



# **MINUTES**

## **Wind Energy Task Force**

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**Second Meeting  
2011 Interim  
Wednesday, September 7, 2011**

**Room 414  
State Capitol Building  
Pierre, South Dakota**

The second meeting of the interim Wind Energy Competitive Advisory Task Force was called to order by Representative Roger Solum, Chair, at 10:03 a.m. (CDT), on Wednesday, September 7, 2011, in Room 414 of the State Capitol, in Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senator Corey Brown (Vice Chair) and Jason Frerichs; Representatives Roger Solum (Chair); Messrs. Paul Bachman, Brett Koenecke, Jeff Peters, Todd Wahlund, and David Wiest. Ms. Tracey Fischer joined the meeting a little later. Representative Steve Street and Mr. John DiDonato were excused.

Staff members present included Reuben Bezpaletz, Chief Analyst for Research and Legal Services; Tom Magedanz, Principal Research Analyst; Aaron Olson, Senior Fiscal Analyst; and Kris Schneider, Senior Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). The committee documents are available at the LRC website at <http://legis.state.sd.us> under "Interim Information – Committee Documents." For the purpose of continuity, these minutes are not necessarily in chronological order. This meeting was web cast live. The archived web cast is available under "Interim Information – Minutes and Agendas."

### **Approval of Minutes**

**Senator Frerichs moved, seconded by Mr. Jeff Peters, to approve the July 27, 2011, minutes. Motion prevailed on a voice vote.**

### **Survey of Comparable Incentives and Disincentives to Wind Energy Development in Other States**

#### South Dakota Tax Structures – South Dakota Department of Revenue

**Ms. Alison Jares**, Revenue Supervisor of the Business Tax Division, explained the Sales, Use and Contractors' Excise Taxes and how they apply to wind energy facilities and the entities who benefits from these taxes.

**Mr. Matt Fonder**, Director of Property and Other Taxes, explained the Property and Alternative Taxes and the Gross Receipts Tax rebate for wind farms and the entities who benefit from these taxes.

A copy of the department's presentation entitled "South Dakota Taxation: How it applies to Wind Energy Facilities" and a list of South Dakota's alternative tax statutes were distributed (**Documents 1 and 2**).

#### Incentives in Other States

**Mr. Tom Magedanz**, LRC staff, provided the committee with copies of the U.S. Wind Power Capacity maps for the years ending 2000, 2003, 2006, 2008, and 2010 (**Document 3**). At the end of 2010, Texas leads the nation in production of wind power, 10,085 megawatts (MW). South Dakota's production was at 708 MW.

Mr. Magedanz also reviewed general types of incentives that Minnesota, Iowa, North Dakota, Montana, Nebraska, Wisconsin, Illinois, Indiana, and Texas have implemented. A copy of the handout entitled "Wind Energy Incentives in States in the Region" was distributed (**Document 4**).

### **Report of the Activities and Status of the South Dakota Energy Infrastructure**

**Mr. Hunter Roberts**, Director of the South Dakota Energy Infrastructure Authority (SDEIA) and Energy Policy Director for the Governor's Office of Economic Development, provided a briefing of the SDEIA's structure and wind power reports. The Wind Power Report states the primary issues are transmission, economic, and environmental issues. The three most significant transmission issues are: 1) the seams issue, 2) the queue problem; and 3) the lack of transmission line capacity to move the wind electricity to markets outside of the state. The SDEIA's wind power reports are available at [www.sdeia.com](http://www.sdeia.com). A copy of Mr. Hunter's PowerPoint presentation was distributed to the members following the presentation (**Document 5**).

The committee recessed at 11:45 a.m. for lunch and reconvened at 1:11 p.m.

### **Wind Energy Development on Tribal Lands**

**Mr. Braden Houston**, Director of Project Development for Citizens Energy Corporation, appearing telephonically, provided a brief history of the corporation. Citizen Wind is currently working on Native American wind development projects with the Rosebud Sioux and Cheyenne River Sioux Tribes in South Dakota. He reviewed the process, costs, and issues involved in working with tribal wind development. A copy of the PowerPoint was provided following the meeting (**Document 6**).

## Wind Energy Developers' Presentations

### Iberdola Renewables

**Mr. Ben Hach**, South Dakota Development Manager; **Mr. Tim Seck**, Midwest Regional Director; **Mr. Tom Russell**, Midwest Property Tax Analyst; and **Mr. Russ Nelson**, State and Local Tax Manager, representing Iberdola Renewables, stated that in order for wind to flourish in South Dakota, the issues of transmission, demand, and taxes need to be addressed. Their presentation included a tax comparison with North Dakota, Minnesota, and Iowa. It is their recommendation that South Dakota remove the Sales/Use Tax and Contractors' Excise Tax on new wind farm construction and equipment to equalize the tax burden compared with neighboring states. A copy of their presentation was distributed (**Document 7**).

To the question of whether wind capacity was considered in the tax comparison because it can vary among the states, Mr. Seck responded the tax comparison used a 40% model. As the net capacity factor (ncf) changes, the upfront costs can change the model. He stated they could look at different ncf models. Mr. Seck stated in western South Dakota the issue is transmission not higher taxes because there is a \$13 wheeling fee to get into MISO. Another factor is most of South Dakota's wind capacity is located in WAPA, where electrical prices are low, thus it is hard to make those prices work.

Mr. Seck stated that sales tax rebates are labor intensive. Mr. Nelson stated that the rebate program is an administrative burden for both the Department of Revenue and for the industry. South Dakota relies too heavily on sales tax. It was noted that the rebate program was not used in the 2013 computation on page 5.

### Nextera Energy Resources

**Mr. Jason Utton**, Project Director representing Nextera Energy Resources, provided a brief history of their company and their South Dakota projects. He noted the economic benefits the wind farms have created. His recommendation would be to address the sunset associated with the current tax refund program with a long-term tax incentive plan and to return wind energy tax incentives to the pre-2010 levels. A copy of the presentation was distributed (**Document 8**).

In response to a question on how many MW are connected to IS versus MISO, Mr. Utton stated that he could get that information.

### Basin Electric Power Cooperative

**Mr. Ron Rebenitsch**, Manager of Alternative Technologies representing Basin Electric Power Cooperative, provided information about the cooperative and the Crow Lake Wind project. Their primary concern is transmission. Federal incentives, power market, renewable mandates, MISO, environment, local ownership, taxes, and regulatory environment, in that order, are other key issues. He stated it was important to know what was going to happen in the future as far as tax/rebate extensions. Mr. Rebenitsch also commented on wind rights

issues relating to downwind landowners, setback distances, and the value of nearby sites. A copy of the presentation was distributed (**Document 9**).

### Acciona Energy

**Mr. Rick Murphy**, Project Developer representing Acciona Energy, stated that the access to markets and the competitiveness within the region are key issues with wind development in South Dakota. There needs to be consistency in the regulation of tax incentives/tax structure.

BP Wind Energy and Clipper Windpower were also invited to speak to the task force. They did not participate.

### **Committee Discussion/Next Meeting**

In response to a question on how much the state has received in taxes, Mr. Fonder stated for the last three years, the amount of property tax collected was:

2009	Nameplate taxes	\$278,383.56
	Gross Receipts	\$315,941.39
	Rebate	\$284,347.25
	Remitted to Counties	\$309,977.70
2010	Nameplate taxes	\$673,774.53
	Gross Receipts	\$773,982.42
	Rebate	\$696,584.18
	Remitted to Counties	\$751,172.77
2011	Nameplate taxes	\$1,026,483.43
	Gross Receipts	\$1,180,421.44
	Rebate	\$1,062,383.80
	Remitted to Counties	\$1,144,525.07.

Following a brief discussion on the scope of the task force, the possible need to have another meeting, the process involved in introducing legislation, and the process of compiling a final report, Representative Solum set the next meeting for Wednesday, October 5, 2011.

### **Adjournment**

**Mr. Koenecke moved, seconded by Mr. Peters, that the meeting adjourn. Motion prevailed on a voice vote.**

The meeting adjourned at 3:31 p.m.



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