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EL18-026 - 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

Date Filed: 05/30/18 ♦ Intervention Date: 07/30/18 ♦
Date of Notice of Filing: 05/31/18 ♦ Pending

Service List**Agendas:**

November 20, 2018, Ad Hoc Agenda of Commission Meeting
October 31, 2018, Agenda of Commission Meeting
September 21, 2018, Agenda of Ad Hoc Commission Meeting
September 18, 2018, Agenda of Commission Meeting
August 7, 2018, Agenda of Commission Meeting
June 12, 2018, Agenda of Commission Meeting

Minutes:

Minutes of November 20, 2018 Ad Hoc Commission Meeting
Contact [Precision Reporting](#) to order a written transcript of [EL18-026](#) discussion
Minutes of October 31, 2018 Commission Meeting
Contact [Precision Reporting](#) to order a written transcript of [EL18-026](#) discussion
Minutes of September 21, 2018, Ad Hoc Commission Meeting
Contact [Precision Reporting](#) to order a written transcript of [EL18-026](#) discussion
Minutes of September 18, 2018, Commission Meeting
Contact [Precision Reporting](#) to order a written transcript of [EL18-026](#) discussion
Minutes of August 7, 2018, Commission Meeting
Contact [Precision Reporting](#) to order a written transcript of [EL18-026](#) discussion
Minutes of June 12, 2018, Commission Meeting

Party Status Applications**Click For Comments and Responses****Pre-filed Testimonies and Exhibits; Supplemental Testimonies and Exhibits; Disclosure of Lay Witnesses; and Rebuttal Testimonies and Exhibits****Pre-filed Exhibits and Witness Lists for Evidentiary Hearing****Hearing:**

Public Input Hearing on the Application on July 12, 2018, at 5:30 p.m., CDT, at the Avon School, 210 Pine St., Avon, S.D.

- [06/01/18 - Notice of Application; Order for and Notice of Public Input Hearing; Notice of Opportunity to Apply for Party Status](#)
- [South Dakota Public Utilities Commission Information Guide to Siting Energy Conversion & Electric Transmission Facilities](#)
- [Party Status Application](#)
- [Recording](#)
- [Prevailing Wind Park, LLC's Presentation](#)
- [Sign In Sheets](#)
- [Comments of Lori Fuerniss](#)
 - [Comments of Lori Fuerniss Confidential \(not available to the public\)](#)
- [Comments of Ed Van Gerpen](#)
- [Comments of George L. Holborn](#)
 - [Comments of George L. Holborn Confidential \(not available to the public\)](#)
- [Comments of Ruby L. Holborn](#)
 - [Comments of Ruby L. Holborn Confidential \(not available to the public\)](#)
- [Comments of James and Julie Kaufman](#)
 - [Comments of James and Julie Kaufman Confidential \(not available to the public\)](#)

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- [Comments of Erik Johnson](#)
- [Comments of Jeff Haverly, S.D. Governor's Office of Economic Development](#)
- [Comments of Julie Freier](#)
 - [Comments of Julie Freier Confidential \(not available to the public\)](#)
- [Comments of Ronnie Hornstra](#)
 - [Comments of Ronnie Hornstra Confidential \(not available to the public\)](#)
- [Comments of Amber Christenson](#)
 - [Comments of Amber Christenson Confidential \(not available to the public\)](#)
- [Comments of Kelly Pazour](#)
 - [Comments of Kelly Pazour Confidential \(not available to the public\)](#)
- [Comments of Dave Adam](#)
- [Comments of Katie Bartunek](#)
- [Comments of Gregg Hubner](#)
- [Comments of Marsha Hubner](#)
 - [Comments of Marsha Hubner Confidential \(not available to the public\)](#)
- [Comments of Darci Adam](#)
 - [Comments of Darci Adam Confidential \(not available to the public\)](#)
- [Comments of Kristi Mogen](#)
- [Contact Precision Reporting](#) to order a written transcript

Evidentiary Hearing

A hearing will be held by the Commission beginning at 9:00 a.m., CDT, Tuesday, October 9, 2018, through Friday, October 12, 2018, with the marking of exhibits to begin at 8:30 a.m., CDT, on October 9, 2018, in Room 413 of the Capitol Building, 500 E. Capitol Ave., Pierre, South Dakota.

- [09/11/18 - Order For and Notice of Evidentiary Hearing](#)
- [Exhibits for Evidentiary Hearing](#)
- [Sign In Sheets](#)
 - [October 9, 2018](#)
 - [October 10, 2018](#)
 - [October 11, 2018](#)
 - [October 12, 2018](#)
- [Recordings](#)
 - [October 9, 2018](#)
 - [Morning Recording](#)
 - [Afternoon Recording](#)
 - [October 10, 2018](#)
 - [Morning Recording](#)
 - [Afternoon Recording](#)
 - [October 11, 2018](#)
 - [Morning Recording](#)
 - [Afternoon Recording](#)
 - [October 12, 2018](#)
 - [Recording](#)
- [Contact Precision Reporting](#) to order written transcripts.

Orders:

- [06/01/18 - Notice of Application; Order for and Notice of Public Input Hearing; Notice of Opportunity to Apply for Party Status](#)
- ~~[06/20/18 - Order Assessing Filing Fee; Authorizing Executive Director to Enter Into a Consulting Contract](#)~~ An amended order that corrected typographical errors in the original order was issued on 06/29/18.
- [06/29/18 - Amended Order Assessing Filing Fee; Authorizing Executive Director to Enter Into a Consulting Contract](#)
- [08/09/18 - Order Granting Party Status and Establishing Procedural Schedule \(Gregg Hubner, Marsha Hubner, Paul Schoenfelder, Lisa Schoenfelder, Charles Mix County, Sherman Fuerniss, and Karen Jenkins\)](#)
- [09/11/18 - Order For and Notice of Evidentiary Hearing](#)
- [09/14/18 - Order For and Notice of Ad Hoc Motions Hearing](#)
- [09/21/18 - Order Granting Late Party Status \(Kelli Pazour\)](#)

- 10/01/18 - Order Granting Motion for Telephonic Testimony and Order Denying Motion to Exclude Lay Testimonies and Quashing Subpoenas
- 11/01/18 - Order Redacting Exhibits and Testimonies
- 11/07/18 - Order For and Notice of Ad Hoc Hearing and Decision Date on Less Than 10 Days' Notice
- 11/28/18 - Final Decision and Order Granting Permit to Construct Facilities and Notice of Entry with Attached Permit Conditions

Filed Documents:

- 05/30/18 - Prevailing Wind Park, LLC's Letter regarding Application
 - Application
 - Appendix A - Figures
 - Appendix B - Grasslands Analysis
 - Appendix C - Wetland Desktop Determination
 - Appendix D - Tiers 1 And 2 Wildlife Report
 - Appendix E - Raptor Nest Survey Report
 - Appendix F - Avian Use Surveys - Year One
 - Appendix G - Avian Use Surveys - Year Two
 - Appendix H - Bald Eagle Nest Monitoring
 - Appendix I - Northern Long-Eared Bat Acoustic Survey
 - Appendix J - Northern Long-Eared Bat Presence/Absence Survey
 - Appendix K - Whooping Crane Habitat Review
 - Appendix L - Bird And Bat Conservation Strategy
 - Appendix M - Sound Study
 - Appendix N - Shadow Flicker Analysis
 - Appendix O - RF Impact Report
 - Appendix P - 2009 Berkeley Property Values Study
 - Appendix Q - 2013 Berkeley Property Values Study
 - Appendix R - Cultural Resources Literature Search Confidential (not available to the public)
 - Appendix S - Cultural Resources Desktop Review and Construction Grid
 - Appendix T - Agency Correspondence
 - Pre-Filed Direct Testimony of James Damon
 - Exhibit 1 - Resume
 - Pre-Filed Direct Testimony of Bridget Canty
 - Exhibit 1 - Resume
 - Pre-Filed Direct Testimony of Keith Thorstad
 - Exhibit 1 - Resume
 - Pre-Filed Direct Testimony of Aaron Anderson
 - Exhibit 1 - Curriculum Vitae
 - Pre-Filed Direct Testimony of Chris Howell
 - Exhibit 1 - Curriculum Vitae
- ~~06/04/18 - PUC Staff's Letter to SD Newspaper Association regarding Notice of Public Hearing~~
- 06/05/18 - PUC Staff's Corrected Letter to SD Newspaper Association regarding Notice of Public Hearing
 - Notice of Public Hearing
- 06/19/18 - Land Ownership Map Confidential (not available to the public)
 - Certificate of Service
- 06/21/18 - Prevailing Wind Park, LLC's Application to Bon Homme, Charles Mix and Hutchison County Auditors Certificate of Service
- 06/21/18 - Prevailing Wind Park, LLC's Proof of Mailing
 - Attachment A - Letter to Landowners with Attachments
 - Attachment B - List of Landowners Confidential (not available to the public)
- 07/19/18 - Prevailing Wind Park, LLC's Affidavits of Publication (Tripp Star Ledger, Yankton Daily Press & Dakotan, Scotland Journal, Avon Clarion and The Wagner Post)
- 07/20/18 - Staff's Letter regarding Motion for Adoption of Procedural Schedule
 - Motion for Adoption of Procedural Schedule
 - Certificate of Service

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- 07/20/18 - PUC Staff's First Set of Data Requests to Applicant Certificate of Service
- 08/02/18 - Prevailing Wind Park, LLC's Response to the Motion for Adoption of Procedural Schedule
- 08/08/18 - PUC's Affidavits of Publication
 - The Wagner Post's Affidavit of Publication (June 20, 2018 and July 11, 2018)
 - Yankton Daily Press & Dakotan's Publication (June 20, 2018 and July 11, 2018)
 - Avon Clarion's Affidavit of Publication (June 20, 2018)
 - Avon Clarion's Affidavit of Publication (July 11, 2018)
 - The Tripp Star Ledger's Affidavit of Publication (June 20, 2018)
 - The Tripp Star Ledger's Affidavit of Publication (July 11, 2018)
- 08/08/18 - PUC Staff's First Set of Data Requests to Charles Mix County Certificate of Service
- 08/08/18 - PUC Staff's First Set of Data Requests to Intervenors Certificate of Service
- 08/10/18 - Prevailing Wind Park, LLC's Supplemental Testimonies and Exhibits
- 08/16/18 - PUC Staff's Second Set of Data Requests to Applicant Certificate of Service
- 08/17/18 - Notice of Appearance (Reece M. Almond)
 - Certificate of Service
- 08/23/18 - PUC Staff's Third Set of Data Requests to Applicant Certificate of Service
- 09/10/18 - PUC Staff's Direct Testimonies and Exhibits
- 09/10/18 - Intervenors' Disclosure of Lay Witnesses (Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder)
- 09/10/18 - Intervenors' Direct Testimonies and Exhibits
- 09/11/18 - Karen D. Jenkins' Letter regarding Testimony
- 09/13/18 - Intervenors' Motion To Have Witnesses Appear Telephonically and Certificate of Service
- 09/14/18 - Prevailing Wind Park, LLC's Letter regarding Answer to the Application for Party Status of Kelli Pazour
 - Applicant's Answer to the Application for Party Status of Kelli Pazour
 - Certificate of Service
- 09/14/18 - Prevailing Wind Park, LLC's Letter regarding Motion to Exclude Lay Testimony, to Quash Subpoenas and to Require Further Disclosures
 - Applicant's Motion to Exclude Lay Testimony, to Quash Subpoenas and to Require Further Disclosures
 - Attachment A - Subpoenas Duces Tecum for Bon Homme County, Charles Mix County, Hutchinson County and Brian McGinnis, a Community Development Specialist with District III
 - Attachment B - Applicant's affidavit and its August 22, 2018 letter to the Commission
 - Certificate of Service
- 09/14/18 - Staff's Response to Late Intervention
 - Attachment 1 - Portion of Transcript from Public Input Hearing
 - Certificate of Service
- 09/19/18 - Staff's Response to Applicant's Motion to Exclude Lay Testimony, to Quash Subpoenas and to Require Further Disclosures
 - Attachment 1 - Applicant's First Set of Data Requests to Intervenor Gregg Hubner
 - Certificate of Service
- 09/19/18 - PUC Staff's Second Set of Data Requests to Intervenors Mr. Reece M. Almond - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder Certificate of Service
- 09/19/18 - Prevailing Wind Park, LLC's Letter regarding Applicant's Response to Intervenors' Motion to Have Witnesses Appear Telephonically
 - Applicant's Response to Intervenors' Motion to Have Witnesses Appear Telephonically
 - Certificate of Service
- 09/19/18 - Intervenors' Response to Applicant's Motion to Exclude Lay Testimony, to Quash Subpoenas and to Require Further Lay Disclosures (Reese Almond - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder)
 - Intervenors' First Amended Disclosure of Lay Witnesses
 - Certificate of Service
- 09/20/18 - PUC Staff's Fourth and Fifth Set of Data Requests to Applicant Certificate of Service

- 09/20/18 - Intervenor Response to Applicant's Motion to Exclude Lay Testimony, to Quash Subpoenas, and to Require Further Lay Disclosures (Karen Jenkins)
- 09/26/18 - Intervenor's Subpoena for Testimony at Evidentiary Hearing to Michael Soukup (Reese Almond - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder) and Certificate of Service
- 09/26/18 - Intervenor's Subpoena for Testimony at Evidentiary Hearing to Keith Mushitz (Reese Almond - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder) and Certificate of Service
- 09/26/18 - Response of Sherman Fuerniss to Direct Testimonies
- 09/26/18 - Applicant's Rebuttal Testimonies and Exhibits and Applicant's Lay Witness Disclosures
- 09/28/18 - PUC Staff's Sixth Set of Data Requests to Applicant Certificate of Service
- 09/28/18 - PUC Staff's Second Set of Data Requests to Intervenor Sherman Fuerniss Certificate of Service
- 10/01/18 - Intervenor's Subpoena for Testimony at Evidentiary Hearing to Jack Soulek (Reese Almond - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder) and Certificate of Service
- 10/01/18 - Staff's Witness List and Exhibit List & Exhibits
- 10/01/18 - Intervenor' Exhibits (Sherman Fuerniss)
- 10/01/18 - Applicant's Witness List & Exhibit List & Exhibits
- 10/01/18 - Intervenor's Witness List and Exhibit List (Reece M. Almond, Davenport, Evans, Hurwitz & Smith LLP - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder)
- 10/02/18 - Intervenor's Exhibits (Reece M. Almond, Davenport, Evans, Hurwitz & Smith LLP - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder)
- 10/02/18 - Intervenor's Exhibits (Karen Jenkins)
- 10/04/18 - Applicant's Corrected Exhibit A5
- 10/04/18 - Intervenor's Subpoena for Testimony at Evidentiary Hearing to Eric Elsberry (Reese Almond - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder) and Certificate of Service
- 10/04/18 - Eric Elsberry's Admission of Service of Subpoena
- 10/04/18 - Charles Mix County Sheriff Office's Return of Service for Keith Mushitz
- 10/04/18 - Michael Soukup's Admission of Service of Subpoena
- 10/04/18 - Intervenor's Additional Exhibits (Karen Jenkins)
- 10/05/18 - Intervenor's Corrected Exhibit I-16 and Additional Exhibit I-17 (Reece M. Almond, Davenport, Evans, Hurwitz & Smith LLP - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder)
- 10/05/18 - Intervenor's Additional Exhibits (Sherman Fuerniss)
- 10/05/18 - PUC Staff's Response to Intervenor's First Data Request Certificate of Service
- 10/09/18 - Intervenor's Opposition to Having Exhibits I-16 and I-17 be Confidential and Certificate of Service
- 10/09/18 - Intervenor's Exhibits I-16, I-17, I-28, I-29 and I-30 (Reece M. Almond, Davenport, Evans, Hurwitz & Smith LLP - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder)
- 10/09/18 - Applicant's Exhibits A3-2; A10-2; A-16R; A20-1; A20-2; A22-2; A22-3; A24; A25; A27; A28; A29; A30; A31; A32; A33
- 10/09/18 - Staff's Exhibit S5
- 10/29/18 - Prevailing Wind Park, LLC's Letter regarding Exhibit A42
 - Exhibit A42: Distance from Each Residence to the Nearest Wind Turbine, Modeled Shadow Flicker and Sound Pressure Levels
 - Certificate of Service
- 10/29/18 - Hearing Examiner's Redacted Exhibits I-1 and I-2, and Evidentiary Hearing Transcript for October 11, 2018
 - Exhibit I-1 - Pre-filed Testimony of Richard James
 - Exhibit I-2 - Pre-filed Testimony of Jerry Punch
 - October 11, 2018, Transcript
- 11/13/18 - Sherman Fuerniss' Post-Hearing Brief

- 11/13/18 - *Intervenors' Post-Hearing Brief and Certificate of Service* (Reece M. Almond, Davenport, Evans, Hurwitz & Smith LLP - Representing: Gregg C. Hubner, Marsha Hubner, Paul M. Schoenfelder and Lisa A. Schoenfelder)
- 11/13/18 - PUC Staff's Letter regarding Post-Hearing Brief
 - Staff's Post-Hearing Brief
 - Staff's Post-Hearing Brief Confidential (not available to the public)
 - Certificate of Service
- 11/13/18 - Prevailing Wind Park, LLC's Letter regarding Post-Hearing Brief
 - Prevailing Wind Park, LLC's Post-Hearing Brief
 - Attachment A - Permit Conditions Jointly Proposed by Applicant and Staff
 - Attachment B - Applicant's Proposed Sound and Charles Mix Conditions
 - Attachment C - Exhibit I-29 - Attachment 4-2 - Revised Project Layout
 - Prevailing Wind Park, LLC's Proposed Findings of Fact, Conclusions of Law and Order
 - Certificate of Service
- 11/13/18 - Karen Jenkins' Post-Hearing Brief
- 11/14/18 - Kelli Pazour's Post-Hearing Brief
- 11/19/18 - Prevailing Wind Park, LLC's Letter regarding Applicant's and Staff's Revised Joint Proposed Condition 29 and New Joint Proposed Condition
 - Applicant's and Staff's Revised Joint Proposed Condition 29 and New Joint Proposed Condition
 - Certificate of Service