

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

**IN THE MATTER OF THE
APPLICATION OF DEUEL HARVEST
WIND ENERGY LLC FOR A PERMIT
OF A WIND ENERGY FACILITY AND
A 345-KV TRANSMISSION LINE IN
DEUEL COUNTY**

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**ADDITIONAL INFORMATION IN
SUPPORT OF MOTION FOR DENIAL**

EL18-053

I'm providing this additional information for the consideration of the Commission in support of the motion for denial. These details demonstrate that the application was not complete at the time it was submitted, nor has the Applicant been acting in a manner compliant with the procedural schedule and orders established by the Commission.

The aviation study included in the application as Appendix S states in many places that further studies are required before determining the final turbine sites. As such the application is not complete and there is no detailed plan specified for when the work will be completed, just that "it will" at some time in the future. The applicant has a burden to prove the project DOES comply with all applicable laws, not just that the project eventually WILL comply with all applicable laws. The application, on its face, is incomplete, and therefore the project should be immediately denied instead of continuing to waste Intervenor and State resources while the applicant finishes the work they were supposed to do ahead of time.

Regarding the details of the Aviation Study provided as Appendix S to the Application:

Page 3 states "This analysis did not consider communications or navigation systems." Neither the aviation study nor the application itself state that this will be completed. Without considering the impacts to aviation communication and navigation systems, it is impossible to say whether the project will or will not impact public safety, which is significant. Therefore, clearly the applicant hasn't met their burden of proof. Comms could be affected between the pilot and regional air traffic control (ATC) for flights conducted under instrument flight rules (IFR) or visual flight rules (VFR) flights conducted with ATC oversight for safety (referred to Flight Following). This could also affect pilot to pilot communications at airports without control towers in the vicinity (all of them). If the signals from navigation systems are affected, one being VHF Omnidirectional Range radio navigation aids (VORs), it could lead to catastrophic accidents. VOR navigation is one way pilots navigate the airspace and airways in the vicinity and ensure they remain safely away from obstructions on the maps - so if the project could affect a VOR signal in the area, there's a real possibility that signal could lie to the pilot and be read as if they're on course and safe when in fact they are on a collision course with an obstacle. The applicant hasn't even considered this in the project application.

Page 6 states that the project impacts imaginary surfaces for 5H3 (Clear Lake Municipal Airport), which will trigger more in depth studies. **The application is not complete.**

Page 7 states the project impacts the 5H3 traffic pattern airspace and further studies are required. **The application is not complete.**

Page 8 states that the project will impact Victor Airways and further studies will be required before siting. **The application is not complete.**

Page 9 states the project is visible to FAA/DoD long range radar and that an in-depth FAA radar impact study may be required. **The application is not complete.** But this is one that the application does actually address in some way, in sections 15.6.2, 15.6.4, and 20.4.2.2, albeit without any details or final findings provided. All that is stated is that this work will be done at some time in the future.

Page 13 states FAA studies will be necessary to determine the potential impact on VFR flyways. **The application is not complete.**

Page 15 states radar line of sight will require further in-depth analysis before the final siting can be locked. **The application is not complete.** Again, this one is addressed in some manner in the application, but no details or final findings are provided.

The general position that the remaining necessary work will be done some time in the future is unacceptable and contrary to the entire permitting process. If the details aren't known at the time of the permit application being made, the applicant is essentially asking the PUC to "allow us to do something like this, and will figure out the rest as we go." That is a complete perversion of both the intent and purpose of the permitting process, not to mention a waste of the State's time and resources.

In addition to the gaps in the aviation study described above, the applicant has not acted in accordance with the procedural scheduled by the Commission regarding responses to data requests, that responses to discovery are due ten business days after service of discovery except as provided in the procedural schedule. In the APPLICANT'S RESPONSES TO INTERVENOR GARRETT HOMAN'S FIRST SET OF DATA REQUESTS TO DEUEL HARVEST WIND ENERGY LLC (APPLICANT) there were numerous questions they chose not to answer and as such are not following the procedure orders. In addition, many responses were given that do not uphold the statements or claims made in the application, and therefore the application is written in what would be assumed to be an intentionally misleading manner.

1-1) Please provide copies of all data requests submitted by PUC staff to Deuel Harvest Wind Energy LLC in this proceeding and copies of all responses to those data requests. Provide this information to date and on an ongoing basis.

Lisa Agrimonti: Response documents will be provided.

No response documents were provided with the Applicant's response, and still have not been provided. **The applicant is not upholding the procedural schedule ordered by the Commission.**

1-4) Regarding Section 6.0 of the project application:

a) It is stated "The Project would also provide electricity with zero emissions costs to the grid." What is the estimate of carbon emissions created by the materials manufacturing, parts transportation, construction, turbine maintenance, and project decommissioning activities required over the entire project lifetime?

Lisa Agrimonti: Deuel Harvest objects to this request because it is vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Deuel Harvest further objects to this request because it seeks information not in the custody of control of Deuel Harvest.

The applicant makes claims in the application with the intent of making the project sound positive or attractive, but are not able or willing to provide justification of those claims made, even when data requests are made. It would seem that the applicant just doesn't want to answer the data request, so they didn't.

1-4) b) It is stated "Over the estimated 30-year life of the Project, the Project is expected to directly generate more than \$4.5 million in annual local revenue, including taxes, lease payments, and local staff salaries."

ii) Of the tower lease payments dollar amount claimed, what percentage of that will be paid to county residents vs. others.

Lisa Agrimonti: Deuel Harvest objects to this request because it is ambiguous and not reasonably calculated to lead to the discovery of admissible evidence. In addition, the information sought by the request is confidential.

The applicant makes claims in the application with the intent of making the project sound positive or attractive, but are not able or willing to provide justification of those claims when data requests are made. Additionally, there is nothing confidential about a percentage of an average annual local revenue number, which would not identify individuals or contract details by providing. It would seem that the applicant just doesn't want to answer the data request, so they didn't.

The applicant has not submitted a complete and correct application. They applicant also has not been acting in a manner compliant with the procedural schedule or orders of the Commission. For these reasons, I respectfully request that the Commission deny a permit to Deuel Harvest Energy at this time.

Date 3/26/19

Respectfully,



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