

From: PUC

Sent: Monday, July 30, 2018 12:06 PM

To: [REDACTED]

Subject: EL18-026

Ms. Jenkins,

Thank you for your message concerning operations of the PUC. You have several excellent questions and I appreciate the opportunity to provide you with this valuable information.

You ask why the PUC holds a public meeting and takes comments from the public. The PUC holds a public input hearing on all siting projects that come before it. State law, specifically 49-41B-15 below, requires the commission to do so:

49-41B-15. Procedure followed by commission following receipt of application for permit.

Within thirty days following receipt of an application for a permit, the commission shall:

- (1) Schedule a public hearing;
- (2) Notify the applicant of the hearing;
- (3) Serve notice of the application and hearing upon the governing bodies of the counties and municipalities totally or partially within the area of the proposed facility;
- (4) Publish a notice of the time, place, and purpose of the public hearing in at least one newspaper of general circulation in counties totally or partially within the area of the proposed facility; and
- (5) File a copy of the application with the auditor of the county or counties in which the proposed facility will be constructed.

Source: SL 1977, ch 390, § 9; SL 2006, ch 242, § 4; SL 2008, ch 246, § 2.

The public input hearing is valuable to the commissioners, advisors and to the PUC staff analysts and attorney working on the docket in guiding them as to the concerns of the local residents. The staff members working on the docket will burrow into the issues of local concern in their analysis and in securing more information and obtaining expert witnesses where

appropriate. While staff members are working on the docket, each commissioner and their advisors are doing their own separate review of the docket filings.

You ask what part of this process is considered in denying an application. There are many pieces of evidence for the commission to review for a siting permit application. As you will see by the application filed on May 30, 2018, <http://puc.sd.gov/Dockets/Electric/2018/EL18-026.aspx>, there are many details to be considered.

The commission denied a wind siting permit requested by another wind facility project in EL17-028. Here is a link to that docket so you may review the formal filings, <http://puc.sd.gov/Dockets/Electric/2017/el17-028.aspx>, including the order by which the commission denied the application pursuant to 49-41B-13 (2), <http://puc.sd.gov/commission/orders/electric/2017/el17-028deny.pdf>.

You ask what is considered “evidence”. Evidence is the collective mass of testimony and exhibits, presented before the commission in a formal legal proceeding. The receiving of evidence is controlled by a body of law regulating the burden of proof, admissibility, relevance, and weight and sufficiency of what should be admitted into the record of the legal proceeding. Generally, all admissible evidence must be of such a character that it reasonably and substantially proves the point rather than merely raising suspicion or conjecture. Evidence is satisfactory if it is sufficient to satisfy an unprejudiced mind seeking the truth.

I hope this answers your questions.

Gary Hanson, Vice Chairman
South Dakota Public Utilities Commission
www.puc.sd.gov