

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION)	ORDER GRANTING MOTION TO)
OF DEUEL HARVEST WIND ENERGY)	EXCLUDE TESTIMONY RELATED)
LLC FOR A PERMIT OF A WIND ENERGY)	TO LOCAL LAND USE DECISIONS)
FACILITY AND A 345-KV TRANSMISSION)	AS IT RELATES TO THE)
LINE IN DEUEL COUNTY)	INVALIDATED SPECIAL)
)	EXCEPTION PERMIT OF DEUEL)
)	HARVEST; ORDER ALLOWING)
)	JOHN HOMAN’S SUBPOENAED)
)	WITNESSES TO TESTIFY ONLY)
)	FOR REBUTTAL AND/OR)
)	IMPEACHMENT PURPOSES)
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))
)	EL18-053

On November 30, 2018, the South Dakota Public Utilities Commission (Commission) received an Application for Facility Permits (Application) from Deuel Harvest Wind Energy LLC (Deuel Harvest or Applicant), an affiliate of Invenergy LLC. Deuel Harvest proposes to construct a wind energy facility and a 345-kilovolt (kV) transmission line with an associated 345-kV interconnection substation to be located in Deuel County, South Dakota, known as the Deuel Harvest North Wind Farm (Project). The Project would be situated within an approximately 48,730-acre project area, in the townships of Portland, Lowe, Altamont, Glenwood, and Herrick (Project Area). The total installed capacity of the Project would not exceed 310.1 megawatts (MW) of nameplate capacity. The proposed Project includes up to 112 wind turbine generators, access roads to turbines and associated facilities, underground 34.5-kV electrical collector lines, underground fiber-optic cable, a 34.5-kV to 345-kV collection substation, up to four permanent meteorological towers, a 345-kV interconnection substation, an approximately 150-foot long 345-kV transmission line connecting the Project substation and the Interconnection substation, and an operations and maintenance facility. The Project would interconnect to the regional electric grid along the Big Stone to Brookings 345-kV transmission line via a new 345-kV Interconnection Substation located in Glenwood Township and be able to deliver 300 MW of electricity. Deuel Harvest is negotiating a Generator Interconnection Agreement with Otter Tail Power Company and Midcontinent Independent System Operator, Inc. The Project is expected to be completed in 2020. Applicant estimates the total construction cost to be \$400 million.

On December 6, 2018, the Commission electronically transmitted notice of the filing and the intervention deadline of January 29, 2019, to interested persons and entities on the Commission’s PUC Weekly Filings electronic listserv. On December 12, 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 January 24, 2019, a public input hearing was held as scheduled in Clear Lake, South Dakota. On January 25, 2019, Commission staff (Staff) submitted a Motion for Adoption of Procedural Schedule. The Commission received applications for party status from ten individuals. On February 5, 2019, the Commission issued an Order Granting Party Status; Order Establishing Procedural schedule. On March 6, 2019, the Commission issued an Order Granting Withdrawal of Party Status to Nancy Henslin, Ruby Holborn, and George Holborn. On March 8, 2019, Christina Kilby (Kilby) filed a Motion for Denial. On March 11, 2019, the Commission issued an Order for and Notice of Evidentiary Hearing. On March 14, 2019, the parties filed prefiled testimony. On March 19, 2019, the Commission issued an Order For and Notice of Motion Hearing on Less than 10 Days’ Notice. On March 20, 2019, Applicant filed a Response to Kilby’s Motion for Denial. On March 26, 2019, Intervenor Kilby filed a Reply Brief in Support of Motion to Deny. On March 28, 2019, Applicant filed a Motion to Exclude Portions of Testimony and/or Exhibits of Intervenor. On March 29, 2019, the Commission issued an Order Denying Motion for Denial. On

April 1, 2019, Garrett Homan, Staff, Applicant, and Kilby filed rebuttal testimony. On April 2, 2019, John Homan filed rebuttal testimony. On April 2, 2019, Kilby filed a Motion to Allow Robert Rand to Appear Telephonically and Applicant filed a Motion to Exclude Testimony Related to Local Land Use Decisions. On April 3, 2019, Garrett Homan filed a Motion to Allow Kevin Elwood to Appear Telephonically and Kilby filed a Motion to Compel Deuel Harvest's Responses and Production of Documents. On April 3, 2019, Applicant filed a letter to amend its Motion to Exclude Portions of Testimony and/or Exhibits of Intervenor's dated March 28, 2019. On April 4, 2019, Staff filed its Response to Deuel Harvest's Motion to Exclude Testimony Related to Local Land Use Decisions, a Response to Deuel Harvest's Motion to Exclude Portions of Testimony and/or Exhibits of Intervenor's, and its Response to Allow Telephonic Testimony. On April 9, 2019, Kilby filed a response to the Motion to Compel and an Opposition to Motion to Exclude Testimony Related to Local Land Use Decisions; Deuel Harvest filed a letter regarding telephonic testimony and a Response to the Motion to Compel.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B, and ARSD Chapter 20:10:22. The Commission may rely upon any or all of these or other laws of this state in making its determination.

At an ad hoc hearing on April 10, 2019, the Commission considered this matter. Having heard the arguments and admissions of the parties, having considered all the written and oral arguments of the parties and counsel, the Commission unanimously voted to grant the Motion to Exclude Testimony Related to Local Land Use Decisions as it relates to the invalidated Special Exception Permit of Deuel Harvest. The Commission further unanimously voted to allow John Homan's subpoenaed witnesses to testify only for rebuttal and/or impeachment purposes and to work with the parties to clarify who will be testifying and when by 12:00 p.m., CDT on Friday, April 12, 2019. It is therefore

ORDERED, that the Motion to Exclude Testimony Related to Local Land Use Decisions as it relates to the invalidated Special Exception Permit of Deuel Harvest is hereby granted. It is further

ORDERED, that John Homan's subpoenaed witnesses may be called to testify only for rebuttal and/or impeachment purposes and to work with the parties to clarify who will be testifying and when by 12:00 p.m., CDT on Friday, April 12, 2019.

Dated at Pierre, South Dakota, this 11th day of April 2019.

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><i>Karen E. Cremer</i></u>
Date: <u>4/11/19</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairperson

Chris Nelson
CHRIS NELSON, Commissioner

Kristie Fiegen
KRISTIE FIEGEN, Commissioner