

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

**IN THE MATTER OF THE APPLICATION BY * TERESA KAAZ, INTERVENOR,
POST-
DAKOTA RANGE I, LLC AND DAKOTA * HEARING BREIF REQUESTING
RANGE II, LLC FOR A PERMIT OF A WIND * DENIAL OF THE PERMIT
ENERGY FACILITY IN GRANT AND * APPLICATION
CODINGTON COUNTY, SOUTH DAKOTA * EL 18-003
FOR THE DAKOTA RANGE WIND PROJECT ***

I, Teresa Kaaz, Intervenor, hereby submit this brief requesting the Commission deny Dakota Range I, LLC and Dakota Range II, LLC Application for a Permit of an Industrial Wind Energy Facility in Codington and Grant Counties in South Dakota.

INTRODUCTION

Dakota Range I, LLC and Dakota Range II, LLC is seeking a permit from the Commission to build a wind farm in Codington and Grant County, SD. As the applicant, Dakota Range I, LLC and Dakota Range II, LLC has the burden of proof to establish its proposed project satisfies the provisions of SDCL 49-41B-22. Intervenor do not have the burden of proof to show the proposed project does not satisfy SDCL 49-41B-22. Neither does the PUC Staff. Therefore, if there remains a question as to whether the proposed project complies with SDCL 49-41B-22, the permit application must be denied. As shown below, Dakota Range I, LLC and Dakota Range II, LLC has not satisfied its burden. Therefore, I respectfully request the Commission deny Dakota Range I, LLC and Dakota Range II, LLC's permit application.

ARGUMENT

Dakota Range I, LLC and Dakota Range II, LLC had the burden of proof to establish that the proposed project (1) will comply with all applicable laws and rules; (2) will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the area; (3) will not substantially impair the health, safety or welfare of the inhabitants; and (4) will not unduly interfere with the orderly development of the region with due consideration having been given to the views of governing bodies of affected local units of government. SDCL 49-41B-22. Dakota Range I, LLC and Dakota Range II, LLC failed to satisfy its burden in several aspects.

Transcript of Hearing, June 12-14- 2018

Concerns

- Dr. Mark Roberts in his direct examination (Page 24, Lines 13 and 14. Page 25, Lines 6, 7, 11 and 12) stated three times that there is not a specific adverse health affect associated with wind turbines. Also on Page 25, Lines 17-20, Dr. Roberts stated. "Annoyance is not a health effect. Annoyance is a normal, everyday occurrence. And probably some people in this room are annoyed right now with the fact that we have to do this."
 - Making light of the fact Mr MaRous believes that annoyance is not an adverse health effect, is somewhat un-professional. There may not be a specific adverse health effect health effect yet, but, there can be many different complications associated with being in close proximity to turbines, feeder lines and transmission lines, for long periods of time. As a non-participating land owner, we will be subject to this annoyance everyday for as long as we own our property. It may not be considered as an adverse health effect, but, it is a form of torture.

On Page 26, Lines 17-23, Dr. Roberts stated, "The shadow flicker, well it's there. I have shadow flicker in my kitchen every morning. Right now, during the season of the year when the sun comes through the windows because of the ceiling fans. So we all see flicker. The monitors that we have right now flicker. And if you've ever see a video tape of a screen you'll notice it's flickering, and I think it's at 60 hertz.

- The flicker that is caused by a ceiling fan is not even close to the sensation caused by the flicker of a 500' wind turbine with three spinning blades that are each 220' long, spinning up to 200 mph.
- On Page 44, Lines 10-25, Commissioner Hanson Q.. "I had another question and to an extent it will probably piggyback on I believe Ms. Mogen's question...Is there any information pertaining to the effect of shadow flicker on person's driving automobiles through those areas of high concentration?" Answer... "One of the things, there's a number of things that causes flicker as you go down the road right now, down 90. Various structures and that sort of thing, and in some places the road is low enough that the fence posts can actually cause a flicker effect out of the corner of your eye."
 - My argument for that statement is a stationary object does not produce flicker.
- Mr. Daniel Pardo, re-cross examination, Pages 63, Lines 20-25 and Page 64, Line 1 Q. "Are the blades recyclable?" A. "I would say that there is still debate in the industry about the process for recycling the blades." Q. "Are they recycled in America? The blades?" A. "The decommissioning study that we have prepared has not looked into the recycling of facilities and capabilities for blades in North America." Lines 4-8 Commissioner Nelson Q. "If I could just clarify the answer, and so then the assumption of the study is that the blades are going to be—go into a land fill correct?" A. "That's correct."
 - When speaking of a wind facility, in it's day to day operation, in upgrading, and in decommissioning, in this project there are 72 turbines. This equals 216 blades that may be updated, along with the blade failures that will occur. Also, there is many more turbines planned for this area. What and where are the landfill agreements? I feel under no circumstances should this important aspect be ignored. There is no place in the world that can recycle the blades, as Kathy Tyler, Public Input Hearing recording on March 21, 2018 (3:17:00) also stated.
 - Without these agreements completed in advance; as in other places in the US, will they lay in the fence line on lease holders properties?
- Mr. Mark Mauersberger, direct examination, Page 67, Lines 20-25. Q. "I will ask it this way, do you have an update on the road use agreement for Grant County?" A.

"Yes, we received the Grant County Road Use Agreement and the road use agreement for Codington County is under review by the county attorney."

- My argument is, all road use agreements, including all township agreements, must be completed before PUC agrees to accept application.
- Cross-examination, Page 68, Lines 14-25, Page 69, Lines 1 and 2. Q. "Thank you Mr. Mauersberger. Are you familiar with the aircraft detection lighting system?" A. "Not—I haven't been involved in a project that employs them, but yes I am familiar." Q. "Is Apex planning on employing it for this project?" A. "No, they are not." Q. "And why not?" A. "It wasn't a requirement of the project primarily. But also, in addition it's new technology, and we wanted to use a technology that was tried and true. In addition, I think there's only one of those systems deployed, and there's also—because it was a newer technology and uncertain how reliable it is, there were liability concerns as well."
 - What liability concerns do you have? You said you listened to, or sat in the Crocker docket, so you know that their county commissioners demanded it and PUC made it a condition. Why would you think this project should not follow suit? I was under the assumption the newest technology was being used throughout this Dakota Range project. You claim that Apex wants to be a good neighbor. Then prove it. If these lets the residences in the area still enjoy the night view, why would you take that away.
- Page 71, Lines 12-18. Q. "So do you know the safety set back of a turbine?" A. "We engaged with Vestas and they said that there's no specific set back that they employ or recommend." Q. "Do you know a stay-away zone for emergency workers?" A. "I actually asked the folks on our O&M Team at Apex and Xcel, and they said they don't have a standardized set back zone."
 - In past Vesta turbine operating manuals there has been safe operating zone setbacks, ex. 400 meters safe operating zone, also safe child play set back, emergency set back as well as other standardized set backs. So, are you saying that those have been removed from Vesta's operating manuals now? Exhibit A23 was introduced as an exhibit in

place of the safety manual. I checked the validity of this. I attempted to contact the number listed on the exhibit on 6-28-2016, #1-503-327-2000, several times. The recording said, "the person you are trying to reach does not have a valid voicemail box on our system.

- I request that Dakota Range I & II, LLC be required to show proof of email the docket exhibits showing the email chain related to this request by the PUC commissioners for the operating, maintenance and safety manual of the Vesta 136-4.2 mw wind turbine.

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David Lau, direct examination, Page 130 Lines 13-18. Q. "Ok, would Dakota Range still be willing to enter into a wind lease agreement with the Kaaz family?" A. "Yes we would. We'd go into what we call a Good Neighbor Agreement, which is an agreement that we put her into the wind farm and that she would have no facilities or income on her property."

- I am requesting to review ,with my attorney, a Good Neighbor Agreement. I have never been approached about signing a Good Neighbor Agreement previously. This document has been filed at the PUC as private. I ask that you release it to me for my complete review.
- The comments made during the hearing by David Lau and Mark Mauersberger do not reflect a company who is portraying to be a Good Neighbor.
- Michael S. MaRous, direct examination, Page 173, Line 24. Q. "Did you evaluate my property?" A. "The answer is generally I did. I had the benefit of reviewing two independent appraisal reports done for lending purposes."
 - I question the reliability of Mr. MaRous testimonies as it is common knowledge that banks and appraisers are not allowed to share information with outside parties.
 - Patrick Lynch, during public hearing (1:02:31) said, A comparable would be a listing with a wind turbine sitting at the 1000 foot set back and 50 DBA in compliance with the Conditional Use Permit granted with this application in Codington County, and another identical listing with no wind turbine...are you

going to choose the one with the turbine...these will effect how desirable a property is.

- With so many land owners concerned about the potential loss to property value and money being spent on experts to prove or disprove property value loss or possible gain; again, prove that Apex and it's associates are acting as Good Neighbors and grant all property owners in the footprint Dakota range I & II, LLC a Property Value Guarantee. According to your own expert, Mr. MaRous, there is no loss in property value with proximity to turbines, your company has nothing to loose.
- Presentation by Dakota Range I and II, LLC, at the SD PUC Public Hearing, Waverly School on 3-21-2108. Mark Mauersberger showed this slide with these tax revenue dollars for Waverly School District as yearly being \$7,000,000.
 - John Meyer, Superintendent of Waverly School, reported this error during recording at the public hearing (1:51:38) corrected it by sharing that the dollar amount needed to be decreased by 3.4 million dollars. He explained this also, in his comments, entered on 6-11-2018 to the docket.
- Application to the SD PUC for the Facility Permit 1-2018, page 21-4 table, 21-3 used the same projected tax revenue.
 - When you present this information in a public forum in error, with no admittance, explanation or correction given during the public hearing by the company giving the presentation, this is misrepresentation.
 - This misrepresentation by Apex, and its employees has happened countless times during public forums.
 - Once it is given in public the facts that were misrepresented do not seem to get corrected and no one is held accountable. And the results could be misleading.
- David Lawrence Surrebuttal Testimony, Exhibit S6, page 6 line 17-22, page 7 line 3-12. Q. Mr. Mauerberger attaches the Brooking county 2015 property value Survey to his rebuttal testimony (Exhibit 1) and Mr. MaRous concurs with the studyin his testimony. Do you agree with the methodology and results of the study? A. No I do

not agree...the results of the study could be misleading. Moreover, 1) it does not follow the accepted appraisal methodology for a study of this type; 2) the data was developed by Prevailing Winds, LLC, who is an advocate for wind energy in South Dakota...Personal interests and bias surround the author of the study; 3) ...assessment value is not market value...Mass appraisal techniques are used for assessing thousands of properties in the county for taxation, not determining if an individual property shows a negative or positive influence from an externality such as a wind tower.

CONCLUSION

With the above information given and questioning of misinformation, misrepresentation by the applicant and biased studies, incorrect maps used in the flicker study and possible other missing information and errors being discovered; I am respectfully requesting that Dakota Range, I & II, LLC be denied. I believe this application was and is not ready for an approval at this time from the SD PUC.

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