnesota and North Dakota
MPUC DOCKETS	IP-6984/CN-17-676 IP-6984/WS-17-749	
OAH DOCKET	60-2500-35035	

The Laborers District Council of Minnesota and North Dakota (“Petitioner”) hereby reiterates our petition for intervention as a party in the above-captioned dockets for a Certificate of Need (“CON”) and Site Permit for a 150 MW large wind energy conversion system proposed by Flying Cow Wind, LLC (“Applicant”) pursuant to Minnesota Rules 1400.6200.

First, we would like to clarify that Petitioner seeks party status as a citizen intervener and is not represented by legal counsel. While we have participated in Certificate of Need and Site Permit proceedings before the Minnesota Public Utilities Commission (“PUC”) and the North Dakota Public Service Commission, we do not have legal expertise in these matters, and hope that any errors on our part would be understood in that context. We appreciate the willingness of the Commissions and the Administrative Law Judges with whom we have worked on past cases to allow organizations like ours to take part fully in the regulatory process without incurring the expense of hiring legal counsel, the cost of which would severely limit our participation.

Second, we concede, as the Flying Cow Wind (“FCW”) brief observes, the PUC has apparently decided to route the CON through a public hearing rather than contested case proceeding, and that our opportunity to have input into that decision may have vanished before we were aware that it existed. We were surprised and troubled to discover that doors were apparently closed to us when the application was deemed by the PUC to be complete, especially given our experience with the Sandpiper and Line 3 pipeline proceedings where potential parties to the case had ample notice and the better part of a year to join the case.

Nonetheless, we recognize that the chance to seek contested case proceedings for the CON may have passed, and that, as FCW observes in its brief, the opportunity to request for a

contested case proceeding for the Site Permit has not yet arrived. We are willing, therefore, to withdraw our request for contested case proceedings for the CON, while reserving our right to petition for contested proceedings for the Site Permit at the appropriate time.

We disagree strongly, however, with FCW's contention that Petitioner is not entitled to participate in the Flying Cow CON and Site Permit case as an intervener, although appreciate FCW's statement that the company does not object to our participation. Our staff and members have participated in dozens of public hearings as citizens, and we have also participated in a handful of proceedings as interveners, and we find that when critical issues are at stake, there is no comparison between the two.

FCW made specific claims at the February 27 information meeting that the project would create an estimated 150-plus construction jobs. Petitioner, the members we represent, their families, and their communities have a direct interest in how those jobs will be filled and whether the jobs will offer family-supporting pay and benefits, career opportunities, and a safe workplace. Our ability to protect our members' rights and interests depends on our ability to fully explore FCW's promises, plans for staffing the current project, and performance on past projects.

Our members attended and participated in the February 27 public information meeting in questions. Along with other members of the public, we raised concerns and asked questions regarding the company's workforce plans and how many of the 150-plus jobs community members could expect to be filled by local residents. The answers provided by FCW's representative were vague, and provided no clarity regarding how the company plans to staff construction of the project. We are concerned that, if our petition is not granted, we will leave the public hearing with the same questions left unanswered.

Specifically, without the legal status of an intervener, Petitioner is concerned that we will have limited opportunity to question FCW regarding the company's plans and past history; no opportunity to make discovery requests; and no opportunity to file briefs to explain how the issues of concern to our members are relevant to the PUC's ultimate decisions to grant or deny a CON or Site Permit, and to impose conditions that the PUC deems appropriate. By way of contrast, Petitioner participated as an intervener in a hearing before the North Dakota Public Service Commission on a wind project permit extension request, and through a brief series of questions, we were able to clarify the company's workforce and file a brief that resulted in a change to the Commission's final findings of fact.

We want to be clear that we do not assert that Petitioner nor the PUC has any legal right to direct FCW to hire Minnesota workers or to provide the workforce with what Petitioner regards as family-supporting wages and benefits. On the contrary, we believe that FCW has the legal

right to build the project with an entirely out-of-state workforce that is paid no more than the state minimum wage if the company wishes to do so.

However, there can be no doubt that FCW's decision to fill all, some, or none of the resulting construction jobs with Minnesota workers, not to mention how those workers will be compensated, could significantly affect the project's socioeconomic impact, as will the company's decisions regarding pay and benefits. These impacts, in turn, could affect the PUC's determination that the consequences of granting a CON are more favorable than the consequences of denial; and the PUC's determination that the project is an example of sustainable development and an efficient use of resources.

Petitioner has no interest in disrupting or prolonging these proceedings, and we are more than willing to agree to terms that allow us to participate in a fashion that avoids unnecessary burden for the Office of Administrative Hearings, the PUC, and FCW. But there should be no question that the issues of concern to us are relevant to the decisions the PUC must make, and that we have a legal right to pursue those concerns as a party.

Dated: 3/28/18

Respectfully Submitted,

Laborers District Council of Minnesota & North Dakota

A handwritten signature in blue ink, appearing to read "Kevin Pranis", is written over a light blue rectangular background.

By: Kevin Pranis, Marketing Manger  
81 East Little Canada Road  
St. Paul, MN 55117