

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

**IN THE MATTER OF THE
APPLICATION BY NORTH BEND
WIND PROJECT, LLC FOR A PERMIT
TO CONSTRUCT AND OPERATE THE
NORTH BEND WIND PROJECT IN
HYDE COUNTY AND HUGHES
COUNTY, SOUTH DAKOTA**

EL21-018

**MOTION TO CLARIFY
HEARING SCOPE**

COMES NOW, the Applicant, by and through its counsel of record, and moves the Commission for an order clarifying the scope of the upcoming hearing.

The Commission's Prehearing Order listed the four (4) factors in SDCL 49-41B-22 as the burden required for Applicant to meet in order to obtain a permit from the Commission. Applicant hereby advises the Commission that it has conditional use permits from both Hyde and Hughes Counties and will introduce both conditional use permits into evidence at the upcoming hearing. Pursuant to statute, the Applicant's burden would be reduced based on the conditional use permits. *See* SDCL 49-41B-22.

The pre-filed evidence in the docket, to date, appears to implicate a number of the factors in the reduced burden. It appears that there is a substantial amount of evidence which need not be concurred or considered by the Commission. The Commission, the Staff, and the Parties would benefit from an order clarifying how the Commission would like to receive the evidence and how much/what testimony is required. For example, the Applicant's application attempts to meet the full burden under law. The conditional use permit from Hughes County is later than the application date. It seems possible for the Commission to receive that application in total and

only consider the portions necessary in order to meet the reduced burden. However, accepting testimony on those sections would seem to be burdensome and outside the scope of the hearing.

Whereupon the Applicant requests that the Commission consider and enter an Order Clarifying the Scope of the upcoming evidentiary hearing.

Dated this 7th day of November, 2022.

MAY, ADAM, GERDES & THOMPSON LLP

BY:



BRETT KOENECKE
AARON P. SCHEIBE
CODY L. HONEYWELL
503 South Pierre Street
P.O. Box 160
Pierre, South Dakota 57501-0160
Telephone: (605)224-8803
Fax: (605)224-6289
brett@mayadam.net
aaron@mayadam.net
cody@mayadam.net

CERTIFICATE OF SERVICE

On the 7th day of November, 2022, Brett Koenecke of May, Adam, Gerdes & Thompson LLP, electronically served through the PUC filing system a true and correct copy of the Motion for Scheduling Order to the following at their last known address, to-wit:

Ms. Patricia Van Gerpen
patty.vangerpen@state.sd.us

Ms. Marilyn Ring
hydeaud@venturecomm.net

Ms. Amanda Reiss
amanda.reiss@state.sd.us

Mr. Thomas Oliva
Thomas.Oliva@co.hughes.sd.us

Mr. Darren Kearney
darren.kearney@state.sd.us

Mr. James Malters [*Bollweg*]
jmalters@msslawoffice.com

Mr. Jon Thurber
jon.thurber@state.sd.us

Ms. Judi Bollweg
tumbleweed@venturecomm.net

Mr. Anthony Crutch
anthony.crutch@engie.com

Mr. Michael Bollweg
tumbleweed@venturecomm.net



BRETT KOENECKE