

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

**IN THE MATTER OF THE APPLICATION OF
CROWNED RIDGE WIND, LLC FOR A FACILITIES PERMIT TO
CONSTRUCT A 300 MEGAWATT WIND FACILITY**

Docket No. EL19-003

**SUPPLEMENTAL TESTIMONY
OF TYLER WILHELM AND SAM MASSEY**

April 8, 2019

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAMES AND BUSINESS ADDRESS.**

3 A. Tyler Wilhelm and Sam Massey. Our business address is 700 Universe Blvd., Juno
4 Beach, Florida, 33408.

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6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. We are both employed by NextEra Energy Resources, LLC. Mr. Wilhelm is a Project
8 Manager of Renewable Development, while Mr. Massey is Director of Renewable
9 Development.

10
11 **Q. WHAT ARE YOUR RESPONSIBILITIES?**

12 A. Together, we are responsible for the development, permitting, community outreach,
13 regulatory compliance, and meeting the commercial operations date for the 300 megawatt
14 Crowned Ridge Wind generation project ("Project").

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16 **Q. ARE YOU THE SAME TYLER WILHELM AND SAM MASSEY WHO**
17 **SUBMITTED DIRECT TESTIMONY IN THIS PROCEEDING ON JANUARY 30,**
18 **2019?**

19 A. Yes.

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21 **Q. HAS THIS TESTIMONY BEEN PREPARED BY YOU OR UNDER YOUR**
22 **DIRECT SUPERVISION?**

23 A. Yes.

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TESTIMONY

Q. PLEASE DESCRIBE THE PURPOSE OF THE TESTIMONY.

A. The purpose of our supplemental testimony is to address comments made at the March 20, 2019 public input hearing.

Q. AT THE PUBLIC INPUT HEARING THERE WERE COMMENTS ABOUT WHETHER CROWNED RIDGE WIND WAS AGREEING TO ACCEPT LIABILITY RELATED TO ITS WIND TURBINES. IF CROWNED RIDGE WIND IS APPROVED, IS IT YOUR UNDERSTANDING THAT THE COMMISSION, AS PART OF ITS APPROVAL, WILL IMPOSE A CONDITION TO ADDRESS LIABILITY?

A. Yes, it is our understanding that similar to the approvals in Docket Nos. EL18-026 and EL18-003 the Commission would impose the following condition when approving a wind facility:

Applicant shall, in the manner described in its written agreement with a landowner, indemnify and hold the landowner harmless for loss, damage, claim, or actions resulting from Applicant's use of the easement, including any damage resulting from any release, except to the extent such loss, damage claim, or action results from the negligence or willful misconduct of the landowner or his employees, agents, contractors, invitees, or other representatives.

Q. IF THE SAME CONDITION WAS IMPOSED ON CROWNED RIDGE WIND, WOULD YOU AGREE TO COMPLY WITH THE CONDITION?

A. Yes.

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Q. ARE THERE ADDITIONAL CONDITIONS THAT THE COMMISSION TYPICALLY IMPOSES TO PROTECT LANDOWNERS?

A. Yes, the following is a summary of conditions that the Commission typically imposes to protect landowners:

1. The Applicant will repair and restore areas disturbed during construction (Condition No. 15 in Docket No. EL18-003; Condition No. 16 in EL18-026);
2. The Applicant will work closely with landowners to determine a plan to control noxious weeds (Condition No. 16 in Docket No. EL18-003; Condition No. 17 in EL18-026);
3. The Applicant shall stage construction material to minimize adverse impact to landowners, and all access construction materials and debris shall be removed, unless landowner otherwise agrees (Condition No. 17 in Docket No. EL18-003; Condition No. 18 in EL18-026);
4. The Applicant to the extent feasible and prudent shall minimize adverse impacts and interferences with agricultural operations, shelterbelts, and other land uses or activities. The Applicant shall take appropriate precautions to protect livestock and crops. The Applicant shall repair all fences and gates removed or damaged during construction or maintenances. The Applicant shall repair private roads damaged when moving equipment or obtaining access to the right-of-way. (Condition No. 18 in Docket No. EL18-003; Condition No. 19 in EL18-026);

1 5. The Applicant shall bury the underground collector system at a minimum depth
2 of 3.5 feet, or deeper if necessary to ensure the current land use is not impacted.

3 Condition No. 19 in Docket No. EL18-003; Condition No. 20 in EL18-026);

4 6. The Applicant shall repair or replace all property removed or damaged during
5 construction. Applicant shall compensate the owners for damages or losses that
6 cannot be fully remedied by repair or replacement, such as lost productivity and
7 crop and livestock losses. All repair, replacement and/or compensation described
8 above shall be in accordance with the terms and conditions of written agreements
9 between Applicant and affected landowners where such agreements exist.

10 (Condition No. 20 in Docket No. EL18-003; Condition No. 21 in EL18-026); and

11 7. If the Project causes interference with radio, television, or any other licensed
12 communication transmitting or receiving equipment, Applicant shall take all
13 appropriate action to minimize any such interference and shall make a good faith
14 effort to restore or provide reception levels equivalent to reception levels in the
15 immediate areas just prior to construction of the Project. This mitigation
16 requirement shall not apply to any dwellings or other structures built after
17 completion of the Project. (Condition No. 25 in Docket No. EL18-003; Condition
18 No. 25 in EL18-026).

19 **Q. IF THE SAME CONDITIONS WERE IMPOSED ON CROWNED RIDGE WIND,**
20 **DO YOU AGREE TO COMPLY WITH THE CONDITIONS?**

21 A. Yes.

22 **Q. AT THE PUBLIC INPUT HEARING, THERE WAS A CONCERN EXPRESSED**
23 **REGARDING THE PAYMENT PROCESS FOR CROP DAMAGE FOR**

1 **DEVELOPMENT ACTIVITIES SUCH AS SOIL TESTING, GEOTECH AND**
2 **PRELIMINARY MICROSITING. PLEASE EXPLAIN CROWNED RIDGE**
3 **WIND'S PROCESS FOR PAYMENT FOR CROP DAMAGE.**

- 4 A. Crowned Ridge Wind documents crop damage that occurs on landowner's properties
5 during the development, construction, operations and maintenance phases of the Project.
6 Crowned Ridge Wind works with landowners to determine the type of crop damaged, the
7 extent of damage, the acreage affected, and the calculated crop damage payment. These
8 items are all captured within a crop compensation form which is executed between the
9 landowner (and tenant farmer, if applicable) and Crowned Ridge Wind. After the mutual
10 execution of the crop compensation form, the landowner will receive a crop damage
11 payment within the time specified in the landowner's wind easement agreement. The
12 timing by which a crop compensation form is provided to a landowner and when crop
13 damage payment is received is dependent on: (1) the wind farm lease agreement that is
14 executed with the landowner and (2) the stage of the Project when the crop damage
15 occurs (development, construction, operations).

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17 **Q. PLEASE SUMMARIZE THE PROCESS IN THE WIND FARM LEASE**
18 **AGREEMENTS FOR CROP DAMAGE ASSESSMENT AND PAYMENTS.**

- 19 A. The following sets forth the process under the Crowned Ridge Wind easement
20 agreements and the Cattle Ridge Wind easement agreements, which were purchased by
21 Crowned Ridge Wind:

Cattle Ridge Wind Farm Wind Easement Agreements – Crop Compensation

- Crop damage payment is calculated using the following formula: $Price \times Yield \times Percentage \text{ of Damage} \times Acreage = Crop \text{ Damage Payment}$; and
- The crop damage payment will be made within 90 days after a determination on the extent of the crop damage.

Crowned Ridge Wind Farm Wind Easement Agreements – Crop Compensation

- The crop damage payment is calculated using the following formula: $Unit \text{ Price} \times Unit \text{ Yield Per Acre} \times Acres \text{ Damaged} = Crop \text{ Damage Payment}$;
- If damage occurs during the initial construction of the Project, a crop compensation form shall be completed and delivered within 240 days after the completion of construction of the Project. Crop damage payments will be made within 60 days after mutual execution of the crop compensation form;
- If damage occurs during the operations or maintenance of the Project, a crop compensation form shall be completed and delivered within 240 days after the damage occurs. Crop damage payments will be made within 60 days after mutual execution of the crop compensation form.
- The Crowned Ridge wind easement agreements do not address crop damage obligations for damages that occur specifically during the development phase of the Project (land surveys, micrositing, soil testing etc.).

1 **Q. PROVIDE AN OVERVIEW OF THE STATUS OF CROP DAMAGE PAYMENTS**
2 **ON THE CROWNED RIDGE PROJECT.**

3 A. Crowned Ridge Wind has executed several crop compensation forms with landowners to
4 date for the damages incurred from development activities in 2018. Crowned Ridge Wind
5 is committed to providing crop damage payments for the 2018 crop year prior to the
6 Project's construction in 2019 before any further damage occurs. Also, Crowned Ridge
7 Wind is committed to working with landowners to timely provide payments for crop
8 damage consistent with the process set forth above.

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10 **Q. AT THE PUBLIC INPUT HEARING, A COMMENT WAS MADE THAT THERE**
11 **IS A DISCONNECT BETWEEN THE COMMERCIAL OPERATIONS DATE**
12 **AND THE EXPIRATION OF THE PRODUCTION TAX CREDIT ("PTC").**
13 **PLEASE ADDRESS THIS COMMENT.**

14 A. The commercial agreement between Crowned Ridge Wind and Northern States Power
15 (NSP) requires that the wind facility be in-service in December of 2019, which allows the
16 parties to take full advantage of the PTC, because the PTC does not start to phase out
17 until after 2020. While Crowned Ridge Wind could take full advantage of the PTCs if it
18 came into in-service in 2020, NSP and Crowned Ridge Wind have agreed to an earlier
19 commercial operations date, as NSP desires to take advantage of the clean, renewable
20 energy from Crowned Ridge Wind sooner than 2020.

21 **Q. THERE WAS A COMMENT THAT THE PROJECT'S BOUNDARY WAS**
22 **DRAWN TO SHOW THERE IS A HIGH DEGREE TO SUPPORT FOR THE**
23 **PROJECT. PLEASE ADDRESS THIS COMMENT.**

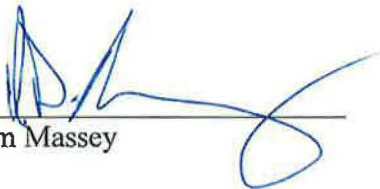
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2 A. The process for the development of the boundary is set forth in Section 7 of the
3 Application. As the Application explains, there are a number of factors used to define the
4 Project's boundary. The commenter mistakenly inferred that one of the factors included
5 shaping the boundary to show an artificially high level of support for the Project. Such a
6 factor was not used. Instead, the factors set forth in the Application were used to define
7 the Project Boundary.

8 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

9 A. Yes, it does.

STATE OF FLORIDA)
) ss
COUNTY OF PALM BEACH)

I, Sam Massey, being duly sworn on oath, depose and state that I am the witness identified in the foregoing prepared testimony and I am familiar with its contents, and that the facts set forth are true to the best of my knowledge, information and belief.



Sam Massey

Subscribed and sworn to before me this 8th day of April 2019.

SEAL



Notary Public

My Commission Expires _____

