

State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

THIS ADVISORY OPINION IS PUBLIC DATA

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NONPUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)**

**RE: Lobbyist registration for wind project siting proceedings before the Public
Utilities Commission**

ADVISORY OPINION 444

SUMMARY

Wind project siting proceedings before the Public Utilities Commission are administrative actions that subject individuals attempting to influence the Commission on those matters to the lobbyist registration requirements in Chapter 10A.

FACTS

You request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts that were provided in the letter requesting the advisory opinion and in discussions with Board staff.

1. You are an individual who represents clients in wind project siting proceedings before the Public Utilities Commission (PUC).
2. Your representation of these clients involves attempting to influence the wind project siting decisions made by the PUC.

ISSUE

Is a wind project siting proceeding before the Public Utilities Commission an administrative action that subjects an individual attempting to influence that action to the lobbyist registration requirements in Chapter 10A?

OPINION

An individual is subject to the lobbyist registration requirements in Chapter 10A if the individual attempts to influence legislative action, the actions of a metropolitan governmental unit, or administrative action.

"Administrative action" means an action by any official, board, commission or agency of the executive branch to adopt, amend, or repeal a rule under chapter 14. "Administrative action" does not include the application or administration of an adopted rule, except in cases of

rate setting, power plant and powerline siting, and granting of certificates of need under section 216B.243.

Minn. Stat. §10A.02, subd. 2.

In a 2012 enforcement decision, the Board addressed the issue of whether a wind project siting proceeding before the Public Utilities Commission (PUC) is a power plant siting, and thus is an administrative action under the above-cited statute.¹ In its decision, the Board examined the statutory framework that governs power plant and wind project siting proceedings before the PUC. The Board first noted, as does the requester, that Minnesota Statutes Chapter 216E governs power plant siting, while wind project site permits are initiated under Minnesota Statutes Chapter 216F. The Board concluded, however, that because Chapter 216F provides that significant portions of Chapter 216E are applicable to wind project siting proceedings, wind project siting proceedings are power plant siting proceedings. The Board therefore determined that wind project siting proceedings are administrative actions under Minnesota Statutes section 10A.02, subdivision 2.

In its analysis, the Board found it significant that the legislature used a specific statutory section to limit the types of certificates of need covered by the administrative action definition, but did not include a similar limit in the power plant and powerline siting clause. The Board therefore found no basis to believe that the legislature intended to exclude any type of power plant and powerline siting from the definition of administrative action.

In the enforcement decision, the Board noted the high level of public interest in the siting of the wind project in question and recognized that such interest is common to the development of any large energy facility. The Board stated that excluding a site permit for a wind project facility from the definition of administrative action based solely on the source of energy used by the facility would unfairly deny the public disclosure on the associations and money spent trying to influence the PUC in those actions.

Because a wind project siting proceeding is a power plant siting proceeding, a wind project siting proceeding is an administrative action under Minnesota Statutes section 10A.02, subdivision 2. A person who attempts to influence the PUC regarding a wind project siting proceeding therefore is subject to the lobbyist registration requirements in Chapter 10A.

Issued: October 4, 2017

/s/ Daniel N. Rosen
Daniel N. Rosen, Chair
Campaign Finance and Public Disclosure Board

¹ In the Matter of the Complaint of Ward regarding Daniel Schleck, the Coalition for Sensible Siting, Carol Overland, and Goodhue Wind Truth (April 3, 2012)