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Details:

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**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2007-08**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Commerce, Utilities and Rail  
(SC-CUR)**

**COMMITTEE NOTICES ...**

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**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

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- Hearing Records ... bills and resolutions  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
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- Miscellaneous ... **Misc**

# WIEG

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To: Senate Committee on Commerce, Utilities and Rail

From: Todd Stuart, Executive Director  
Wisconsin Industrial Energy Group, Inc.

Re: Testimony in support of Senate Bill 544

Date: March 5, 2008

Thank you for the opportunity to present testimony on this important subject. The following comments are submitted on behalf of the members of Wisconsin Industrial Energy Group, Inc. (WIEG) in support of Senate Bill 544.

WIEG is a non-profit association of 30 large energy consumers that advocates for policies supporting affordable and reliable energy. Since the early 1970s, WIEG has been the premiere voice of Wisconsin ratepayers and an engine for business retention and expansion. Our member companies spend over \$200 million annually on electricity, and collectively employ more than 50,000 Wisconsin residents, who are themselves state taxpayers and utility ratepayers. WIEG members represent most major Wisconsin manufacturing industries, including paper, food processing, metal casting and fabricating.

Industrial customers are very concerned about the reliability of electricity at affordable rates. Rates have been rising in Wisconsin and elsewhere, but industrial rates rose faster in Wisconsin between 2000 and 2005 than in any other state in the Midwest, and we have seen 7% annual increases over the last decade. The Wisconsin economy will be at risk of job losses and electricity demand destruction, especially in the manufacturing sector, if rate increases are not managed effectively.

By our estimate, Wisconsin is currently facing \$14 billion in utility-related infrastructure costs over the next decade. Over half of this figure is due to government mandates for renewable energy and environmental compliance for air emissions standards. There will be extreme pressure on electric rates in the next few years. Further large rate increases would seriously harm our competitiveness and would lead to the loss of factories and jobs.

WIEG Testimony  
Senate Bill 544  
March 5, 2008

WIEG supports SB 544 as all legal battles over these projects are passed on to ratepayers. To the extent we can minimize legal costs associated with wind energy projects, we can make renewable energy more affordable for Wisconsin. When utilities build these projects or purchase them from a developer, the legal costs are wrapped in to the final price. In other words, the utility can recover the additional costs in their rates but the customer must ultimately pay for them.

Wind is the only renewable energy resource that can be installed in the scale needed to meet the utilities' current renewable energy requirements. At least 90% of the energy needed to meet 2005 Wisconsin Act 141 and its 10% Renewable Portfolio Standard (RPS) will be generated with wind. The single biggest constraint to increasing wind generation in Wisconsin is the permitting environment, which is far more problematic here than in neighboring states.

Roy Thilly, the chairman of the Governor's Task Force on Global Warming was recently quoted as saying "the way things stand now, it's easier to build a 100-megawatt wind farm in this state than it is to put up two or three turbines." That is unacceptable considering we will face a significant challenge meeting the 10% RPS standard.

In order to be in compliance with the 10% RPS, utilities must install or purchase about 1,700 megawatts (mw) of new wind generation capacity. To provide some perspective, the state currently has only 53 mw of wind installed. But we now have 400 mw of new wind projects that have been granted permits and they are either under construction or will be shortly. We also have 80 mw of wind capacity that is being built in Iowa to meet our RPS. Thus, there will be at least 1,100 mw of wind that must be installed before 2016. The delays and cost overruns from difficult local permitting battles all over the state will be passed along in even higher electric rates.

In conclusion, WIEG advocates for policies that drive affordable and reliable energy. Energy, economic development and environmental policy are all inextricably linked together. WIEG members are already facing fierce global competition and tremendous upward pressure on energy rates. These are very real costs that will have very real economic consequences. We need wind siting reform to help ease the cost of wind development in the state. Thank you for your attention and I can address any questions that you may have at this time.



STATEMENT BEFORE THE  
SENATE COMMITTEE ON ENERGY  
WISCONSIN MARCH 5, 2008

My name is George W. Kamperman. I am owner of Kamperman Associates Inc., a sound and vibration consulting firm. My business address is 312 Washington Avenue, Wisconsin Dells, WI 53965. There are no wind farms contemplated in my area.

I am here today to make a statement on the results of my ongoing study of environmental noise associated with industrial wind turbine generators. I became very interested in the residential noise exposure issue after studying the PhD thesis of Fritz van den Berg in the Netherlands "The Sound of High Winds" published in 2006.

Two very important facts emerged from the van den Berg Doctorial Thesis. He discovered the standard measurements and equations for predicting the wind velocity at higher elevations at the hub height of contemporary wind turbines are wrong and underestimate the wind velocity significantly. Van den Berg showed that wind turbines generate maximum power during a clear night when the atmosphere is stable and with only a very light breeze at the surface. This is of profound importance to wind turbine noise impact on nearby residents because the wind farm generates maximum power and noise in the still of the night when all else is quiet and residents are trying to sleep.

The second enlightenment that emerged from my study of the van den Berg Thesis is how the perception of low level wind farm noise emission can have profound impact on the mental and physical health of nearby residents. Not being a medical professional all I can do is read the complaints of wind farm impacted residents. The doctoral dissertation of van den Berg is very credible but it is hard for me to comprehend the significant magnitude of health impact from relatively low level exposure to wind farm noise.

Next I searched for wind farm noise exposure issues in other countries. The countries with published wind farm noise and health complaints that I studied include: Australia, New Zealand, Canada, Europe, England and the US. To my amazement all the wind turbine noise complaints are very similar. I have been a consultant in the field of industrial noise control for more than fifty years and I have never witnessed anything that approaches this degree of health impact from environmental noise exposure. The existing noise exposure and annoyance models in the field of acoustics cannot be applied to wind turbine noise exposure. Wind turbine noise and the response of exposed residents is an entirely new phenomenon in our society. Children and the more sensitive adults appear to be at greatest health risk. A few medical professionals have begun exploring wind turbine noise and vibration induced health impacts on affected residents. Significant medical publications on this subject are expected later this year.

The character of the sound is: swish-boom-swish-boom 24/7 near our heart rate. One day visit to wind farm not valid. Try it for a month. Ask non-stakeholder residents. Sleep deprivation is usually first symptom. Then mental and physical issues can develop. Problems develop in some near threshold and others tolerate far higher noise levels.

George Kamperman

March 5, 2008

Page 2 of 2

It is my professional opinion the minimum setback for wind turbines should be 1.5 miles from the nearest residence(s) until we have strong medical evidence to permit a lesser setback distance. Overwhelming evidence from around the world all show serious health impacts happen to people living closer than one and one-half (1.5) miles from a wind farm. Naturally the percentage of wind turbine noise impacted residents increases in severity as the distance for the wind farm is reduced.

The wind turbine setback distance can also be determined with knowledge of the minimum nighttime ambient or background noise level environment. The first step is to perform a background noise survey (before wind farm) at the nearest potential residence(s) of interest following ANSI field measurement Standards. This noise survey is a series of two or more ten minute periods of background noise measurements in the middle of the night between 11 PM and 4 AM. This is normally the quietest time of the day and when most people are trying to sleep. (Daytime measurements of the background or ambient noise environment are of no value and are wasted effort). The weather conditions are very important. The atmosphere must be stable with few clouds and nearly calm wind at the surface. There must be no nearby noise sources or wind noise present during a measurement. Using an ANSI Type 1 sound level meter, perform a ten minute continuous measurement of the background. The parameters of most interest are A-weighted L10 & L90, C-weighted L10 & L90 and Leq in one-third octave bands from 6.3 Hz to 10K Hz. (L10 & L90 respectively represent 10% and 90% of the time the noise level is exceeded). If insect noise shows up in the one-third octave band analysis, then reduce the insect band levels to the level of the adjacent band levels and re-compute the A-weighted L levels. For the selected ten minute measurement to be acceptable the measured L10 value minus L90 value for both dBA and dBC must not exceed 10 dB. The acceptable results are averaged to establish the L90 dBA and L90 dBC background noise level criteria for each dwelling of interest. To comply with the acceptable noise emission criteria the proposed wind farm must not exceed 35 dBA and 38 dBC or 5 dB above the measured background dBA L90 and dBC L90 sound level whichever is lower. These are the also the wind farm requirements in Germany with years of experience with hundreds of wind turbines.

It is my professional opinion by following the above measurement methodology, which allows the wind farm noise to increase the ambient noise level 5 dB at the nearest resident(s) within limits or accept a setback of 1.5 miles would be expected to result in a marginally acceptable wind turbine noise level compromise at the nearest residence(s).

Sincerely,



George W. Kamperman, P.E.

Bd. Cert. Member Institute of Noise Control Engineers

Fellow Member Acoustical Society of America





# WMC

WISCONSIN'S BUSINESS VOICE

To: Chairperson Phil Montgomery  
Members of the Assembly Committee on Energy and Utilities Chairperson Jeffrey Plale  
Members of the Senate Committee on Commerce, Utilities and Rail

From: R.J. Pirlot, Director of Legislative Relations

Date: March 5, 2008

Subject: **Support for AB 899 and SB 544**, requiring that local regulation of a wind energy system be consistent with Public Service Commission rules.

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Wisconsin Manufacturers & Commerce (WMC) is the largest representative of Wisconsin employers. Our membership is a broad cross-section of the state's economic activity and our members employ approximately one-quarter of the state's workforce. Because electricity keeps our stores open, factories running, and payrolls being made, WMC is keenly interested in the state's energy policies, with an eye towards helping to keep access to electricity reliable and affordable.

The Public Service Commission has permitting authority over all power plants in excess of 100 MW, including wind energy power plants. Local units of government have permitting authority over all power plants under 100 MW, including wind energy power plants. Unfortunately, agreed-upon standards do not exist for local units of government exercising their permitting authority for such power plants. Some local units of government have imposed expensive, time-consuming and scientifically unjustified restrictions on the development of wind energy power plants. As a result, installation of approximately 400 MW of wind energy power plants is stalled in Wisconsin.

AB 899 and SB 544 would require the Public Service Commission, by rule, to promulgate uniform standards to apply to wind energy power plant sitings. Local units of government would then apply these uniform standards as they consider wind energy power plant sitings.

Wisconsin faces several challenges with respect to energy and, ultimately, the state's long-term economic health. Energy, a basic component of our economy, cannot be taken for granted. Our state's energy use is growing and we now import, over existing power lines, more than 15 percent of our electricity. For most Wisconsin manufacturers, a key issue is maintaining certainty over energy supply reliability, while meeting energy demands in the most efficient and cost-effective manner possible.

WMC is devoted to making Wisconsin a great place in which to work, live and do business. While many, many factors contribute to a good business climate — such as low taxes, a predictable and consistent regulatory climate, reasonable health care costs — no one can argue that access to reliable, competitively-priced electricity is an absolute necessity for our jobs and our economy.

As such, WMC respectfully requests you support Assembly Bill 899 and Senate Bill 544.

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STATEMENT OF MICHAEL J. DONAHUE  
EXECUTIVE VICE PRESIDENT, MIDWEST WIND ENERGY, LLC  
ASSEMBLY COMMITTEE ON ENERGY AND UTILITIES - MARCH 4, 2008  
SENATE COMMITTEE ON COMMERCE, UTILITIES, & RAIL – MARCH 5, 2008

Mr. Chairman and members of the committee my name is Michael Donahue. I am a land use and zoning professional and I currently serve as Executive Vice President and Co-Owner of Midwest Wind Energy, a leading developer of wind power projects in the central United States. Our company developed the 54-megawatt Butler Ridge project in Dodge County, the 68-megawatt Cedar Ridge project in Fond du Lac County, and we are currently pursuing a 98-megawatt project in Calumet County.

During the hearings today you will hear several accounts of how Counties and Towns throughout the State have adopted moratoria to forestall wind farm proposals and/or adopt local ordinances that preclude wind farms from being developed altogether. Such has been our experience in Calumet County, where within the past two years we have been subject to three moratoria and never-ending ordinance amendments that have prevented our project from going forward. As a result, Midwest Wind Energy now plans to increase the project size to more than 100 megawatts and petition the Public Service Commission for approval, as approval at the local level appears impossible at this time.

Why is this happening? Well, based on our experience developing wind farms in Wisconsin the past five years my views are as follows:

Successful wind farm development is due, in part, to proper site selection where wind turbines are compatible with farming and where local community support is widespread. Ironically, such is the case in Calumet County where more than 70% of its residents support our wind power development. But, as in other rural Counties and Towns in Wisconsin, a minority of non-farming residents who choose to live in the country rise up quickly to oppose wind farms proposed in their area.

The opponents' real issue with the wind turbines is that they do not want to look at them from their rural estate homes. They refer to wind turbines as "industrial" and to wind farms as "windmill ghettos." Yet, this perspective is not shared by the majority of farmers who live in the area and do not find them visually offensive. In fact, they view harvesting the wind as a productive form of agricultural activity.

While aesthetics is the primary, if not sole, motivation behind the objectors' zeal, they quickly adjust their anti-wind campaign to focus on public health and safety issues when they learn about the restrictions imposed by Wisconsin Statute 66.0401 and realize that aesthetics is not a valid basis for their objection.

Fueled by a NIMBY mentality, this political minority uses its relative wealth, Internet savvy, and the power of the press to quickly overwhelm local elected officials with a barrage of misinformation about alleged impacts from wind turbines on public health and safety.

The list of presumed ill-effects that opponents generate quickly off the internet is mind boggling. It includes headaches, nausea, anxiety, depression, insomnia, seizures, heart attacks, various neurological disorders, and other maladies, all presumably derived from wind turbines. Mind you that none of these reputed health impacts have ever been scientifically documented nor are they supported by any facts. Yet, the opponents argue that wind turbines must be setback vast distances from homes and roads to protect the public from these so-called harmful affects.

Local government officials find themselves unprepared to respond to the bombardment of these unfounded allegations so they move to slow the process down by adopting a moratorium.

Meanwhile, the farmers who live in the area, and who overwhelmingly support the project, are relatively powerless to counter the opponents without having the means or knowledge to do so. We developers step in to defend against the allegations, but our motives are perceived as self-serving only, and the factual information we provide is often considered suspect.

Thus, the opponents are left to advance their misinformation campaign virtually unchecked. Absent any other credible evidence to the contrary, local governments react by adopting excessive setbacks and other hurdles that preclude wind turbines from being established anywhere within their jurisdiction, and the final result, unfortunately, is that no wind turbines can be built.

It is a circuitous route, but at the end of this process the opponents prevail and their views of the countryside are preserved. As it turns out all the hyperbole about health and safety was merely a means to the original end.

For this and other reasons uniform standards must be established that recognize well-established scientific facts, and which have been successfully implemented elsewhere throughout the country. Anyone who has witnessed a modern-day, state-of-the-art wind farm knows that these turbines can and do co-exist safely, peacefully, and productively in the areas where they have been established.

I ask this committee to support this bill to advance Wisconsin's renewable energy development objectives and to support Wisconsin's farming community.

Thank you.



March 5, 2008

Senator Jeff Plale  
Chairman, Senate Committee on Commerce, Utilities and Rail  
Room 313 South, State Capitol  
Madison, WI 53708

Hello, I am a dairyman living near Lake Mills. I was unable to attend the hearing today on SB544.

I also have not been able to read either one. I hope that as our representatives you will be able to take the time to intelligently evaluate these bills. I can only express my desire to reduce roadblocks in the way of wind energy especially for those of us who would like to eventually see the development of community wind.

There are many such roadblocks to community wind including, surprisingly, the Production Tax Credit. The PTC financially favors large corporations over small dedicated groups that desire to produce renewable energy. You cannot change the PTC, it is a federal matter, but you can help reduce opposition to wind energy by misguided groups or individuals who see wind generators as a danger to themselves or wildlife.

Wind energy will displace coal, reducing pollution. Clean air, less mercury favors wildlife as well as human life. Some oppose wind generators simply because they don't like the way they look. There was great opposition to automobiles at one time too. Now that cars are common there is little opposition to them.

Thank You,

Dean Weichmann

N7851 Hwy Q

Johnson Creek WI. 53038



March 5, 2008

Senator Jeff Plale  
Chairman, Senate Committee on Commerce, Utilities and Rail  
Room 313 South, State Capitol  
Madison, WI 53708

Dear Senator Plale:

I am writing in support of Senate Bill 544 foremost because I think that generation of wind energy in Wisconsin should be promoted and the current siting practices are killing wind in Wisconsin.

I think it should be promoted vigorously because wind power can rapidly replace 90% of our coal power with existing technology. We have little time to spare given the degradation our planet has already faced. On the financial side, green power is currently and will remain something that can be sold at a premium to neighboring states and eventually to the East coast.

As I understand it, currently it is very difficult to site windmills in Wisconsin, particularly in areas such as Trempealeau County where a windmill can not be closer than 1 mile to any home, business, church, school, etc.

I trust that local governments will continue to have an impact on windmill siting -- and they should -- however the importance of replacing fossil fuels with green fuels is such that our state can not afford to exclude wind energy wholesale.

Sincerely,

Carol Gruba  
208 Maple Drive  
P.O. Box 22  
Mount Horeb, WI 53572



March 5, 2008

Senator Jeff Plale  
Chairman, Senate Committee on Commerce, Utilities and Rail  
Room 313 South, State Capitol  
Madison, WI 53708

Unfortunately business travels do not allow me to attend today's hearing, but North American Hydro is the largest independent hydroelectric owner in the Midwest which represents a significant source of renewable energy. It is from this extensive exposure to the Wisconsin's renewable resources that our company understands and supports in state wind development.

Thank you and I hope the hearing helps Wisconsin become more independent and self sufficient in the energy sector.

---

Chuck Alsberg  
President

NORTH AMERICAN HYDRO HOLDINGS, INC.



March 5, 2008

Senator Jeff Plale  
Chairman, Senate Committee on Commerce, Utilities and Rail  
Room 313 South, State Capitol  
Madison, WI 53708

Most engineers and economists who study electric energy will tell you that baseload coal and nuclear are likely givens in our future electric energy diet. They're realists. But, they will also tell you that limiting full development of our most prominent renewable generation resource, wind, is like skipping breakfast.

Not only is wind a significant resource, but embracing it clearly, visibly and publicly, cultivates the inquiry, ingenuity and innovation that will guide us to a future sustainable energy mix. When electric generation was new, Wisconsin wrote the regulatory framework that was adopted by the rest of the country. Please give the Public Service Commission the tools it needs to continue the legacy.

Hugh F. Schmidt  
7846 N Yahara Rd  
De Forest, WI 53532



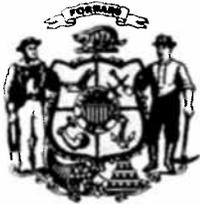
March 5, 2008

Dear Senator,

My name is Graceann Toberman and I am the Clerk/Treasurer of the Town of Magnolia in Rock County. I am opposed to SB544 because it would take away local control. Our town has been considered for wind development. The company, EcoEnergy is proposing sixty seven 400 foot turbines. I am very concerned about the health and safety effects of the neighbors that must live near the turbines. We are asking for a legislative study committee to explore the long term effects of the turbines. They will affect our community for well over 30 years. I have read documents and attended many hearings, meetings and informational workshops and there are documented medical studies that say a 1000 foot setback is NOT safe. PLEASE DO NOT PASS THIS BILL. It needs to be searched thoroughly. PLEASE do not harm the health and safety of the state's residents. We are counting on you to protect us!

Thank you,  
Graceann Toberman  
13343 W. County Road B  
Brodhead, WI 53520  
608-876-6771





# Public Service Commission of Wisconsin

Daniel R. Ebert, Chairperson  
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Lauren Azar, Commissioner

610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

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Testimony of Eric Callisto  
Executive Assistant to the Chairperson  
Public Service Commission of Wisconsin  
In Support of SB 544  
March 5, 2008

Chairperson Plale, members of the Committee, thank you for allowing me to testify today in support of SB 544. I will keep my comments general and brief, but would be happy to answer any questions you might have on the specifics of the bill.

While very few pieces of important legislation make it through the Legislature without detractors, I am happy to say that this important bill is supported by a wide array of interests. The reason is simple: global warming and energy security are issues of critical importance to this state and this country. Every reasonable tool at our disposal must be used to help us begin to reduce our carbon footprint, and to utilize homegrown energy sources whenever and wherever possible. The development of wind energy in Wisconsin is critical on both fronts. Unfortunately, Wisconsin is getting a reputation as a place that is inhospitable to wind energy. Disparate decisions and ordinances at the local level are creating confusion for developers and local government. As the state pushes towards meeting its 10 percent renewable portfolio standard, it cannot leave off the table the wind resources available within our very own borders. The utilities should not be relegated to sending Wisconsin dollars and jobs to Iowa and Minnesota when we have a wind resource in the state that is underutilized.

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Wind siting reform is supported by the Governor's Global Warming Task Force. The Task Force has been working for almost a year now, with the welcome participation of Chairperson Plale and Chairperson Montgomery from your sister committee in the Assembly. It is a group of 29 representatives, individuals selected because of their strong voice for an important relevant position, and because of their willingness to work towards concrete solutions to global warming. Members come from the general public, utilities, industry, environmental organizations, farming, labor, and other sectors. It is a group of 29 that I believe rarely see eye-to-eye on matters of public policy. Yet on February 19, that group unanimously endorsed to the Governor recommendations the group believed should be pursued immediately. They agreed on the low-hanging fruit, things this state should be doing in the near term to begin a full court press on global warming. One of those recommendations is wind siting reform. I am happy to represent today, on behalf of the Governor, that he supports wind siting reform as recommended by his Task Force, and he specifically supports SB 544. This proposal also has the support of the Public Service Commission, which yesterday voted unanimously to support this legislation and its passage this session.

When it was becoming clear that wind siting reform was going to be a recommendation in the Task Force interim report, an ad hoc group convened at the PSC to work on an early version of the draft you now have before you. It included representatives from the Wisconsin Counties Association, the Wisconsin Towns Association, RENEW Wisconsin, the PSC, and the Department of Agriculture, Trade and Consumer Protection. The process that led to this draft went remarkably smoothly, a testament to the group's recognition that reform is important to achieve this session, but also because agreement was reached early on a piece that had the

greatest potential for controversy. That issue is “who makes the siting determination?” In the white paper that came from the Task Force workgroup, the siting authority was bifurcated, with the developer having an option to come to the Commission or to local government. The parties quickly agreed that the proper split of authority was not this bifurcated model, but local government applying reasonable, PSC-created standards. The authority to site wind farms remains unchanged in this bill from existing law – it is, as it should be, a local decision. What is added is the creation of standards by the PSC which will act as a ceiling of sorts; local government restrictions cannot be more restrictive than those created by the PSC. There is also an appellate right to the Commission by anybody who is aggrieved by a siting decision at the local level. Appeal of the Commission’s resolution of that matter is to circuit court.

This construct – local siting authority, uniform standards, and appeal to the Commission – will well serve all interests in this debate. Critical to success of this new structure is the rulemaking process at the PSC. The bill tasks the PSC with promulgating rules that specify the restrictions local government may impose on the installation and use of wind energy systems. The PSC also must promulgate rules that indicate what should be in the application for wind turbines, what should be in the record when siting decisions are made at the local level, and what process the local government unit should use to make the decision. The Commission rulemaking process will be open, inclusive, and responsive to all concerns as the agency develops these important standards.

I encourage the committee to support this legislation, and to move it promptly to a vote so that the full Senate may take it up this session.





Sierra Club - John Muir Chapter  
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201  
Telephone: (608) 256-0565 Fax: (608) 256-4562  
E-mail: john.muir.chapter@sierraclub.org Website: wisconsin.sierraclub.org

**Support AB 899 / ~~SB 544~~ Wind Permitting Reform Legislation  
Before the Assembly Committee on Energy and Utilities  
By Shahla M. Werner, Ph.D., Director, Sierra Club-John Muir Chapter  
March 5 2008**

Thank you for accepting comments today on behalf of the 15,000 members of the Sierra Club- John Muir Chapter in Wisconsin.

Our members have voted to make reducing global warming the key priority issue of our Chapter. For this reason, the John Muir Chapter of the Sierra Club strongly supports AB 899, which calls for the creation of fair, statewide standards for the development of clean, renewable wind energy in our state. We can not possibly hope to “balance the equation” of meeting critical goals of decreasing global warming pollution by 80% by 2050 or obtaining at least 10% of our energy from renewable sources by 2015 without large-scale development of wind power. If we fail to meet these goals, increased temperatures and changes in precipitation caused by global warming will result in grave impacts to Wisconsin’s ecology, public health, and economy. No energy source comes without environmental trade-offs, but we feel that impacts of the responsible development of wind energy are far less than the massive negative impacts of global warming pollution. These impacts will intensify if we continue to rely on coal to meet 80% of the state’s energy needs. The Sierra Club further believes that potential negative impacts to wildlife of wind energy systems can be substantially mitigated through careful siting and modern technology.

As a grassroots organization, the John Muir Chapter is pleased to see that this bill will allow local units of government to continue as the primary reviewer of large wind energy systems that are one to one hundred megawatts in size. Uniform statewide standards that will be included in AB 899 will address issues of concern to local communities, including visual appearance, setback distances, decibel levels, and interference with radio, television and telephone signals. The John Muir Chapter is also reassured to see that AB 899 includes opportunities for stakeholders to provide input on uniform statewide wind energy standards, and mechanisms for appeals are available. We sincerely hope you will support this common sense legislation, which will stop delaying us from starting Wisconsin down the path towards a renewable energy future.



**GLENN M. STODDARD**  
ATTORNEY AT LAW

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glennstoddard@charter.net

**To: Senate Committee on Commerce, Utilities and Rail**

**Re: Opposition to SB 544 & AB 899**

**Date: March 5, 2008**

Dear Committee Members:

Please accept this formal written testimony in opposition to SB 544 and AB 899.

I am concerned citizen, conservationist, and practicing environmental and land use attorney now based in Eau Claire, Wisconsin. I have a number of clients who are very concerned about the potential adverse public health and safety impacts, and related adverse environmental impacts, of several commercial wind energy projects now being proposed in various parts of Wisconsin. I am also currently representing the newly formed Coalition for Wisconsin Environmental Stewardship ("CWEST"), which is greatly concerned about this issue.

Additionally, I have represented a number of citizens in two different private nuisance suits against Wisconsin Public Service Corporation relative to the adverse impacts caused by its wind energy facility in the Town of Lincoln, in Kewaunee County. One of those two lawsuits has been settled confidentially while the other remains pending before the court. The case that remains pending at this time is captioned: *Joseph P. Yunk v. Wisconsin Public Service Corporation*; Kewaunee County Case No. 07-CV-107.

I am also currently representing citizens in Monroe County in litigation over three zoning conditional use permits that were approved there for a proposed wind energy project. Furthermore, I am currently representing the Town of Clay Banks in Door County, which is in the process of drafting its own wind energy ordinance consistent with the current Wis. Stat. § 66.0401.

As such, I have a great deal of experience with wind energy, land use, and related environmental and energy issues.

**I oppose SB 544 and AB 899, for the following reasons:**

**1. The bills would preempt and remove virtually all local control over wind energy projects.** Consequently, they would remove the ability of local governments to adopt restrictions designed to address unique local issues and concerns. This flies in the face of representative government and long-established state policies encouraging local control over land use decisions.

2. **Existing town and county ordinances would not be “grandfathered.”** Instead, decisions made under those ordinances could be appealed by wind developers or others under the new law to the Wisconsin Public Service Commission (“PSC”) and then on to circuit court. This would lead to more litigation and appeals which could cost towns and counties a substantial amount in legal fees and costs.

3. **The bills do not require the PSC to write rules that would protect public health and safety—let alone private and public property rights.** Since the PSC and the Governor have been actively promoting development of more renewable energy, including wind energy, it is expected that the PSC rule would be biased in favor of wind energy development and give short shrift to protection of public health and safety, property rights and property values, quality of life, local environmental concerns, town and county roads, etc.

4. **The bills do not state what “must” or “shall” be included in the PSC rule.** Instead they state what “may” be included. This gives too much discretion to the PSC and allows the agency to leave out important restrictions that are necessary to protect public health and safety, property rights, environmental concerns, etc. In fact, the bills do not actually require the PSC include anything in its rule regarding wind energy siting. Thus, the PSC could propose a rule that precludes the adoption of any wind energy siting regulations by local governments.

5. **The bills do not require the PSC to consider local land use plans and zoning ordinances in the siting of industrial-type wind energy facilities.** Yet the State of Wisconsin and many towns and counties have spent hundreds of thousands of dollars in the past few years on Smart Growth planning—all of which may be wasted if such plans and related zoning ordinances are overridden by large wind energy developments in areas where they would otherwise be deemed unsuitable based on local land use planning.

6. **The bills do not require the PSC to develop the rule with public input.** There is no requirement in the bills that the PSC appoint a “committee of experts, interested persons or representatives of the public to advise it with respect” to the proposed rule under Wis. Stat. § 227.13. Thus, the proposed rule could be developed largely behind closed doors by PSC staff, just as the so-called “draft” model wind energy ordinances were developed.

7. **The bills have had no public input prior to this week.** I understand the bills were proposed by the PSC and before that by a group called RENEW, which is financially supported by private wind energy developers that stand to make millions of dollars developing wind energy projects. Yet this is a very important and controversial in many parts of Wisconsin. Certainly, the bills should be subject to public hearings outside of Madison in the areas of Wisconsin that will be directly affected by proposed wind energy projects. The people of Wisconsin should have meaningful input on this important issue before it is merely turned over to the PSC and the wind developers. After all, large-scale wind energy projects are a long-term proposition. We should be extremely careful about where they are sited and under what conditions.

**8. The development of new, industrial-type wind energy facilities deserves more comprehensive study by a Special Legislative Council Study Committee.** Although the State of Wisconsin has adopted renewable portfolio standards (“RPS”) which the PSC and our private utilities are trying to meet with new wind energy projects, the fundamental problem is that wind energy is expensive to develop, highly unreliable, and has a very low “capacity factor” (generally less than 29 percent of rated maximum turbine capacity). As a result, wind energy will never be able to meet the current RPS in Wisconsin and many other states. Also, large-scale wind energy projects do not significantly reduce carbon dioxide emissions because they must be “backed up” by conventional sources of energy at peak loads when the wind isn’t blowing. Given these and other issues, together with the problems of finding safe and suitable sites for wind energy facilities, it would make much more sense for the state to adopt stronger energy conservation and efficiency policies than we currently have in place than it does to promote development of relatively inefficient and controversial new industrial-type wind energy projects. A Special Legislative Council Study Committee could address these issues in greater depth and come up with a more comprehensive, cost-effective, and environmentally sound approach to energy policy in Wisconsin.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Glenn Stoddard". The signature is written in a cursive, flowing style.

Glenn M. Stoddard  
Attorney at Law



Testimony submitted to the Wisconsin Senate Committee on Commerce, Utilities and Rail, regarding SB 544, on March 5, 2007, by Merlin Gentz, Calumet County Board Chairman.

Chairman Plale and members of the Commerce, Utilities and Rail Committee, I am pleased to be able to meet with you today as you gather public comment regarding SB544. I applaud the legislature for taking steps to establish some common standards for political subdivisions to regulate the construction and operation of wind-powered generating projects. However, I stand in opposition to this bill only because I believe the process used is too rapid- introduced on Friday of last week, public hearings yesterday and today and pending action by the Assembly and Senate by early next week. There are too many loose ends in this bill which need to be addressed before it is ready for Senate action. I wish to address you from several perspectives. First of all, from the experiences of the Calumet County Board; secondly, from the perspective of what has occurred in the county through its citizens; thirdly, some recommendations I have for you as you enact legislation concerning the planning for, the installation of and the use of alternative energy systems.

Let me talk briefly about our experiences in Calumet County. After several months of research, drafting of an ordinance and holding public hearings, we enacted our Wind Energy Facility ordinance, Chapter 79 in September of 2005. We paid close attention to Statute 66.0401 and followed the state model ordinance in developing our local ordinance. We had very few comments from any of our Calumet county citizens. It wasn't until it became apparent in early 2007, that two Wind Energy Facility Developers were working with land owners in two of our Townships on constructing what were to be the largest wind turbines constructed in this country, over 400 feet high, that began a ground swell of citizen interest and involvement that continues to today. The impact of all of this has been, on the positive side, a tremendous amount of citizen participation and useful information on the subject. On the negative side, we have experienced the disruption of neighborhoods, the split in families, and the recall election of a County Board Supervisor. This has been the most contentious and disruptive issue to the life of Calumet County during the ten years I have been a supervisor on the Board. For a time this past summer, I was receiving 10 to 12 telephone calls per day and twenty to thirty letters per week. What did I learn from these experiences to help us as we move and look forward to the future?

Most of the hundreds of citizens who contacted me were not opposed to wind turbines and use of wind to produce electrical energy. In fact, they supported it. However, they were very concerned that we had not done enough research on the proper siting of the turbines, especially in regard to sound and the effects of that sound upon the human body and the setbacks from sensitive receptors such as homes and other inhabited buildings. They became organized and began researching these issues world wide. In retrospect, the state legislature had not done its research before enacting 66.0401 and developing its state model ordinance and we in Calumet county had not done an adequate job of involving our citizens and experts on sound and not researching what was behind the

State's model ordinance. We assumed the research had been done and we were too quick to adopt what we saw. There is a lesson in this for all of us. Don't assume and jump too quickly in setting laws and ordinances before you have involved the citizens who will be affected. We need to take the time necessary and ask ourselves, what will be best for our citizens and what will serve us best in moving ahead on utilizing alternative sources of energy. Wind energy is definitely part of the solution to finding and using alternative sources of energy but, we need to move cautiously.

What would I do from my Monday morning quarterbacking chair- believe me, I could write a book on the subject based on what we've done and should have done and the knowledge I now possess on the subject? I would put a statewide moratorium on the construction of wind turbines for six months and I would study the heck out of the wind facilities currently being built and placed in operation in Dodge County and Fond du Lac County. These are both PSC approved installations and would be a good indication as to what we might expect if the PSC would be directed to set the statewide standards. I would ask the University of Wisconsin to direct this research right now. Sound levels and the effects upon citizens living in the area would be an important part of those studies. I am convinced that questions on sound levels and setbacks from sensitive receptors are the major issues here. Once answered and proper standards have been established, I am confident that our citizens would offer support and we would be able to move forward on the planning, building and using wind energy facilities here in Wisconsin. In the absence of answers to those questions, we will continue to err on the side of caution.

One last recommendation I offer for us as we look to the future. If I would have it all to do over again, I would have established a citizen's committee in Calumet County four years ago to research and come forward with recommendations regarding Wind Facilities in our County. In retrospect, that should have been done at the State level, before we had a real challenge on our hands. Let's learn from this and incorporate more citizen involvement as we look forward to solar power, geothermal, use of biomass and other alternative sources of energy.

Again, I appreciate the State Legislature getting involved, and for giving me the opportunity of addressing you.

Merlin Gentz, Calumet County Board Chairman  
2611 South Greenview Street  
Appleton, WI 54915  
920-731-1670



March 5, 2008

Senator Jeff Plale  
Chairman, Senate Committee on Commerce, Utilities and Rail  
Room 313 South, State Capitol  
Madison, WI 53708

I'm unable to come to Madison for the hearings due to my very tight schedule here in Milwaukee. I'm close to this issue as a Board Member of RENEW Wisconsin and chair of its Education Committee. I also chair the Energy and Global Warming Committee of the Sierra Club Great Waters Group. From these groups we do many presentations to community groups describing and discussing wind power and other renewable energy sources. So far, we've presented 75 of these programs to a variety of groups. (Rotary and Kiwanis clubs, Schools, Churches, Library Seminars, Civic Groups, etc) We find very large support, by rank and file people, for wind power. Most people don't understand the objection to it.

I presume you are well aware of all the arguments supporting wind power. As expected there is opposition to new wind farms. Some people are cautious about change of any kind and look for any reason to oppose it. As an example, I understand, there is a new issue of the turbine failures in Denmark. This presents a good example. There are certainly far more turbines installed in the world than there are commercial airplanes flying. Yet when an airplane crashes, this is not used as an argument for closing airports and banning future development. A better example could be made by the risk of being in a car on our highways. When looking at the few problems with wind power, some people ignore the greater good from reducing global warming and pollution. Opposition to wind farms should be put into proper context and not allowed to block responsible action.

John Bahr



March 5, 2008

Senate Committee  
Madison, WI

Honorable Senators: RE: Opposition Registration to Bill SB544

Recently I spoke to some Board Members of WE Energies who are not in favor of wind power at all. The only reason they are putting up the wind turbines is because of the law you passed 4 years ago mandating 10% of their energy has to be green.

I have some other ideas which I feel would help them achieve more than their 10% energy goal. First of all, there are 2 landfills within 10 miles of the power plant in Kenosha. One landfill is flaring off and the other is generating electricity. I am working with an engineer and a group of people studying this, we are told we could pipe the gas from the landfill to the power plant saving 10% of their coal.

Also, in Germany every farmer who has 40 or 50 cows is using the gas from their waste to generate electricity. I have a friend who spent 4 million euros to generate electricity; he told me his payback would be 3 years.

I have called my friends in Germany who told me Germany passed an ordinance stating wind turbines cannot be put up within 1 mile of a house because of the noise and the flicker.

At present I am working with a group of people planning to build a telecommunications company for rural America. We plan to put in cell phone service, broad band, TV, and internet service. We are planning to invest \$100,000,000. We cannot have a tower within ½ mile of a wind turbine because of the interference.

In Kewaunee County a farmer lost several animals due to stray voltage from the wind turbines, the power company paid him off. Now he has a gag order from the power company and is not allowed to say how much money he received.

Here in Calumet County we live in a very populated area, there are 4 to 6 farmers in every square mile. I was born and raised on a farm, President of Lunda Construction Company for 8 years, am involved with 10 companies at the present time, and a life long resident of Calumet County.

Every person who testified in favor of the bill yesterday before the Assembly Committee will gain financially.

We will lose all control at the local level if the Public Service Commission gains control. This is not a democracy!

Thank you for opposing Bill SB544.

Sincerely,

A handwritten signature in cursive script that reads "Paul O. Gehl". The signature is written in black ink and is positioned below the word "Sincerely,".

Paul O. Gehl  
P. O. Box 303  
Hilbert, WI 54129-0303

Phone 920-853-3033



Senate Committee on Energy and Utilities

3-5-08

P.O. Box 7882

Madison W. 53707

Rick Irwin

19117 Interior Rd.

Tomah W. 54660

My name is Rick Irwin I'm the ~~Town~~ Chairman for Wilton Township Monroe County.

I'm opposed to SB 544 because it removes all powers of the affected towns and counties from regulating themselves.

There is no one-size-fits-all regulation that could ever properly site wind turbines in the vastly different Geographic regions in Wisconsin.

It seems that SB 544 and its companion AB 899 were proposed not because towns and counties are incapable of governing themselves but because they have done too good a job of that already.

Townships have the responsibility to protect the health, safety and welfare of its citizens - we can't do it without the authority to do so.

Rick Irwin

Town Chairman Wilton, Wisconsin

Note: what happens to towers when they have lived out their lives and who creates all the connecting transmission lines?



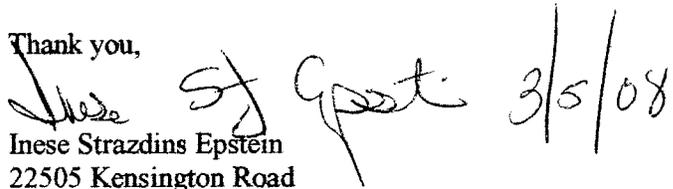
Committee on Commerce, Utilities and Rail

I respectfully request that you oppose SB 544 for the following reasons:

1. You would be passing a bill that has no set standards. It would be prudent to have standards in place prior to approving any bill.
2. The PSC is not the entity that should be in charge of overseeing the siting of wind turbines because it stands to directly benefit from its own mandates.
3. Keep it local is a mantra that certainly is advisable in the siting of wind turbines. Communities are becoming more educated about wind siting issues and who would know better what fits with their present and future land use plans.
4. SB 544 is not a benign bill. It would take away the ability for towns and counties to decide what is best for them. It would also place extreme financial burdens on already overextended municipalities.

I strongly oppose the passage of SB 544.

Thank you,

  
Inese Strazdins Epstein  
22505 Kensington Road  
Norwalk, WI 54648  
608-823-7837



# **Wisconsin Towns Association**

**Richard J. Stadelman, Exec. Director**

**W7686 County Road MMM**

**Shawano, Wis. 54166**

**Tel. (715) 526-3157**

**Fax. (715) 524-3917**

**Email: [wtowns@frontiernet.net](mailto:wtowns@frontiernet.net)**

To: Senate Committee on Commerce, Utilities, & Rail  
From: Richard J. Stadelman, Executive Director  
Re: SB 544 relating to PSC authority to establish standards for wind turbines  
Date: March 5, 2008

Wisconsin Towns Association supports the passage of SB 544 which would authorize the Public Service Commission (PSC) to promulgate rules establishing common standards for political subdivisions to regulate the construction and operation of wind-powered generating projects (wind turbines).

Currently towns and counties are being asked to adopt ordinances regulating the construction and operation of wind turbines by both the industry and neighbors which vary greatly. Some towns have adopted ordinances with very limited standards, while other towns and counties have been pushed to adopt very restrictive ordinances. The questions of what is proper setback distance or maximum noise level are just two of the standards that have varied greatly. Having state standards that the town and county officials can rely upon as being reasonable and defensible is important to avoid the threat of lawsuits. We believe that SB 544, which is modeled after the livestock facility siting law (Sec. 93.90 of Wis. Statutes) and ATCP 51 provides a process to create reasonable standards for livestock facilities.

Wisconsin Towns Association board of directors has specifically asked that two aspects be addressed in the development of the rules. First, we ask that the PSC use a deliberative process in establishing the rules, including having the interests of neighbors included in the development of the rules. An option would be to require PSC to use a technical advisory committee under Sec. 227.13 of Wis. Statutes in this process. Second, we believe that when neighboring properties and residents are being impacted these property owners and residents should also be compensated for the impacts of the wind turbines. The rules should consider these types of payments to the neighbors as an appropriate part of the siting and operation of wind turbines.

Wisconsin Towns Association also wants to indicate that preemption of town and county authority over highway weight limits should not be included in the PSC rules. Current statutory authority over local weight limits under Sec. 349.16 of Wis. Statutes must be retained by towns and counties for this industry as any other industry. Both the PSC staff and wind industry representatives have agreed that highway preemptions will not be a part of the rules.

While the siting of conflicting land uses is always a controversy for local officials, we believe that SB 544 will offer a reasonable approach yet retain local decision making within the limits established by the state standards that are defensible. Thank you for your consideration.

**Resolution #16**

**Submitted by Manitowoc County Unit**

**Uniform Standards for Public Health or Safety of Wind Energy Systems**

Whereas, the Wisconsin State Legislature has embraced renewable energy sources as desirable and necessary for the future of energy production in Wisconsin, and

Whereas, the State Legislature has enacted legislation limiting the ability of local governments to prohibit or curtail the development of wind energy systems, and

Whereas, Sec. 66.0401 of the Wisconsin Statutes prohibits towns from putting restrictions on Wind Energy Systems unless these conditions are satisfied, and

Whereas, one of the conditions is that the restriction serves to preserve or protect the public health or safety, and

Whereas, the definition of health and safety can vary from one person to another, and

Whereas, because of this undefined health and safety there is litigation taking place all around us on the controversial issue.

Now Therefore, Be It Resolved that the Wisconsin Towns Association ask the State of Wisconsin to provide uniform standards that all municipalities can follow when it pertains to health and safety.

Be It Further Resolved, that the final product can be something that will streamline the process of wind generation now and into the future.

**WTA Board of Directors takes no position on this resolution. The Board of Directors encourages further discussion on this topic at the convention and an understanding of the status of local control by towns and villages of wind energy systems under current law..**

**Legislative Session & Current Issues:  
Wednesday, October 18, 2006 at 9:00 a.m.  
(concluding between 11:00 a.m. and 11:30 a.m.)**

**Please note the location of the Legislative Session will be in the Radisson  
Hotel Ballroom (which is located just to the north of the  
La Crosse Center.)**



March 5, 2008

RE: Senate Bill 544 (LRB-4108)

I am here today to express serious concerns about Senate Bill 544, and the effect it will have on well being of the citizens of Wisconsin. The regulating of wind turbines has been a contentious issue for some time, not only in Wisconsin, but the rest of the world as well. There is growing body of evidence that these industrial machines are not as benign as the wind energy advocates would have you believe.

The State Legislature passed a model wind ordinance (Section 66.0403) in the 1997-98 session with minimal discussion. Wind energy advocates, with little input from the public wrote this model ordinance. At the time, the largest wind turbines proposed for the State were less than 200 feet tall, and very few people envisioned the 400 to 500 foot turbines now being installed in Wisconsin.

Since 1997, there has been a significant increase in the body of knowledge regarding the adverse effects these wind turbines have on people. Multiple counties and townships have passed local ordinances that are designed to protect the health and welfare of their citizens to a greater degree than Section 66.0403. All these local governmental bodies studied the issue, and all reached the conclusion that the State's model ordinance is not sufficient to protect the people of their communities.

The State Legislature should allow individual counties and townships the ability to regulate wind turbines based on their unique environments. What works in Milwaukee County does not necessarily work in Shawano County, and vice versa. The wind energy companies would have you believe that Section 66.0403 is a perfect statute to be implemented state wide, but analysis by local governments have decided otherwise. Abdicating local control in favor of regulation by a non-elected group like the Public Service Commission would be a mistake. They are more accountable to the utilities than individual citizens, and are not a neutral player in the wind energy discussion.

The PSC has already approved several large wind turbine installations in Dodge and Fond du Lac Counties, without regard to the impact these facilities have on the local environment. For example, the PSC did not consider recent scientific evidence suggesting a setback of 1000 feet from residences does not protect people. The National Academy of Sciences on a study released in May 2007 titled "Environmental Impacts of Wind-Energy Projects" recommended a minimum of one half-mile setback from residences to minimize noise problems. Instead, the PSC applied the industry driven standards from a model ordinance written ten years ago by wind energy advocates that has no basis in any scientific or medical data.

Decisions made by this Committee and the Legislature will affect the people of this State for at least thirty years (the expected life span of a wind turbine). This decision must be reasoned and carefully studied to protect future generations, and the rural environment of Wisconsin. You must not rush this proposal through the legislative process. Circumventing local control of wind energy systems will only benefit the wind energy companies, not the majority of your constituents. I urge you not to compound the mistakes made in 1997 with Section 66.0403 by further restricting local governments.

Thank you,

Ervin Selk  
W4821 Dick Road  
Chilton, WI 53014



## Testimony concerning SB 544

3-5-08

Senator Jeffery Plale  
Chairman Commerce, Utilities and Rail Committee

I am contacting you to recommend **not** supporting SB 544 for the remainder of this legislative session. I oppose this Bill for several reasons.

1. This bill has had no public input from the citizens that will be most effected by it.
2. It takes away local governments' authority to regulate.
3. The Public Service Commission (PSC) has not demonstrated that they can or want to do this siting in a way that protects public health and safety. The model ordinance they have now is not backed up with any medical, scientific data. It was written by wind developers.
4. They have tried to over simplify its impact by using the power plant and animal siting as an example. This bill will give control of 500,000 + acres of private land to an agency that does not have one elected official.
5. The PSC has not demonstrated the level of responsibility required to have control of this much private land. They require 80 acres per turbine times the proposed 5000 units. This does not include property owned by nonparticipating landowners.
6. Wisconsin does not have a good wind resource. We have always been a class 2 wind area.

This issue is so important it needs to be addressed by a Legislative Council study.

Elected officials at all levels have an intrinsic responsibility to protect the citizens that have elected them. This needs to extend to protecting some people from themselves. Who will landowners turn to for help when they discover they have been deceived by the PSC and a wind developer?

Thank you for your consideration.

Regard,

Jim Bembinster  
Town of Union, Large Wind Turbine Citizens Committee  
608-201-1050

To: Paul Helgeson, WI Public Service Commission  
From: Town of Union Wind Turbine Study Committee  
November 6, 2007  
Re: Health & Safety Research Questionnaire

## Questions

- 1) The Townships get mixed messages from wind developers and Renew Wisconsin on the weight of the Draft Model Wind Ordinance for Wisconsin. Is the Draft Model Wind Ordinance for Wisconsin a law?

Paul C. Helgeson, Senior Engineer Public Service Commission of Wisconsin  
answer received 1-2-07 at 12:41pm: 1. The draft Model Ordinance is a model that can be used by towns and counties as they see fit. It is not law.

- 2) In the Draft Model Wind Ordinance it states:

**PURPOSE** The purpose of the Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Facilities in the [Town/County], subject to reasonable restrictions, which will preserve the public health and safety.

Who defines what a reasonable restriction is? Is it a law?

Paul C. Helgeson, Senior Engineer Public Service Commission of Wisconsin  
answer received 1-2-07 at 12:41pm: 2. What is reasonable would be defined by local governments and the courts.

- 3) In regard to Wisconsin Statute 66.0401 item (a):

Wisconsin Stat. § 66.0401(1) provides:

(1) **AUTHORITY TO RESTRICT SYSTEMS LIMITED.** No county, city, town or village may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48(2)(h)1.g., or a wind energy system, as defined in [66.0403(1)(m)], unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.

We have been given the impression that public health or safety must be supported by "peer-reviewed" and "credible" documentation. Is that a state law? NO ANSWER

- 4) Were "peer-reviewed" and "credible" documentation used in the Draft Model Wind Ordinance concerning safety and noise?

NO ANSWER

- 5) What other State Statutes concerning public health and safety require "peer-reviewed" and "credible" documentation? NO ANSWER

- 6) In keeping with abiding with the legal requirements in the Wisconsin Statute 66.0401 we asked a Legislative Attorney what the State of Wisconsin's definition of Public Health and Safety was, and the answer was, "I think it is safe to say that "public health and safety" is an intentionally ambiguous term".

He went on to say,

"The reason these terms are intentionally ambiguous is that they involve judgments. They apply to situations either too various or too detailed as to be anticipated and dealt with specifically in laws. Where they apply to governmental bodies, such as the development of a wind ordinance by the Board of the Town of Union, they provide general guidance but intentionally leave the hands of the board members free to design an ordinance that meets the needs of that community, so long as the ordinance is reasonable. ("Reasonable" is another ambiguous term, but it is the primary consideration in reviewing many kinds of governmental actions.)."

Wouldn't this clearly say that the Town of Union Board and any other local government has the right to write an ordinance that protects their resident's health and safety without intimidation? NO ANSWER

- 7) In reading the Mission/Vision Statement for the Public Service Commission the last sentence states,

“In all of the above, we consider and balance diverse perspectives and we endeavor to protect the environment, and the public interest and the public health and welfare.”

How do you feel you balance big business interests in Wind Development with the public health and welfare? NO ANSWER

### **Questions Specific to the Draft Model Wind Ordinance**

- 8) Can you advise the process in creating the 2003 Draft Model Wind Ordinance?

**Paul C. Helgeson, Senior Engineer Public Service Commission of Wisconsin**  
answer received 1-2-07 at 12:41pm:

8) Process for creating the Draft Model Wind Ordinance is described in the Model Wind Ordinance Reference Guide and in documents that your group has obtained from the Commission.

- 9) Can you advise the process in creating the 2007 Draft Model Wind Ordinance?

**Paul C. Helgeson, Senior Engineer Public Service Commission of Wisconsin**  
answer received 1-2-07 at 12:41pm:

9) The Only significant changes are in section 5.3 and were made to be clearer and consistent with the PSCW sound measurement protocol for electric power plants. Some parts of the ordinance language were moved to the Reference Guide.

- 10) In the 2007 DRAFT Model Wind Ordinance it states: “the model ordinance was developed by agency staff and stakeholders.” Please identify who these persons are. NO ANSWER

- 11) Why was the 2007 DRAFT Model Wind Ordinance put on the Department of Administration website ; then taken off; then put back on? This all occurred in the past 6 months. NO ANSWER

12)When was the 2007 DRAFT Model Wind Ordinance put the DOA website the first time; when was it taken off; when was it put back on the second time? NO ANSWER

13)What medical, scientific, and/or clinic data was utilized in the creation of each DRAFT ordinance? Please be specific. NO ANSWER

14)We understand that you and a female colleague at the Department of Administration were the co-authors of the 2007 DRAFT ordinance. Please identify other the co-author. NO ANSWER

15)Why were significant changes made to the noise portions of the 2007 Draft Ordinance?

Paul C. Helgeson, Senior Engineer Public Service Commission of Wisconsin  
answer received 1-2-07 at 12:41pm:

15) (See the answer to #9, above)

16)The World Health Organization recommends noise levels much different than your two DRAFT ordinances. Can you explain why you would not utilize their expertise and make your recommendation consistent to those recommended by the World Health Organization for community noise?

NO ANSWER

17)When a wind project is proposed, often times the developers suggest to local government, that they may receive revenue based on a variety of factors (PILOT Program; Shared revenue). Can you explain how the payments are determined for counties/townships based on incentives/megawatts produced or whatever criteria is used? Who actually pays this money out? How much has been paid out since 2000?

Paul C. Helgeson, Senior Engineer Public Service Commission of Wisconsin  
answer received 1-2-07 at 12:41pm:

17) Shared Revenue formulas are specified in Wis. Stat. § 79.04(6)(c) 1 and §79.04(7)(c)1. The formula is based on the nameplate capacity of the generators and the fact that a renewable resource is used. If the generators are in an unincorporated town, the town receives \$1667 per MW per year and the county receives \$2333 per MW per year. These are annual payments in place of property taxes. If you have further questions on the Shared Revenue program you should contact the Wisconsin Dept. of Revenue.

18) We have documented facts of the following: pending lawsuits worldwide, settled lawsuits right here in Wisconsin, neighbor easement agreements, bulldozed properties, property de-valuations, abandoned properties, nuisance payments, sound easements & payments, significant medical problems, quality of life issues, people relocating away from turbines, etc. With all these documented problems worldwide, it is clear to see that setbacks are the key to a successful wind project. The National Research Council recommends setbacks be at least ½ mile or so from residences. Many physicians are now recommending setbacks be at least 1 mile. **The Public Service Commission of Wisconsin** ("PSCW") has determined that it is important to site wind energy facilities carefully. The PSCW has also concluded that there is the potential for adverse environmental impacts when wind energy facilities are sited improperly (Public Service Commission of Wisconsin Advance Plan 7 Findings of Fact, pp. 22 – 23). As seen in Invenergy's Beech Ridge Wind Farm located in West Virginia, turbines are setback between one and four miles from residences. The project manager was quoted as follows: "At a distance of 1,000 feet, most potential negative impacts of wind turbines are significantly reduced. At a distance of one mile, these impacts are no longer a legitimate concern." Yet in Wisconsin we continue to see a recommendation from the DOA/Public Service Commission of 1,000 feet setback from residential housing. If your role is to protect the people and the environment of Wisconsin, why would you not recommend larger setbacks when you created your new 2007 DRAFT ordinance, knowing the problems that are documented worldwide related to insufficient setbacks? Please explain thoroughly. NO ANSWER

Here are the answers to the PSC questions.

**From:** Helgeson, Paul PSC [mailto:Paul.Helgeson@psc.state.wi.us]  
**Sent:** Wednesday, January 02, 2008 12:41 PM  
**To:** cathyjimb@eishome.com  
**Subject:** H & S Research Questionnaire

Jim and Wind Turbine Study Group,

I have answered the questions that I can . I hope my answers are helpful.

1. The draft Model Ordinance is a model that can be used by towns and counties as they see fit. It is not law.
2. What is reasonable would be defined by local governments and the courts.

8) Process for creating the Draft Model Wind Ordinance is described in the Model Wind Ordinance Reference Guide and in documents that your group has obtained from the Commission.

9) The Only significant changes are in section 5.3 and were made to be clearer and consistent with the PSCW sound measurement protocol for electric power plants. Some parts of the ordinance language were moved to the Reference Guide.

15) (See the answer to #9, above)

17) Shared Revenue formulas are specified in Wis. Stat. § 79.04(6)(c) 1 and §79.04(7)(c)1. The formula is based on the nameplate capacity of the generators and the fact that a renewable resource is used. If the generators are in an unincorporated town, the town receives \$1667 per MW per year and the county receives \$2333 per MW per year. These are annual payments in place of property taxes. If you have further questions on the Shared Revenue program you should contact the Wisconsin Dept. of Revenue.

**Paul C. Helgeson, Senior Engineer Public Service Commission of Wisconsin**  
**P.O. Box 7854**  
**Madison, WI 53707-7854 608-266-3905 [paul.helgeson@psc.state.wi.us](mailto:paul.helgeson@psc.state.wi.us)**



## **BORYS RYSZARD**

327 E. Washington Street, Stoughton, WI 53589 USA

608-344-1966

March 5, 2008

### **Re: Senate Bill 544**

My name is Ryszard Borys.

I am speaking in defense of our democratic system of government and due process.

This bill 544 is a direct assault on the rights of the people in Wisconsin to self determination and the right to local governments.

It takes away the long established right to govern our own communities and to protect our property, health, and safety of our families.

This bill is a part of the ongoing process in our country of taking away our freedoms and our constitutional rights by slowly turning our democracy to a central government dictatorship.

This bill is being introduced because its supporters know that the democratic majority in Wisconsin understands the risks involved with the development of Wind Farms in the vicinity of their homes. The people of Wisconsin seek to establish safety systems for their own protection and the welfare of their community. The primary concern of Wind Farm developers is not the safety and welfare of local residents but profit. Therefore they are seeking to change our laws and take away our long established constitutional right to self determination and the right to govern our own communities.

I was born and raised under a communist dictatorship and I clearly recognize the direction in which these changes in our laws are pushing us towards.

Therefore I ask you honorable representatives of the people of Wisconsin to oppose this bill and defend our democratic system of self government **“for the people by the people “**

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryszard Borys', with a long horizontal flourish extending to the right.

Ryszard Borys

<http://www.denmark.dk/en/servicemenu/News/GeneralNews/MinisterDemandsExplanationForWindmillCollapse.htm>

## MINISTER DEMANDS EXPLANATION FOR WINDMILL COLLAPSE

The climate minister will begin an investigation into two separate cases of Vestas wind turbines collapsing within the past week

The climate minister, Connie Hedegaard, is calling for an investigation to determine the cause of two violent wind turbine collapses in Denmark in the past week.

Both of the windmills were produced by Vestas, and Hedegaard's request to the Energy Board comes after other breakdowns both here and abroad have been reported in the past two months.

'The problems with the turbines abroad have had to do with poor maintenance, and if that's the case here, then I expect a clear report on how we can ensure this problem is rectified,' Hedegaard told Berlingske Tidende newspaper.

Her comments come on the heels of the government's new energy agreement ratified by parliament last week, which calls for the country to have 20 percent of its energy produced by sustainable sources by 2011.

In first of the two collapses, near the city of Århus, a 10-year-old windmill began spinning out of control during high winds. A recording of the explosion-like collapse shows one of the wing blades breaking off, casting debris into the three other wings and shearing the 60-metre tower nearly in half.

Vestas itself will also now conduct an internal investigation to determine why the wind turbines have been breaking down.

'We've still got about 35,000 wind turbines across the globe that are operating fine,' said Peter Wenzel Kruse, Vestas's spokesperson. 'But they're not infallible. We're doing what we can and learning from our mistakes.'

Farmer Keld Boye, who lives in Vig where the latest incident occurred on Sunday, was clearly shaken by the wind turbine's implosion.

'I drive my tractor and my wife rides horses out there,' he said. 'Just think if we'd been out there when it happened.'

The Copenhagen Post

Edited February 25, 2008

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'I drive my tractor and my wife rides horses out there,' he said. 'Just think if we'd been out there when it happened.'

The Copenhagen Post

Edited February 25, 2008





W3866 Highway H  
Chilton, WI 53014  
March 6, 2008

Room 313 South  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882

Dear Senator Jeffrey Plale, *Chairman*  
*Commerce, Utilities & Rail Committee,*

Thank you for your consideration of SB544, on Wednesday March 5, 2008 and for allowing us to speak our thoughts on this important bill. Turning wind turbine siting over to the PSC is not a good idea. Citizens, who are normally employed would usually be unable to attend PSC hearings. Wind Energy Representatives would be present on their payroll. Such hearings would be extremely one-sided and undemocratic.

Wind energy capture around the world has proven very contentious. There are reasons for this including environmental effects on ecology and human health. I'd like to think that local human rights would be preserved, but as a realist, I expect them to be overridden when a modified version of ~~AVB59~~ is passed. *SB 544*

Sincerely, I wish there would be language included to eliminate the "Gag Clauses" in landowner contracts; citizens should not be forced to give up their rights to free speech.

Also, provision should be included to encourage legitimate peer-reviewable scientific research re: effects on the environment, wildlife, and human health. Currently such research is impossible due to restricted access to sites, and gag-orders maintained by wind companies.

Thank you for your consideration.

Sincerely,  
Martin Rudy  
Town of Brothertown

*Martin Rudy*