

OAH 60-2500-35035  
OAH 8-2500-35843

IP-6984/CN-17-676  
IP-6984/WS-17-749

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

In the Matter of the Application of Flying Cow  
Wind, LLC, for a Certificate of Need for the up to  
152 MW Bitter Root Wind Project and Associated  
Facilities in Yellow Medicine County, Minnesota

**ORDER FOR CERTIFICATION**

In the Matter of the Application of Flying Cow  
Wind, LLC, for a Site Permit for the up to 152 MW  
Bitter Root Wind Project and Associated Facilities  
in Yellow Medicine County, Minnesota

This matter came before Administrative Law Judges James E. LaFave and Eric L. Lipman upon receipt of a Notice from the Minnesota Public Utilities Commission (Commission). In the Notice, the Commission requested immediate certification of the question regarding Applicant's request to withdraw its application for a Certificate of Need.

Andrew J. Gibbons and Thomas C.K. Burman, Stinson Leonard Street LLP, appeared on behalf of the Applicant, Flying Cow Wind, LLC (FCW or the Company).

Kevin Pranis, Marketing Manager, appeared on behalf of the Laborers District Council of Minnesota and North Dakota (LDC).

Linda S. Jensen, Assistant Attorney General, appeared on behalf of the Department of Commerce, Division of Energy Resources (Department or DOC-DER).

Based upon the contents of the hearing record in both OAH dockets,

**IT IS HEREBY DETERMINED THAT:**

1. This matter was before Judge LaFave in 2018. Following proceedings in OAH Docket No. 60-2500-35035, on January 3, 2019, the Commission requested additional development of the hearing record, a referral that resulted in the appointment of Judge Lipman and proceedings in OAH Docket No. 8-2500-35843.

2. Each of the six factors in Minn. R. 1400.7600 (2017) weighs in favor of immediate certification to the Commission the question of whether Applicant should be permitted to withdraw its Certificate of Need application.

3. Briefing and argument from the parties is not required for development of the hearing record on the merits of certification. See Minn. R. 1400.5500(J), (Q), (R) (2017).

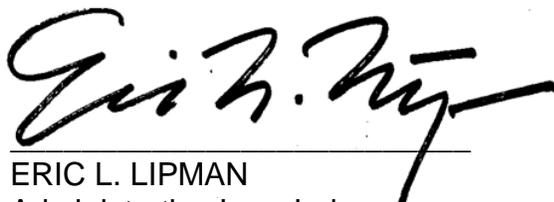
4. Prompt certification of this question is in the public interest.

5. Under the circumstances of this case, issuance of the certification Order *sua sponte*, and in both OAH dockets, is appropriate. See Minn. R. 1400.5500(J), (Q), (R).

**IT IS HEREBY ORDERED THAT:**

The question of whether Applicant should be permitted to withdraw its application for a Certificate of Need is certified for resolution by the Commission in the first instance.

Dated: March 12, 2019

  
ERIC L. LIPMAN  
Administrative Law Judge

  
JAMES E. LAFAVE  
Administrative Law Judge

March 12, 2019

See Attached Service List

**Re: In the Matter of the Application of Flying Cow Wind, LLC, for a Certificate of Need for the up to 152 MW Large Wind Energy Conversion System in Yellow**

**OAH 8-2500-35843; OAH 60-2500-35035  
MPUC IP-6984/CN-17-676; IP-6984/WS-17-749**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **ORDER FOR CERTIFICATION** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7857, [ian.lewenstein@state.mn.us](mailto:ian.lewenstein@state.mn.us), or via facsimile at (651) 539-0310.

Sincerely,



IAN LEWENSTEIN  
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
PO BOX 64620  
600 NORTH ROBERT STREET  
ST. PAUL, MINNESOTA 55164

**CERTIFICATE OF SERVICE**

In the Matter of the Application of Flying Cow Wind, LLC for a Certificate of Need for the up to 152 MW Large Wind Energy Conversion System in Yellow	OAH Docket No.: 8-2500-35843
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Ian Lewenstein certifies that on March 12, 2019, he served the true and correct **ORDER FOR CERTIFICATION** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
Thomas	Burman	thomas.burman@stinson.com	Stinson Leonard Street LLP	50 S 6th St Ste 2600 Minneapolis, MN 55402	Electronic Service	Yes
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes
Ian	Dobson	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	Yes
Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	Yes
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	Yes
Andrew	Gibbons	andrew.gibbons@stinson.com	Stinson Leonard Street	50 S 6th St Ste 2600 Minneapolis, MN 54002	Electronic Service	Yes
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National	Electronic Service	Yes

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Ray	Kirsch	<a href="mailto:Raymond.Kirsch@state.mn.us">Raymond.Kirsch@state.mn.us</a>	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	Yes
Karen	Kromar	<a href="mailto:karen.kromar@state.mn.us">karen.kromar@state.mn.us</a>	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	Yes
Eric	Lipman	<a href="mailto:eric.lipman@state.mn.us">eric.lipman@state.mn.us</a>	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 551640620	Electronic Service	Yes
Susan	Medhaug	<a href="mailto:Susan.medhaug@state.mn.us">Susan.medhaug@state.mn.us</a>	Department of Commerce	Suite 280, 85 Seventh Place East St. Paul, MN 551012198	Electronic Service	Yes
Debra	Moynihan	<a href="mailto:debra.moynihan@state.mn.us">debra.moynihan@state.mn.us</a>	MN Department of Transportation	395 John Ireland Blvd MS 620 St. Paul, MN 55155-1899	Electronic Service	Yes
Kevin	Pranis	<a href="mailto:kpranis@liunagroc.com">kpranis@liunagroc.com</a>	Laborers' District Council of MN and ND	81 E Little Canada Road St. Paul, Minnesota 55117	Electronic Service	Yes
Stephan	Roos	<a href="mailto:stephan.roos@state.mn.us">stephan.roos@state.mn.us</a>	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	Yes
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Daniel P	Wolf	<a href="mailto:dan.wolf@state.mn.us">dan.wolf@state.mn.us</a>	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
Thomas	Burman	<a href="mailto:thomas.burman@stinson.com">thomas.burman@stinson.com</a>	Stinson Leonard Street LLP	50 S 6th St Ste 2600 Minneapolis, MN 55402	Electronic Service	Yes

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Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes
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Eric	Lipman	eric.lipman@state.mn.us	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 551640620	Electronic Service	Yes
Michelle	Matthews	Michelle.Matthews@res-group.com	Renewable Energy Systems	330 2nd Ave S Ste 820 Minneapolis, MN 55401	Electronic Service	No
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Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes