

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

IN THE MATTER OF THE APPLICATION)	
BY NORTH BEND WIND PROJECT, LLC)	STAFF’S RESPONSE TO
FOR A PERMIT TO CONSTRUCT AND)	APPLICANT’S MOTION TO
OPERATE THE NORTH BEND WIND)	EXTEND DEADLINE AND
PROJECT IN HYDE COUNTY AND)	INTERVENOR’S OBJECTION
HUGHES COUNTY, SOUTH DAKOTA)	TO APPLICANT’S MOTION

COMES NOW, Staff of the South Dakota Public Utilities Commission (Staff) and hereby files this Response to Applicant’s Motion to Extend Deadline and to Intervenor’s Objection to Applicant’s Motion.

This docket was opened on June 23, 2021, with the filing with the Public Utilities Commission (Commission) by North Bend Wind Project, LLC for a permit of a wind energy facility in Hyde County and Hughes County, South Dakota. The parties to this proceeding are North Bend Wind, LLC (“North Bend” or “Applicant”), Staff, Judi Bollweg, individually and on behalf of Tumbleweed Lodge and Bollweg Family LLLP, and Michael Bollweg, individually and on behalf of Bollweg Family, LLLP (Intervenors). On November 1, 2021, the Commission issued an Order Granting Motion for Procedural Schedule and adopted a procedural schedule which would have allowed the application to be processed within nine months, as required by SDCL 49-41B-25. On November 16, 2021, Applicant filed a Motion to Extend the Deadline in accordance with SDCL 49-41B-24.1 and to suspend the current schedule and set new dates. On November 24, 2021, the Commission issued an Order Granting Motion to Extend Deadline and on December 14, 2021, issued an Order Granting Motion to Adopt Revised Procedural Schedule that adopted a schedule establishing rebuttal testimony due March 7, 2022, and setting an evidentiary hearing for April 19-21, 2022.

On February 25, 2022, Applicant filed a Motion to Extend the Deadline, requesting the current schedule be suspended and new dates set. Applicant indicated the reason for the Motion was that suspending the schedule and extending the deadline would give the parties and the Commission more informed positions after Hughes County acted on the Applicant's request for a Conditional Use Permit. Applicant anticipated Hughes County action on the Conditional Use Permit in April of 2022, though Applicant indicated no schedule has been established at the county.

On February 28, 2022, Intervenors filed an Objection to Applicant's Motion to Extend Deadline. Intervenors cited multiple scheduling concerns with extending the deadline and delaying the procedural schedule at the Commission. Additionally, Intervenors argued that the issues before the Commission are separate and distinct from the issues currently before the Hughes County Commission.

Staff does not object to North Bend's Motion to Extend Deadline, but Staff is ready to proceed in accordance with the current schedule. Staff does not believe delaying the evidentiary hearing until after Hughes County renders a decision on the matter will affect Staff's positions in this proceeding. Additionally, SDCL 49-41B-22 appears to contemplate scenarios where the Commission could render a decision before an applicant obtains a local conditional use permit, given validity to Intervenor's suggestion that the issues before the Commission are distinct from those at the county. Staff also recognizes Intervenors do raise reasonable concerns in again delaying the proceedings, particularly regarding the difficulty in rescheduling this matter for evidentiary hearing. Due to lack of clarity regarding when Hughes County will issue a decision, if the Motion is granted, Staff recommends waiting to adopt a procedural schedule until Hughes County has issued a decision.

WHEREFORE, Staff recommends that if the Commission grants North Bend's Motion to Extend Deadline, the Commission wait to establish a new procedural schedule until Hughes County takes action on North Bend's application for a Conditional Use Permit.

Dated this 2nd day of March 2022.



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