

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Highland Wind Farm, LLC for
A Certificate of Public Convenience and Necessity
To Construct a 102.5 MW Wind Electric Generation
Facility and Associated Electric Facilities, to be
Located in the Towns of Forest and Cylon,
St. Croix County, Wisconsin

Docket No. 2535-CE-100

**CLEAN WISCONSIN'S MOTION TO EXCLUDE FOREST VOICE, INC.'S "CLARIFICATIONS" TO CLEAN
WISCONSIN'S EXHIBIT CW-HESSLER-6 AND DRAFT REPORT FILED BY FOREST VOICE**

Forest Voice, Inc. takes a novel procedural approach in presuming to "correct" Clean Wisconsin's exhibit (PSC ref. # 178200), filed on December 27, 2012, "A Cooperative Measurement Survey and Analysis of Low Frequency and Infrasound at the Shirley Wind Farm in Brown County, Wisconsin" ("the LFN report"). Clean Wisconsin hereby moves to exclude Forest Voice's "clarifications" as well as the draft version of the above-referenced LFN Report filed by Forest Voice (PSC Ref. # 178263), for the reasons enumerated below.

1. Forest Voice is correct that the document submitted as Exhibit-CW-6 should have been marked Ex.-CW-7. This document is the final, official version of the Low Frequency Noise Testing Report that the Commission authorized Clean Wisconsin, as primary contractor, to submit.

2. Clean Wisconsin did not "edit" the report prior to filing, as claimed by Forest Voice. As the primary contractor for this report, Clean Wisconsin took responsibility for ensuring that the report submitted would comport with what the Commission expected, funded, and required. To that end, Clean Wisconsin consulted with PSC staff as to whether the report should contain recommendations about the Highland project, or be limited to the testing results at the Shirley site. PSC staff advised Clean Wisconsin that the report should *not* be an advocacy document, and that recommendations for Highland should only be made in the context of testimony by each individual expert. Accordingly, Clean

Wisconsin directed its own expert, Mr. Hessler, who was the sole author of the report section that contained Highland recommendations, to remove those recommendations. No other sections of the report were altered. Contrary to Forest Voice's assertion, it cannot be "debated" whether Highland recommendations "belong in the LFN report," because, as determined by the Commission, they do not. Therefore, the draft version of the LFN report should not be admitted to the record in docket no. 2535-CE-100.

3. Although the draft version of the report was not labeled "Draft" by Mr. Hessler, he circulated that version to Clean Wisconsin counsel and the other experts only, several days before it was due to be submitted, for our review. Forest Voice's expert forwarded this early draft version to Mr. Reynolds, Ms. Bensky, and Mr. McKeever, who seized on it and decided that *that* was the version *they* wanted filed, regardless of what Clean Wisconsin or Mr. Hessler wanted to be filed, or the clear direction given to Clean Wisconsin from the Commission to exclude the Highland recommendations. Allowing the draft report into the official record in the Highland proceeding only further muddies an already confusing record.

4. Forest Voice's after-the-fact attempt to wordsmith this report is inappropriate, and obviously contradicts its own argument that changes to the report should not be made without the permission of all the consultants.

Moreover, as primary contractor, Clean Wisconsin and its experts managed, directed, and executed the vast majority of the low frequency noise testing at Shirley, with the cooperation and assistance of subcontractor Forest Voice. (Another consulting firm, Rand and Associates, was not included in the proposal to the Commission but nonetheless showed up and added an appendix to the report. It was not clear which party Rand represented, if any.) Clean Wisconsin's experts, as lead scientists, took responsibility for the report, set deadlines for the other acousticians to submit their appendices to them, and authored the introductory section. Any corrections to the introductory section

of the report were the responsibility of Clean Wisconsin to make, and indeed, Forest Voice at no time suggested that Clean Wisconsin make these changes prior to the deadline for filing the report.

5. Finally, it should be noted that Clean Wisconsin proposed to conduct low frequency noise testing in its original proposal to the Commission, in order to better inform the record as to the significance of LFN from wind turbines. Forest Voice's insistence on trying to make this scientific report, commissioned by the PSC as such, into an advocacy document for its own purposes should not be allowed. Therefore, Clean Wisconsin respectfully requests that Forest Voice's "clarifications" and the draft LFN report be excluded from the record in Docket No. 2535-CE-100.

Respectfully submitted this 4th day of January 2013,

/s/ Katie Nekola

Katie Nekola

General Counsel, Clean Wisconsin