

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

**IN THE MATTER OF THE APPLICATION BY)
PREVAILING WIND PARK, LLC FOR A)
PERMIT OF A WIND ENERGY FACILITY IN)
BON HOMME COUNTY, CHARLES MIX)
COUNTY AND HUTCHINSON COUNTY,)
SOUTH DAKOTA, FOR THE PREVAILING)
WIND PARK PROJECT)**

**ORDER FOR
AND NOTICE OF
EVIDENTIARY HEARING**

EL18-026

On May 30, 2018, the South Dakota Public Utilities Commission (Commission) received an Application for a Facility Permit for a wind energy facility (Application) from Prevailing Wind Park, LLC to construct the Prevailing Wind Park Project (Project), a wind energy facility located on approximately 50,364 acres of land in Bon Homme, Charles Mix, and Hutchinson counties, South Dakota, between the towns of Avon, Tripp, and Wagner, South Dakota. The total installed capacity of the Project would not exceed 219.6 MW nameplate capacity. The proposed Project includes up to 61 wind turbine generators, access roads to turbines and associated facilities, underground electrical power collector lines connecting the turbines to the collection substation, an operation and maintenance facility, and temporary construction areas, including crane paths, public road improvements, a laydown yard, and a concrete batch plant(s) (as needed), and four permanent meteorological towers. The Project would interconnect at Western Area Power Administration's existing Utica Junction Substation, located approximately 27 miles east of the project.

On May 31, 2018, the Commission electronically transmitted notice of the filing and the intervention deadline of July 30, 2018, to interested persons and entities on the Commission's PUC Weekly Filings electronic listserv. On June 1, 2018, the Commission issued a Notice of Application; Order for and Notice of Public Input Hearing; Notice of Opportunity to Apply for Party Status. On July 12, 2018, a public input hearing was held as scheduled and the Commission received applications for party status from six individuals and one local government. On July 20, 2018, Commission Staff submitted a Motion for Adoption of Procedural Schedule. On August 2, 2018, Prevailing Winds filed a Response Motion for Adoption of Procedural Schedule. On August 9, 2018, the Commission adopted the proposed procedural schedule and granted party status to Gregg Hubner, Marsha Hubner, Paul Schoenfelder, Charles Mix County, Serman Fuerniss, and Karen Jenkins. On August 17, 2018, Reece Almond, of Davenport, Evans, Hurwitz & Smith, L.L.P, filed a Notice of Appearance on behalf of Gregg Hubner, Marsha Hubner, Paul Schoenfelder, and Lisa Schoenfelder.

The Commission finds it has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B and ARSD Chapter 20:10:22. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing will be held by the Commission beginning at 9:00 a.m., CDT, Tuesday, October 9, 2018, through Friday, October 12, 2018, with the marking of exhibits to begin at 8:30 a.m., CDT, on October 9, 2018, in Room 413 of the Capitol Building, 500 E. Capitol Ave., Pierre, South Dakota.

At the hearing, each party will be permitted to present an opening statement summarizing the evidence that such party will offer into evidence and to briefly and concisely state the issues involved in the case.

The issues to be determined by the Commission, as set forth in SDCL 49-41B-22, are:

1. Whether the proposed Project will comply with all applicable laws and rules;
2. Whether the Project will pose a threat of serious injury to the environment or to the social and economic condition of inhabitants or expected inhabitants in the siting area;

3. Whether the Project will substantially impair the health, safety or welfare of the inhabitants; and
4. Whether the Project will unduly interfere with the orderly development of the region with due consideration having been given to the views of governing bodies of affected local units of government.

Based upon these factors, the Commission will decide whether the permit should be granted, denied, or granted upon such terms, conditions, or modifications of the construction, operation, or maintenance as the Commission finds appropriate.

The hearing will be a quasi-judicial adversarial proceeding conducted pursuant to SDCL Chapter 1-26. At such formal hearing, all parties will have the opportunity to appear, present evidence, and cross-examine the other parties' witnesses and exercise all other rights afforded by SDCL Chapters 1-26, 49-1, and 49-41B and ARSD Chapters 20:10:01 and 20:10:22, including rights of appeal to the courts. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. All persons testifying will be subject to cross-examination. The Commission's final decision will be based solely on the testimony and evidence introduced and received into evidence at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, a decision may be issued by default pursuant to SDCL 1-26-20. As a result of this hearing, the Commission will make a decision, including findings of fact and conclusions of law, on the issues set forth above. The Commission's final decision may be appealed by the parties to the Circuit Court and the Supreme Court as provided by law. It is therefore

ORDERED, that a hearing will be held by the Commission beginning at 9:00 a.m., CDT, Tuesday, October 9, 2018, through Friday, October 12, 2018, with the marking of exhibits to begin at 8:30 a.m., CDT, on October 9, 2018, in Room 413 of the Capitol Building, 500 E. Capitol Ave., Pierre, South Dakota.

Pursuant to the Americans with Disabilities Act, this hearing is being held in physically accessible location. Please contact the Public Utilities Commission at (605) 773-3201 or (800) 332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 11th day of September 2018.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.	
By:	<u>Adam de Hueck</u>
Date:	<u>9/11/18</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairperson

Gary Hanson
GARY HANSON, Commissioner

Chris Nelson
CHRIS NELSON, Commissioner