

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

<b>IN THE MATTER OF THE APPLICATION )</b>	
<b>BY PREVAILING WIND PARK, LLC FOR )</b>	<b>STAFF’S RESPONSE TO LATE</b>
<b>A PERMIT OF A WIND ENERGY )</b>	<b>INTERVENTION</b>
<b>FACILITY IN BON HOMME COUNTY, )</b>	
<b>CHARLES MIX COUNTY AND )</b>	<b>EL18-026</b>
<b>HUTCHINSON COUNTY, SOUTH )</b>	
<b>DAKOTA, FOR THE PREVAILING WIND )</b>	

On August 28, 2018, Kelli Pazour filed an application for party status. The deadline for filing applications for party status was July 30, 2018. The deadline is established by ARSD 20:10:22:40. Thus, Ms. Pazour’s application is late-filed.

ARSD 20:10:01:15.05 provides in relevant part that

[a] petition to intervene shall be granted by the commission if the petitioner shows that the petitioner is specifically deemed by statute to be interested in the matter involved, that the petitioner is specifically declared by statute to be an interested party to the proceeding, or that by the outcome of the proceeding the petitioner will be bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner as distinguished from an interest common to the public or to the taxpayers in general.

As a landowner in the project area, Ms. Pazour clearly has a legal interest in the proceeding. However, it is not clear from her application whether her interests are distinguished from the public in general or from other parties already involved in this docket. Thus, Staff looked to the public input hearing transcript for clarification on the issue of unique interest. The relevant excerpt is attached hereto. At the public input hearing on July 12, 2018, Ms. Pazour stated that she has a “ten-year old daughter who lost her hearing due to cancer” and now uses a BAHA. The concern that the sound from the Project will impact her daughter is unique to Ms.

Pazour. However, she is listed to testify as a lay witness for another party regarding this concern.

If this application meets the threshold for a distinguished interest, the next question is whether any party would be unduly prejudiced by the untimeliness of the intervention. The Commission issued a procedural schedule on August 9, 2018. The limited timeline with which we must work to process wind siting applications dictates strict compliance to that timeline. The date for filing prefiled direct testimony has passed. At the time this issue is heard only one week will remain in which to serve discovery requests. Rebuttal testimony is also due eight days after this application is heard. Staff cannot support any adjustment in the procedural schedule and would likely be greatly prejudiced if amendments were made to the procedural schedule. However, so long as Ms. Pazour is required to abide by the existing procedural schedule, the burden of the untimeliness of the application for party status is upon Ms. Pazour, rather than Staff. If the intervention does not affect the current schedule, it is difficult to conceive of how Staff could be prejudiced.

The six-month time frame in which to process a siting application is incredibly burdensome and difficult to work within. For this reason, Staff is very hesitant to set a precedent that the part status deadline need not be adhered to. We work very hard to vet the issues and seek out witnesses based on the issues raised early on. So, it is important for the public to understand that in order for Staff to address an issue, it must be raised in a timely manner.

Assuming the procedural schedule is unchanged, it is unclear whether Ms. Pazour would be more prejudiced by not gaining party status than Staff would be by the late intervention. Staff takes no position.

Dated this 14th day of September 2018.

A handwritten signature in blue ink that reads "Kristen Edwards". The signature is written in a cursive style with a horizontal line underneath it.

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1 money and it's all a myth that --

2 CHAIRMAN FIEGEN: Thank you.

3 MS. MEYER: -- there's going to be money for  
4 jobs, schools, roads or anything else. Thank you.

5 CHAIRMAN FIEGEN: And then you can submit your  
6 written statement actually to the Commission in a  
7 filing, and you can talk to our staff because I know  
8 that the three Commissioners and the staff and the  
9 advisers will certainly read that.

10 MS. MEYER: Thank you.

11 CHAIRMAN FIEGEN: Thank you.

12 MS. PAZOUR: Thank you, Commissioners, for  
13 coming here, and Prevailing Winds. My name is Kelly  
14 Pazour. My home is at 29668 402 North Avenue,  
15 Wagner.

16 I was raised in Charles Mix County. I am  
17 the third generation. I have four children who are  
18 typically at home at my place. My biggest concern  
19 is I have a ten-year-old daughter who lost her  
20 hearing due to the cancer that she incurred. She  
21 now uses a Baha. The Baha sits on her bad ear and  
22 vibrates to her good ear so she can hear.

23 I'm asking the PUC to help with my way of  
24 life, my family, by identifying -- denying the  
25 Prevailing Winds project. Since 2014, I have looked

1 and done research about Beethoven Winds. My  
2 concerns are the impact of the infrasound issues  
3 that the turbines -- that the turbines give off.

4 I also take my daughter every six months  
5 to Mayo. They've also helped me to look into  
6 abstracts that could help us. I am asking the PUC  
7 to have a 3-mile setback to help us.

8 My question is, the infrasound is very  
9 different from the decibels, and my concern is with  
10 S-Power, Prevailing Winds, and all these companies  
11 that talk about decibels and the way that they  
12 measure the impact.

13 For example, the infrasound has no  
14 relation to the sounds of a refrigerator. Medical  
15 industry has diagnosed health issues with the flight  
16 to fight. How do we know if the decibels or the  
17 infrasounds are the culprits?

18 I assure -- can I assure my family that  
19 the sounds from the turbines will not impact my  
20 daughter, her hearing aid and her health? I request  
21 the PUC to do the right thing by denying Prevailing  
22 Winds their permit to overall protect my family and  
23 my neighbors and my way of life.

24 In a 3-mile radius of my place, I figured  
25 there is going to be about 18 turbines. My question

1 is: How much of an impact is that going to have on  
2 our family?

3 CHAIRMAN FIEGEN: Thank you.

4 MR. ADAM: Good evening Commissioners and  
5 staff. My name is Dave Adam, A-D-A-M. I'm from  
6 Clark, South Dakota.

7 These meetings are starting to be a pretty  
8 regular event these days with big wind really trying  
9 to take advantage of the production tax credit.

10 So even though big wind tonight says  
11 they'll install the ADLS system, I believe you, the  
12 Public Utility Commission needs to mandate that all  
13 wind projects that you are approving have the  
14 Aircraft Detection Lighting System installed on them  
15 and do what the State of North Dakota did and  
16 require that all wind projects, no matter if they're  
17 under 100-megawatts, that have already been built,  
18 have the ADLS system installed on them as well.

19 I will turn in the State of North Dakota  
20 law after I'm done here for you to look at.

21 Also, I've been working with some of the  
22 state representatives for getting this placed into  
23 law here in our state during the next legislative  
24 session.

25 The second item I would like to mention is


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**Certificate of Service**

**EL18-026**

I hereby certify that on September 14, 2018, true and correct copies of Staff's Response to Late Intervention and Attachment 1 were served electronically to the all parties on the Service List:

  
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Kristen N. Edwards