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South Dakota Public Utilities Commission Meeting
November 20, 2018, at 1:30 p.m. CST
Room 413, Capitol Building
Pierre, South Dakota

MINUTES OF THE AD HOC COMMISSION MEETING

Chairperson Kristie Fiegen called the meeting to order. Present were: Commissioners: Chris Nelson and Gary Hanson; Commission Attorneys: Karen Cremer and Adam de Hueck; Staff Attorneys: Kristen Edwards and Amanda Reiss; Staff Analysts: Darren Kearney and Jon Thurber; and Staff: Joy Lashley.

Present were: Cheri Whittler, court reporter; Bob Mercer, reporter; Lisa Agrimonti, Fredrikson & Byron, P.A., representing Prevailing Wind Park, LLC; Peter Pawlowski, sPower, representing Prevailing Wind Park, LLC; Paul Schoenfelder, self; Lisa Schoenfelder, self; George and Ruby Holborn; Karen Jenkins; self; Kelli Pazour; Marsha Hubner; self; Gregg Hubner, self; Sherman Fuerniss; self; Lori Fuerniss; and Tatianna Fuerniss, self.

Joining the meeting by telephone were: Reece Almond, Davenport, Evans, Hurwitz & Smith LLP, representing landowners; and Mollie Smith, Fredrikson & Byron, P.A., representing Prevailing Wind Park, LLC.

Electric

1. 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 (Staff Analysts: Darren Kearney, Jon Thurber; Staff Attorney: Kristen Edwards)

A lengthy discussion took place regarding docket EL18-026. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2018, November 20, 2018, recording located at:
<http://puc.sd.gov/commission/media/2018/puc11202018.mp3>.

Commissioner Nelson moved to grant Prevailing Wind Park, LLC the requested permit for a wind energy facility with the proposed conditions agreed to by staff and Applicant, found in Attachment A to the Applicant's brief, as modified by the November 19, 2018 update to Condition 29.

Commissioner Nelson then moved to amend the main motion by changing Condition 28 and 29(c) by striking "30 hours" and inserting "15 hours". Motion carried 3-0.

Commissioner Nelson then moved to amend the main motion by changing Proposed Condition 40A by striking "10" and inserting "30". Motion carried 3-0.

Commissioner Nelson then moved to amend the main motion by adding staff's second Proposed Condition, but deleting "equivalent continuous sound level, Leq" and replacing it with "L10." Motion carried 3-0.

Commissioner Nelson then moved to amend the main motion by adding a new condition requiring verification of compliance with the sound level requirement at the Intervenor's residences within 60 days of full operation. Motion carried 3-0.

Commissioner Fiegen moved in Condition 27 (staff's second proposed condition), that the L10 sound pressure level, shall not exceed 45 dBA at participating landowners' residences unless a signed waiver is obtained from the owner of the residence. Motion carried 2-1.
Commissioner Nelson dissenting.

Commissioner Fiegen moved in Condition 28, to include participating landowners' residences unless a signed waiver is obtained from the owner of the residence. Motion carried 2-1. Commissioner Nelson dissenting.

Commissioner Hanson moved to remove the word "lower" and supplant the word "small" with the word "other" in Condition 29(e). Motion carried 3-0.

Commissioner Hanson moved to insert the words "and operation" after the word "construction" in Condition 41. Motion carried 3-0.

Commissioner Hanson moved to change the language in Condition 40(b) to read, "Based on the verification of the information in the filing, the Commission may require additional funding to equal the estimated amount needed for decommissioning." Commissioner Hanson also added the word "to" to the second line of the condition so that it states, "The turbine owner shall submit to the Commission an estimated decommissioning date." Commissioner Hanson also moved to supplant the word "interest" with the word "revenues" in Condition 40(c). Commissioner Hanson then moved to edit Condition 40(d) to state "An account statement shall be provided annually and become a public record." Commissioner Hanson then moved to edit Condition 40(e) to state, "A sale of project assets shall include the associated permit." Motion carried 3-0.

Commissioner Hanson then moved, in Condition 34, to insert the words "a minimum of" and "to provide a copy to the Commission." Commissioner Hanson then made a substitute motion to adjust Condition 34 to read "Applicant agrees to undertake a minimum of two years of independently conducted postconstruction avian mortality monitoring for the project and to provide a copy of this and all further reports to the USFWS, GFP, and the Commission." Motion carried 3-0.

The original motion as amended carried 3-0.

There being no further business, at the hour of 3:58 p.m., the South Dakota Public Utilities Commission meeting adjourned.

/s/Joy Lashley

Joy Lashley

Administrative Assistant

[PUC Email](#)

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