

**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**

*** APPLICANT’S RESPONSES TO
* INTERVENORS’ FIRST SET OF DATA
* REQUESTS
* EL18-026
*
*
*
*
*

Below, please find the responses of Prevailing Wind Park, LLC (“Applicant” or “Prevailing Wind Park”) to Intervenors’ First Set of Data Requests to Applicant.

Objections to Definitions

Prevailing Wind Park objects to the definitions of “You” and “Your”. For purposes of these responses, “You” and “Your” shall refer to Prevailing Wind Park, LLC, the applicant in this matter and its parent company, sPower Development Company, LLC, and any employees thereof.

1-1) Provide copies of all data requests and responses submitted to or by You.

Lisa Agrimonti: Copies of all data requests and non-confidential responses submitted to or by Prevailing Wind Park are provided at the following link: <https://fredriksonandbyron.sharefile.com/d-s62d675400cc4b248>. Prevailing Wind Park will provide confidential responses provided in response to Staff Data Requests Set 1 pursuant to a protective agreement.

1-2) Produce all manuals, guides, information sheets, studies, reports, and like documents that refer or relate to the turbine model selected for the Project, namely the GE 3.8-137.

Lisa Agrimonti: Prevailing Wind Park objects to this request to the extent that it seeks information and/or documents not in the possession, custody, or control of Prevailing Wind Park, or that are confidential. Prevailing Wind Park further objects to this request because it is overbroad and vague in its request for “like documents.” Subject to and without waiving this objection, Prevailing Wind Park further responds:

Peter Pawlowski: sPower Development Company LLC (“sPower”) has a copy of the safety manual for the GE 3.8-137 turbine model that is subject to a confidentiality agreement. sPower is in contact with General Electric to determine under what circumstances the document may be disclosed in this docket. Additional information about the GE turbine can be found on General Electric’s publicly available website. See <https://www.ge.com/renewableenergy/wind-energy/turbines/3mw-platform>.

1-3) Produce all studies, reports, and like documents that refer or relate to ice-throw from turbines.

Lisa Agrimonti: Prevailing Wind Park objects to this request to the extent that it seeks information and/or documents not in the possession, custody, or control of Prevailing Wind Park, or that is confidential. Prevailing Wind Park further objects to this request because it is overbroad and vague in its request for “like documents.” Subject to and without waiving this objection, Prevailing Wind Park further responds:

Peter Pawlowski: See response to 1-2.

1-4) Produce all studies, reports, and like documents analyzing turbines 586 feet or taller.

Lisa Agrimonti: Prevailing Wind Park objects to this request to the extent that it seeks information and/or documents not in the possession, custody, or control of Prevailing Wind Park, or that is confidential. Prevailing Wind Park further objects to this request because it is overbroad and vague in its request for “like documents” and the meaning of “analyzing”. Subject to and without waiving this objection, Prevailing Wind Park further responds:

Peter Pawlowski: See the Application for turbine related studies.

1-5) Produce all publications, manuals, guides, information sheets, studies, reports, and like documents that refer or relate to safety distances from turbines and/or danger zones.

Lisa Agrimonti: Prevailing Wind Park objects to this request to the extent that it seeks information and/or documents not in the possession, custody, or control of Prevailing Wind Park, or that is confidential. Prevailing Wind Park further objects to this request because it is overbroad and vague in its request for “like documents.” Subject to and without waiving this objection, Prevailing Wind Park further responds:

Scott Creech: See response to Data Request 1-3. Safety manuals for the turbines do not specify safety or danger zones applicable to standard turbine operations. Rather, safety manuals identify specific precautionary measures workers should implement when conducting routine maintenance and in emergency situations.

1-6) Produce all written communications, electronic or otherwise, between You and any representative of Bon Homme, Charles Mix, or Hutchinson counties.

Lisa Agrimonti: Prevailing Wind Park objects to this request because it is overbroad regarding the subject matter, time and individuals and not reasonably calculated to lead to the discovery of admissible evidence.

- 1-7) Produce all written communications, electronic or otherwise, between You and any representative of Planning and Development District III, including but not limited to Brian McGinnis.**

Lisa Agrimonti: Prevailing Wind Park objects to this request because it is overbroad regarding the subject matter and time and not reasonably calculated to lead to the discovery of admissible evidence.

- 1-8) Produce all written communications, electronic or otherwise, between You and any representative of the Yankton Sioux Tribe.**

Lisa Agrimonti: Prevailing Wind Park objects to this request because it is overbroad. Prevailing Wind Park further objects to this request to the extent that it seeks confidential information.

- 1-9) Explain Erik Johnson's role with the Project.**

Peter Pawlowski: Erik Johnson has no role in the Project. Mr. Johnson sits on the board of Prevailing Winds, LLC and otherwise supports and advocates for the Project as a private citizen.

- 1-10) Explain Ronnie Hornstra's role with the Project.**

Peter Pawlowski: Ronnie (Ron) Hornstra has no role in the project. Mr. Hornstra sits on the board of Prevailing Winds, LLC and otherwise supports and advocates for the Project as a private citizen.

- 1-11) State the number of participating residences located within (a) 1,000 feet of a turbine; (b) 2,000 feet of a turbine; (c) 1/2 mile of a turbine; (d) 1 mile of a turbine; and (e) 2 miles of a turbine.**

Bridget Canty: As shown in layout shown in the Application:

(a) There are **0** participating residences within 1,000 feet of a proposed turbine location;

(b) There are **5** participating residences within 2,000 feet of a proposed turbine location;

(c) There are **21** participating residences within ½ mile of a proposed turbine location;

(d) There are **40** participating residences within one mile of a proposed turbine location; and

(e) There are **45** participating residences within two miles of a proposed turbine location.

- 1-12) State the number of non-participating residences located within (a) 1,000 feet of a turbine; (b) 2,000 feet of a turbine; (c) 1/2 mile of a turbine; (d) 1 mile of a turbine; and (e) 2 miles of a turbine.**

Bridget Canty: As shown in the layout in the Application:

(a) There are **0** non-participating residences within 1,000 feet of a proposed turbine location;

(b) There is **1** non-participating residence within 2,000 feet of a proposed turbine location;

(c) There are **10** non-participating residences within ½ mile of a proposed turbine location;

(d) There are **46** non-participating residences within one mile of a proposed turbine location; and

(e) There are **82** non-participating residences within two miles of a proposed turbine location.

- 1-13) How many participating landowners are there for the Project?**

Peter Pawlowski: There are 176 land rights agreements related to this Project.

- 1-14) Assuming all turbines are built, how many participating landowners will have a turbine located on their property?**

Peter Pawlowski: Based on the layout in the Application, 35 landowners would have turbines on their properties.

- 1-15) Identify by county, state, country, or regulatory body all setbacks from non-participating residences greater than 2,000 feet of which you are aware. In doing so, provide the distance of the setback that exists.**

Lisa Agrimonti: Prevailing Wind Park objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Further, since permitting requirements are typically public, this information is as available to the Intervenors as it is to Prevailing Wind Park.

- 1-16) Admit that the attached Wind Energy Lease and Wind Easement Agreement marked as Exhibit A is an example of an easement agreement provided to landowners for the Project.**

Peter Pawlowski: Exhibit A to Intervenors First Set of Data Requests to Applicant is a form of agreement Prevailing Winds, LLC and Prevailing Wind Park, LLC used to acquire easements from landowners. Prevailing Wind Park treats its easement forms as confidential and undertakes efforts to maintain the documents as such, as they do contain

information, the disclosure of which would result in commercial and competitive harm to the company. Prevailing Wind Park maintains that Exhibit A should be treated as a confidential document in this proceeding.

- 1-17) Identify any Bon Homme, Charles Mix, or Hutchinson county commissioner or planning or zoning board member that has executed any agreement with You. Explain any such agreement.**

Lisa Agrimonti: Prevailing Wind Park objects to this request because it is not reasonably calculated to lead to the discovery of admissible evidence and to the extent it seeks confidential information. Subject to and without waiving this objection, Prevailing Wind Park further responds:

Peter Pawlowski: Bon Homme County Commissioner Bruce Voigt is a participating landowner in the Prevailing Wind Park Project.

- 1-18) Identify all other wind projects for which You have been involved with the development thereof in the past 10 years. For each project, identify all applicable setbacks and noise restrictions.**

Lisa Agrimonti: Prevailing Wind Park objects to this request as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The setbacks for a wind farm in a different jurisdiction are not relevant to the South Dakota Public Utilities Commission's decision on the applicable setbacks for the proposed Project. Subject to and without waiving this objection, Prevailing Wind Park further responds:

Peter Pawlowski: sPower has constructed, owns and operates Pioneer Wind Park in Wyoming and Latigo Wind Park in Utah.

- 1-19) Identify the legal entity from which You are procuring the turbines.**

Peter Pawlowski: GE Renewables North America, LLC.

- 1-20) Please state the difference between Prevailing Winds LLC and Prevailing Winds Park LLC.**

Peter Pawlowski: Prevailing Wind Park, LLC is the applicant and holder of the Project assets. Prevailing Winds, LLC sold Prevailing Wind Park, LLC to sPower Development Company, LLC.

- 1-21) Explain why NEC1, LLC was formed and its role in the Project?**

Peter Pawlowski: The entity referenced above is not related to this Project.

- 1-22) Identify any Bon Homme County, Charles Mix County, or Hutchinson County, South Dakota County Commissioner or Planning or Zoning Board Member that is or was an investor in the Project.**

Lisa Agrimonti: Prevailing Wind Park objects to this request because it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Peter Pawlowski: Bon Homme County Commissioner Bruce Voight is a participant in the Project.

- 1-23) Identify the number of incidents that have occurred at Your projects where a turbine has fallen over, started on fire, or had a blade or piece of blade fall off the turbine and briefly describe each incident. Produce any documents, reports, communications, studies, complaints, or the like related to any such incident.**

Lisa Agrimonti: Prevailing Wind Park objects to this request because it is overly broad and vague.

Peter Pawlowski: No operating wind project owned by sPower has had incidents as listed above.

- 1-24) Identify the number of complaints You have received regarding ice being thrown or falling from a turbine. Produce any documents, reports, communications, studies, complaints, or the like related to any such complaint.**

Peter Pawlowski: None.

- 1-25) Identify the number of injuries that have occurred at Your projects resulting from a turbine malfunction or ice being thrown or falling from a turbine.**

Peter Pawlowski: None.

- 1-26) State the furthest distance for which you are aware that ice has been thrown from a turbine.**

Scott Creech: I do not have an exact measurement, but the farthest distance I am aware of ice being thrown from a turbine is approximately 250 feet.

- 1-27) State the furthest distance for which you are aware that a blade or piece of blade has been thrown from a turbine.**

Scott Creech: During my operations career, I have only observed one blade being dropped from a turbine a distance of approximately 54 meters, about half the blade diameter which was 108 meters.

Dated this 19th day of September, 2018.

By */s/Lisa M. Agrimonti* _____
Mollie M. Smith
Lisa M. Agrimonti
FREDRIKSON & BYRON, P.A.
Attorneys for Applicant
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402
Phone: (612) 492-7270
Fax: (612) 492-7077

64792770.4

**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**

*
*
*
*
*
*
*
*

CERTIFICATE OF SERVICE

EL18-026

Lisa Agrimonti, of Fredrikson & Byron, P.A., hereby certifies that on the 19th day of September, 2018, true and correct copies of the following documents were served electronically on the persons listed below:

1. Applicant’s Responses to Intervenors’ First Set of Data Requests; and
2. Certificate of Service.

Ms. Kristen Edwards Staff Attorney South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 Kristen.edwards@state.sd.us	Ms. Amanda Reiss Staff Attorney South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 amanda.reiss@state.sd.us
Mr. Darren Kearney Staff Analyst South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 darren.kearney@state.sd.us	Mr. Jon Thurber Staff Analyst South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 jon.thurber@state.sd.us
Reece M. Almond – Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder, and Lisa A. Schoenfelder Davenport, Evans, Hurwitz & Smith. LLP 206 West 14th Street P.O. Box 1030 Sioux Falls, SD 57101 ralmond@dehs.com	Ms. Mollie Smith - Representing: Prevailing Wind Park, LLC Fredrikson & Byron, P.A. 200 S. 6th St., Ste. 4000 Minneapolis, MN 55402 msmith@fredlaw.com

/s/ Lisa Agrimonti

Lisa Agrimonti