

**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 GRANTING
SETTLEMENT OF
PERMIT VIOLATION**

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 (Applicant) 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. The Commission issued a Final Decision and Order Granting Permit to Construct Facilities (Permit) on November 28, 2018.

On April 25, 2019, the Applicant filed a letter providing notice to the Commission of starting construction early. Condition 29 of the Permit required certain filings 30 days prior to commencing construction. The filings were made by Applicant on March 29, 2019, with the intent of starting construction on or after April 28, 2019. However, the Applicant conducted certain stormwater protection and grading work on April 22, 2019, six days early. At the Commission meeting on May 14, 2019, Applicant stated that it had engaged in construction activities in violation of the permit on three separate days.

The Commission has jurisdiction over this matter pursuant to SDCL 49-41B, specifically SDCL 49-41B-34.

On May 14, 2019, the Commission considered this matter. Staff and Applicant presented a settlement to the Commission. Through the settlement, Applicant agreed to pay the maximum fine of \$10,000 per day for each day the Applicant engaged in construction activities, resulting in a total civil penalty of \$30,000. The civil penalty will be deposited into the Permanent School Fund as provided by SDCL 49-41B-34 and resolves all issues related to this violation. The Commission voted unanimously to accept the settlement.

It is therefore

ORDERED, that Applicant shall make a payment of \$30,000 to the Permanent School Fund within thirty days of the issuance of this Order and provide proof of such deposit to the Commission.

Dated at Pierre, South Dakota, this 15th day of May 2019.

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>Karen E. Cromer</u>
Date: <u>05/15/19</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Chris Nelson
CHRIS NELSON, Commissioner

Kristie Fiegen
KRISTIE FIEGEN, Commissioner