
From: PUC

Sent: Monday, December 3, 2018 3:40 PM

To: [REDACTED]

Subject: EL18-026

Ms. Olson,

Thank you for taking the time to share your thoughts and concerns. South Dakota Public Utilities Commission Chairperson Kristie Fiegen shared your email with PUC staff, asking that staff respond since the Prevailing Wind docket remains open. Therefore, we will attempt to answer your questions, although the official answers are in the commission's final order, <http://puc.sd.gov/commission/orders/electric/2018/el18-026final.pdf>.

*My first question is: **what are the exact set points you used in deciding whether or not the proposed Prevailing Winds wind farm posed a threat of serious injury to the social conditions of the inhabitants in the area?***

You are correct that the burden of proof lies with Prevailing Wind as the applicant. However, if another party makes an assertion as to injury, then that party must provide expert studies and witnesses to attest to this as fact. Hearsay is not sufficient. As PUC staff, we cannot speak for the commissioners. We can only speak for commission staff. We all listened to four days of compelling testimony. When we were attempting to craft a recommendation to the commission, what we had to look for was measurable evidence to support any recommended conditions. The law required us to support every recommendation we made with evidence from the docket's record. So, when we looked at asking the commission to remove individual turbines from around certain properties, we needed to reference testimony that proved there would be harm done unless that turbine was removed. For example, staff was confident that it had the evidence to support a 40 dBA noise limit for all turbines, but could not find evidence that would have survived an appeal on which to base cherry-picking turbines.

My second question is what factors led to your decision to decide that there was no serious harm to the economic condition of inhabitants?

The answer here is generally the same as above. Again, speaking for staff and not the commissioners, in order to find economic hardship or to recommend the commission find economic harm, we needed to prove an amount that would be lost by certain persons or businesses so we could weigh that against any potential benefit the project might provide locally.

My next question is: if Prevailing winds has the burden of proof to establish that they will not impair the health, safety, and welfare of the inhabitants why are they not required to do actual studies into some of the negative health issues that have been brought up?

Studies on health issues believed by some to be caused by wind projects were raised during the processing of this docket, and testimony on this was offered during the evidentiary hearing by intervenors, PUC staff and the applicant. You can find this information in the docket, <http://puc.sd.gov/Dockets/Electric/2018/EL18-026.aspx>.

Finally, I have to ask why a setback of 2-3 miles, as requested by many that were opposed, was not considered as a condition of approval?

Various setbacks and other conditions proposed by intervenors and others involved in this docket were considered as the commissioners mentioned during the evidentiary hearing. PUC staff worked on various setback models. The commissioners were presented with information and testimony on a variety of proposed setbacks prior to establishing the conditions in the commission's order. One thing to note from staff's perspective is that the noise level in effect dictates the setback. The noise level set in this docket is the strictest the commission has set for a wind project to-date.

The quotes from the commissioners at the conclusion of the evidentiary hearing reference the challenges presented by this docket:

PUC Chairperson Kristie Fiegen noted the commission and staff were faced with a stiff task, processing the complicated construction permit request in six months and giving full weight to the varied considerations of all parties. "It's not easy to strike a balance between the needs and wants of area landowners and the wind industry. In the end, I believe we followed state statute and the authority given to the PUC by the state legislature," she concluded.

"We all want to protect property rights and the rights of citizens," said Commissioner Gary Hanson, the PUC's vice chair. "The rights of persons to develop their property is balanced by the rights of other persons to enjoy their own property without excessive intrusion from the development. The conditions we approved came as close as we legally can to resolve intrusion issues," Hanson stated.

Commissioner Chris Nelson also spoke to the commission's authority in granting the permit with conditions. "It is important to understand that the commission has to base its decision on

what has been presented in the record during these last six months and what the state law allows us to do. Considering that criteria, we have appropriately integrated competing interests,” Nelson said.

As PUC staff working on this docket, we understand your concern with this project’s impact on your family. This was a very challenging docket for everyone involved, particularly those directly affected such as your family and you. We know some believe the permit conditions should go beyond those in the commission’s order. However, the conditions must be scientifically or legally sound, and that is extremely difficult to explain to those who do not wish to see the project approved. This permit includes the greatest number of conditions the commission has ever imposed on a wind project.

Your email and this response will be posted in the Prevailing Wind docket, EL18-026, under Comments and Responses.

South Dakota Public Utilities Commission Staff

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