

Lawyer for Dakota Range wins key ruling against interveners

- By Bob Mercer, Public Opinion Capitol Bureau
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PIERRE – State regulators agreed Monday to bar interveners from introducing third-party exhibits at a permit hearing for a wind farm planned in northeastern South Dakota.

The state Public Utilities Commission ruled unanimously for the Dakota Range project proposed in Grant and Codrington counties.

The prohibition affects several exhibits from Teresa Kaaz of South Shore and more than 30 exhibits from Kristi Mogen of Twin Brooks.

Mollie Smith, a lawyer for a Minneapolis law firm, sought the ban.

“Like Ms. Kaaz, Ms. Mogen does not provide any information indicating she is qualified to offer testimony on any topic other than her personal knowledge and her exhibits go beyond her stated knowledge,” Smith wrote in her request.

The hearing begins June 12. The commission previously ordered interveners and PUC staff have testimony pre-filed May 4. The only interveners who met the deadline were Kaaz and Mogen.

Mogen offered Monday to have other witnesses testify on various exhibits but the commissioners said she was too late.

“This is a difficult issue for the commission,” Commissioner Chris Nelson said.

Nelson said the commission prefers to give lay interveners “every opportunity” to make their points.

But, he continued, there are rules to protect all parties to ensure exhibits are fully factual and all parties have opportunities to question the truthfulness.

“Many of the exhibits don’t meet that legal threshold for admission,” Nelson told Kaaz and Mogen.

The 302-megawatt electricity project, planned by Virginia-based Apex Clean Energy Holdings, would have 72 turbines, an underground collector system and a substation. The facility would connect to the Big Stone South – Ellendale transmission line operated by Otter Tail Power and Montana Dakota Utilities. Cost is estimated at \$380 million.

Nelson said the decision banning third-party exhibits wouldn’t cover the personal testimony of Kaaz or Mogen.