

From: PUC
Sent: Tuesday, November 5, 2024 8:02 AM
To: Jason Kerkvliet [REDACTED]
Subject: EL24-023

Mr. and Ms. Kerkvliet,

Thank you for your letter to the commission. This is in response to your letter regarding the Deuel Harvest Wind Energy South permit request docket, [EL24-023](#).

The South Dakota Public Utilities Commission received a siting permit request for this project on June 28, 2024, prompting the opening of this docket. As you know, a public input meeting was held at Clear Lake on August 22, attended by approximately 80 individuals in addition to representatives from the commission including my fellow commissioners and me. We listened to input from area residents and we continue to receive and respond to comments as posted in the online docket.

The PUC staff follow up on every communication received about a possible permit condition violation on a docket and all involved with these dockets at the commission take such concerns seriously. When we receive such information, a PUC staff member will communicate directly with the landowner or affected individual on these, as well as with the project owner.

You referenced multiple impact studies completed and funded by Invenergy's selected contractors. It is common industry practice for applicants to use consultants of their choosing to carry out required studies for their application. In contested case dockets such as EL24-023, the commission – and separately PUC staff – will review the experts and the studies to determine accuracy. Experts typically testify under oath during such a docket's evidentiary hearing. My fellow commissioners and I will weigh the expert's testimony as we deem appropriate before making decisions and casting our votes on the docket. Since the commission is a quasi-judicial administrative body, the commission's final decision must be based on facts established in the docket's evidentiary record.

The commission and the PUC staff conduct our investigative work independently. I believe if you follow along on such a docket from start to finish, this will be evident to you and I encourage you to do so. This [Information Guide](#) and this [Ex Parte Communication Guide](#) may be helpful in understanding the different roles of the commission and staff, and how these are handled without influence of an applicant or another specific party to a docket.

You wrote that Invenergy failed to address questions or provide information requested during the public input meeting. You can read the letter Deuel Harvest Wind Energy South submitted on September 10 with additional information in response to questions at the August 22 public input meeting, filed in the docket.

You wrote that the commission should also survey individuals in the project area. The process that is established in state law is for the public input meeting to be the opportunity for those living in the project area to provide input and ask questions of the applicant. The commission also receives comments and input from those concerned throughout the docket review process, as you have submitted with your letter. Additionally, the process set in law provides for a contested case proceeding if concerned individuals in the project area choose to intervene as formal parties to the docket. Again, reference the Information Guide.

Note that the Legislature, via [SDCL 49-41B-22](#), ruled that if a wind project has a conditional use permit from the applicable local unit of government, then the project has been determined not to threaten the social and economic condition of the community.

It is important to understand that the commission does not review easements between participating landowners and the applicant, nor does the commission have jurisdiction by law regarding easement issues. Those should be taken up with your personal attorney. If a landowner has concerns with the company over conditions for a permit issued by the commission, PUC staff should be contacted as they will work with the landowner and company officials in an effort to communicate and resolve issues. Contact PUC staff by calling 605-773-3201 or sending an email addressed to staff at PUC@state.sd.us.

Again, I appreciate you for writing to share your views. Your letter and my response will be posted under Comments and Responses in the EL24-023 docket.

Kristie Fiegen, Chairperson
South Dakota Public Utilities Commission
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