

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE APPLICATION
BY PREVAILING WIND PARK, LLC FOR
A PERMIT OF A WIND ENERGY
FACILITY IN BON HOMME COUNTY,
CHARLES MIX COUNTY AND
HUTCHINSON COUNTY, SOUTH
DAKOTA, FOR THE PREVAILING
WIND PARK PROJECT**

**MOTION TO HAVE WITNESSES
APPEAR TELEPHONICALLY**

EL 18-026

Intervenors Gregg Hubner, Marsha Hubner, Lisa Schoenfelder, and Paul Schoenfelder (“Intervenors”), by and through counsel, hereby request permission from the Commission to allow their expert witnesses, Richard James, Jerry Punch, and Mariana Alves-Pereira, to appear telephonically or via video conference for the Evidentiary Hearing scheduled in this matter beginning October 9, 2018, through October 12, 2018.

Richard James is from Okemos, Michigan; Jerry Punch is from Okemos, Michigan; and Mariana Alves-Pereira is from Portugal. Thus, traveling to Pierre, South Dakota, for the Evidentiary Hearing is a major inconvenience for these witnesses, who have obligations unrelated to providing testimony before the Commission.

Moreover, the calendar of this proceeding made it very difficult to plan for travel arrangements. The Application was filed May 30, 2018. On August 7, 2018, the Commission granted party status to Intervenors and ordered that all expert pre-filed testimony be filed by September 10, 2018, and that the Evidentiary Hearing would take place October 9-12, 2018. Intervenors had very little time to even locate experts, let alone experts who readily available and willing to travel to South Dakota on such short notice.

If these experts are required to travel to South Dakota, Intervenors, as is the custom, would be expected to pay for the experts' time and expense involved with such travel, which is anticipated to be thousands and thousands of dollars.¹ That would be very costly for Intervenors and, frankly, puts an undue and unfair burden on those persons of limited means wanting to participate as intervenors in Commission proceedings.

Finally, expert witnesses have been permitted to testify telephonically in other proceedings, and the telephonic testimony did not create any significant or substantial issues in that proceeding. *See* EL 17-055.

For the foregoing reasons, Intervenors, in accordance with their due process rights, request permission from the Commission to allow Richard James, Jerry Punch, and Mariana Alves-Pereira to appear telephonically or via video conference for the Evidentiary Hearing scheduled in this matter beginning October 9, 2018, through October 12, 2018.

Dated this 13th day of September, 2018.

DAVENPORT, EVANS, HURWITZ &
SMITH, L.L.P.



Reece M. Almond
206 West 14th Street
P.O. Box 1030
Sioux Falls, SD 57101-1030
Telephone: (605) 336-2880
Facsimile: (605) 335-3639
E-mail: ralmond@dehs.com

*Attorneys for Intervenors Gregg Hubner,
Marsha Hubner, Paul Schoenfelder and
Lisa Schoenfelder*

¹ Richard James has congestive heart failure and does not fly. Therefore, if he were to travel to the Evidentiary Hearing, it would be by car, which would be even greater costs to Intervenors.

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Intervenors Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder, certifies that a true and correct copy of the Motion to Have Witnesses Appear Telephonically was served on September 13, 2018, via email, upon the following persons listed on the South Dakota Public Utilities Commission's docket service list:

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
patty.vangerpen@state.sd.us

Ms. Bridget Canty
Permitting Project Manager
sPower
201 Mission St., Suite 540
San Francisco, CA 94105
bcanty@spower.com

Ms. Kristen Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
kristen.edwards@state.sd.us

Ms. Mollie M. Smith
Fredrikson & Byron, P.A.
200 South Sixth St., Ste. 4000
Minneapolis, MN 55402
msmith@fredlaw.com

Mr. Darren Kearney
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
darren.kearney@state.sd.us

Ms. Lisa M. Agrimonti
Fredrikson & Byron, P.A.
200 South Sixth St., Ste. 4000
Minneapolis, MN 55402
lagrimonti@fredlaw.com

Mr. Jon Thurber
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
jon.thurber@state.sd.us

Ms. Jennifer Bell
Senior Environmental Scientist
Burns & McDonnell Engineering Co., Inc.
9785 Maroon Circle, Ste. 400
Centennial, CO 80112
jbelle@burnsmcd.com

Ms. Tamara Brunken
Bon Homme County Auditor
PO Box 605
Tyndall, SD 57066
tamara.brunken@state.sd.us

Ms. Diane Murtha
Hutchinson County Auditor
140 Euclid, Rm. 128
Olivet, SD 57052
auditor@gwtc.net

Ms. Sara Clayton
Charles Mix County Auditor
PO Box 490
Lake Andes, SD 57356
sclayton@charlesmixcounty.org

Mr. Keith Mushitz, Chairperson
Charles Mix County Commission
PO Box 490
Lake Andes, SD 57356
sclayton@charlesmixcounty.org

Mr. Sherman Fuerniss
40263 293rd Street
Delmont, SD 57330
sol@midstatesd.net

Ms. Karen D. Jenkins
28912 – 410th Street
Tripp, SD 57356
jenkinskd55@gmail.com

Mr. Gregg C. Hubner
29976 – 406th Avenue
Avon, SD 57315-5446
gregghubner@gmail.com

Ms. Marsha Hubner
29976 – 406th Avenue
Avon, SD 57315-5446
mjhubner@gmail.com

Mr. Paul M. Schoenfelder
40228 – 296th Street
Wagner, SD 57380
paullisa5@msn.com

Ms. Lisa A. Schoenfelder
40228 – 296th Street
Wagner, SD 57380
paullisa5@msn.com

Dated this 13th day of September, 2018.



Reece M. Almond
206 West 14th Street
P.O. Box 1030
Sioux Falls, SD 57101-1030
Telephone: (605) 336-2880
Facsimile: (605) 335-3639
E-mail: ralmond@dehs.com
Attorneys for Intervenors