

**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)**

**ORDER GRANTING
MOTION FOR TELEPHONIC
TESTIMONY AND ORDER
DENYING MOTION TO EXCLUDE
LAY TESTIMONIES AND
QUASHING SUBPOENAS**

EL18-026

On May 30, 2018, the South Dakota Public Utilities Commission (Commission) received an Application for a Facility Permit for a wind energy facility (Application) from Prevailing Wind Park, LLC to construct the Prevailing Wind Park Project (Project), a wind energy facility located on approximately 50,364 acres of land in Bon Homme, Charles Mix, and Hutchinson counties, South Dakota, between the towns of Avon, Tripp, and Wagner, South Dakota. The total installed capacity of the Project would not exceed 219.6 MW nameplate capacity. The proposed Project includes up to 61 wind turbine generators, access roads to turbines and associated facilities, underground electrical power collector lines connecting the turbines to the collection substation, an operation and maintenance facility, and temporary construction areas, including crane paths, public road improvements, a laydown yard, and a concrete batch plant(s) (as needed), and four permanent meteorological towers. The Project would interconnect at Western Area Power Administration's existing Utica Junction Substation, located approximately 27 miles east of the Project.

On May 31, 2018, the Commission electronically transmitted notice of the filing and the intervention deadline of July 30, 2018, to interested persons and entities on the Commission's PUC Weekly Filings electronic listserv. On June 1, 2018, the Commission issued a Notice of Application; Order for and Notice of Public Input Hearing; Notice of Opportunity to Apply for Party Status. On July 12, 2018, a public input hearing was held as scheduled. On July 20, 2018, Commission Staff submitted a Motion for Adoption of Procedural Schedule. On August 2, 2018, Prevailing Winds filed a Response Motion for Adoption of Procedural Schedule. On August 9, 2018, the Commission adopted the proposed procedural schedule and granted party status to Gregg Hubner, Marsha Hubner, Paul Schoenfelder, Charles Mix County, Sherman Fuerniss, and Karen Jenkins. On August 17, 2018, Reece Almond, of Davenport, Evans, Hurwitz & Smith, L.L.P, filed a Notice of Appearance on behalf of Gregg Hubner, Marsha Hubner, Paul Schoenfelder, and Lisa Schoenfelder. On August 28, 2018, Kelli Pazour filed a late application for party status.

On September 10, 2018, Mr. Almond submitted Disclosure of Lay Witnesses and Direct Testimonies and Exhibits, and Commission Staff filed its Testimonies and Exhibits. Kelli Pazour filed Letter Regarding Testimony on September 11, 2018. On September 13, 2018, Mr. Almond filed a Motion to Have Witnesses Appear Telephonically. On September 14, 2018, Prevailing Wind Park filed Letter Regarding Motion to Exclude Lay Testimony, to Quash Subpoenas and to Require Further Disclosures. Commission Staff and Mr. Almond responded to Prevailing Wind Park's motion on September 19, 2018, and Prevailing Wind Park also responded to Mr. Almond's Motion to Have Witnesses Appear Telephonically. Intervenor, Karen Jenkins, responded to Prevailing Wind Park's Motion to Exclude Lay Testimony, to Quash Subpoenas and to Require Further Disclosures on September 20, 2018. On September 21, 2018, the Commission issued its order granting Kelli Pazour party status.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B, and ARSD Chapter 20:10:22.

At an ad hoc hearing on September 21, 2018, the Commission considered this matter. Prevailing Wind Park withdrew its request for further disclosures. Having heard the arguments and admissions of the parties, considered all the written and oral arguments of the parties and counsel, with Commissioner Nelson dissenting, the Commission voted to grant the Motion to Have Witnesses Appear Telephonically and deny the Motion to Exclude Lay Testimony and to Quash Subpoenas. It is therefore

ORDERED, that the Motion to Have Witnesses Appear Telephonically is granted. It is further

ORDERED, that the Motion to Exclude Lay Testimony and to Quash Subpoenas is denied.

Dated at Pierre, South Dakota, this 1st day of October 2018.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.
By: <u>Adam DeHueck</u>
Date: <u>10/1/18</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kristie Fiegen

KRISTIE FIEGEN, Chairperson

Gary Hanson

GARY HANSON, Commissioner

CHRIS NELSON, Commissioner
Dissenting