BEFORE THE PUBLIC UTILITIES COMMISSION
STATE OF SOUTH DAKOTA

In the Matter of the Application by CROWNED RIDGE WIND II, LLC *for a Permit of a Wind Energy Facility in Deuel, Grant and Codington Counties*	))))	Docket EL19-016

PETITION OF EHLEBRACHT, ET AL. ("PETITIONERS")
TO
COMMISSION STAFF
CONCERNING
APPLICANT'S BURDEN OF PROOF

By their Application filed April 10, 2019, Garry Ehlebracht and five of his neighbors (collectively, therein referenced as "Protestants, and now herein referenced as "Petitioners"), all residing upon their properties within the immediate vicinity of Goodwin (Goodwin Township, Deuel County), South Dakota seek party status under SDCL 49-41B-17(3). The Application remains pending at this writing. Now, desiring to seek further relief from this Commission, Petitioners, each of them, submit this Petition, through undersigned counsel, each declaring that they are fee owners of their respective properties, and henceforth, are slated, in Applicant's vision, to be confined within the "project boundary" of Applicant's so-called wind farm. Thus, having in mind SDCL 49-41B-22 (Applicant's Burden of Proof), Petitioners now seek clarification or guidance from this Commission as to which party – whether Applicant or Petitioners – have the burden of going forward with the evidence on the essential inquiries stated within the cited statute, and as further outlined and stated herein.

Section A:
Interests and Concerns of Petitioners (Summary)

1. Petitioners are persons claiming the benefits and protections afforded under Article 6, § 2 of the South Dakota Constitution – their property is not to be deprived without due process of law – and also Article 6, § 13 – private property is not to be taken for public use, or damaged, without just compensation.

2. As property owners, Petitioners, relying on SDCL § 43-2-1, have the full, unqualified right to possess and use such property, to the exclusion of all others.

3. Petitioners have entered into no contract, easement or agreement with Applicant as to any matter concerning this wind farm; Petitioners have neither sold nor given away any of their respective rights concerning the receiving, or discharging, of air, light or heat upon or over their properties, as enumerated in SDCL § 43-13-2, whether in favor of Applicant or any of its affiliates.

4. Petitioners also make daily or frequent use of the public roads and highways that extend to, from and between their properties, and communities in Deuel and adjoining counties;

as such, Petitioners have an abiding interest in safe conduct and passage while traveling upon the roads, and also while present upon their properties.

5. Each Petitioner also claims the right and privilege to make such present, and any lawful future use of his or her respective property as may be allowed by the Deuel County Zoning Ordinance (within the A-1 Agriculture Zoning District).

6. If the wind energy facility siting permit is issued, as sought, each of the Petitioners will henceforth reside in close proximity to one or more wind turbines (Industrial Wind Turbine, "IWT") as Applicant proposes, with placements to the north, east, west and south of each Petitioner.

7. Each of the planned IWTs is represented to be a 2.3 MW General Electric model, having a hub height of 90 meters; although this fact does not appear to be expressly represented anywhere in Applicant's filing (other than a single mention in the EAPC Wind Energy study, Appendix I to Application), this model is believed to emit a sound in the range of 107 dB(A), a noise source that does not presently exist in the neighborhood of these Petitioners.

8. Sound emissions, as received at various Deuel County participating and non-participating residences, are projected in Applicant's commissioned study (EAPC Wind Energy, dated March 11, 2019, Appendix I to Application); it is observed, in passing, that this study continues to incorrectly reflect Petitioner Ehlebracht's residence, and likewise Petitioner Grebers' residence, as "participating," when, in fact, they are not.

9. Additionally, the IWTs throughout the proposed wind farm will emit infrasound or low frequency noise (LFN), an obnoxious feature that rises to a health risk. While the Deuel County Zoning Ordinance makes no provision for LFN, Petitioners are nevertheless concerned that such is emitted by operating IWTs, that such emission poses a health risk, but has gone completely unmentioned in Applicant's presentation. Upon information and belief, Petitioners are concerned the effects of LFN can be "felt" at distances considerably greater than audible sound, and will have an adverse impact upon Petitioners, individually, in the enjoyment of their residences, and also in the use and future development of their respective properties generally. It is presently unknown to Petitioners whether this Commission has previously determined whether LFN is a proper subject of inquiry under ARSD 20:10:22:33.02. Petitioners submit the inquiry is proper, and must be addressed in the first instance by Applicant as part of its burden under SDCL § 49-41B-22.

10. The planned IWTs will also throw off "shadow flicker," as predicted in Appendix J to Applicant's submission (Shadow Flicker Study, dated March 8, 2019); the study, again, appears to incorrectly rank both the Ehlebracht and Greber residences as "participating," when, in fact, they are non-participating in nature. It further appears that each of the properties of Petitioners will be affected to some manner and duration by Shadow Flicker, when, in fact, none of the Petitioners have agreed by instrument or otherwise to permit the disposal of Shadow Flicker of any duration. While the Deuel County Zoning Ordinance ostensibly now "permits" Shadow Flicker intrusions, whether such is part of the Legislature's delegated zoning power is disputed by these Petitioners. Likewise, to the extent this Commission proposes to approve the

display of Shadow Flicker upon any residence or property of Petitioners, such right and authority is disputed, as only the owner of the property – within the meaning of SDCL § 43-13-2 – may extend that legal right to this Applicant.

11. Petitioners further believe the manufacturer of the proposed model of IWT (General Electric) has historically published information regarding a "safety zone" or "keep-away" radius to be followed by operating personnel when the IWT is in service, or the unit is under some kind of distress (wheeling out of control – it happens) or is on fire (yes, this happens, too). Petitioners believe the distance applied to a somewhat smaller GE model was 1,640 feet from base of turbine; a separate GE publication concerning "ice throw" propensities described a somewhat smaller distance. Nevertheless, it is believed that many – and perhaps all – of the IWT locations proposed by Applicant will be, in relationship to other properties including those traveling upon roads and highways nearby, well within the "safety zone" or the "ice throw" range of the many IWTs being installed. None of this information, directly related to public safety, is mentioned even once or briefly by Applicant.

12. These several points of concern raise the question of which, if any, of these matters are those for which Applicant has the burden of proof within the meaning of SDCL § 49-41B-22. Further, to the extent Applicant has addressed these matters – such as the audible sound or Shadow Flicker studies – Petitioners wish to inform the Commission of their position that these are matters related to the use, enjoyment and defense of their respective properties, for which Petitioners, as owners, claim exclusive province and right to allow (or to disallow). Each of the points of concern are matters for which modeling or other studies are expensive to produce and present to this Commission. Petitioners are all persons of modest means, looking only to defend their properties from unpermitted, unwelcomed intrusions, sure to arise from an intensive, noisy and risky industrial use that, some claim, must fit within an agriculturally zoned area of Deuel County.

Section B:
Applicant's Affiliates and Application

13. Applicant is represented to be an indirect subsidiary of NextEra Energy, Inc. (NYSE: NEE), headquartered at Juno Beach, FL with 2017 revenues in excess of $17 billion.

14. As quoted in the Commission's agenda for April 12, 2019 (meeting having been cancelled due to weather), NextEra estimates a construction cost of $425 million for this wind farm, while the Commission proposes to assess a filing fee not to exceed $412,500, with an initial deposit of $8,000. Given the linked request for the Commission's executive director to "enter into necessary consulting contracts," Petitioners assume much of the fee will be used to defray the costs of third-party consultants, and assume further, the principal focus of the consultants will be to advise the Commission staff as to technical details of the wind farm.

15. Petitioners would inquire – how much of the filing fee to be assessed is for the hiring of consultants, whose mission is to inform the Commission and staff as to matters and elements of the Applicant's burden of proof as referenced in SDCL § 49-41B-22? When the statute references an inquiry to confirm the "facility will not substantially impair the health,

safety or welfare of the inhabitants" (*Id.*, at subsection 3), who, exactly, has that burden of proof? If it is the Applicant, then we (Petitioners) submit, in turn, that Applicant has failed the burden at the very outset. To prove a fact – to sustain an evidentiary burden – does not Applicant need to at least mention (at least once) the fact sought to be proven?

16. Several prepared, written statements are submitted as part of the application: the sixteen page joint document of Tyler Wilhelm-Daryl Hart, the eighteen page (all unnumbered) document of Kimberly Wells, and an eleven page statement of Mark Thompson. Each of these persons is employed in some capacity by NextEra. Wilhelm-Hart (beginning at p. 9 of 16) includes a listing of the various local setback requirements under the respective zoning ordinances of Codington, Grant & Deuel Counties. In both Codington and Grant, an IWT can be built 1,500 feet from a non-participating residence, while in Deuel the distance is determined by 4 times vertical height (roughly 1,980 feet in the case of a GE 2.3 MW IWT). From a municipal boundary, Codington and Grant require a setback of 5,280 feet, which rises to 1.5 miles in Deuel County.

17. Petitioners note, in passing, that in Deuel County, focusing on the nearby village of Goodwin, a setback of 1 mile is imposed, applied from the "nearest residence" (not the municipal boundary). Petitioners aver that *their* homes, all in the immediate vicinity of Goodwin, are not substantially different than the several homes in Goodwin – except those in Goodwin are afforded setback of at least 1 mile, whereas the homes of Petitioners (as non-participants, notwithstanding the mapping within the applicant purporting to show the Ehlebracht and Greber homes as "participating") are assured a setback of merely 1,980 feet. This is a significant (and also an unlawful) dichotomy. SDCL 11-2-14 requires, in pertinent part: "All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts." This is a relevant concern as *each* of the residences occupied by the Petitioners is believed to be less than one mile from the nearest IWT site as envisioned by Applicant.

18. The Wilhelm-Hart digest of applicable zoning ordinance provisions further notes that each county requires the IWT to be located 110% of the height from any property line, and likewise from the right-of-way of public roads. As to property line setbacks, each ordinance permits an infringement (by Applicant) on the right of Petitioners to fully and safely use their respective properties in a manner as they wish, consistent with other provisions of the Deuel County Zoning Ordinance. This feature amounts to "Trespass Zoning" (a term often used in the Petition for Writ of Certiorari, now pending in Deuel County under the name of *Ehlebracht, et al. v. Deuel County Planning Commission, sitting as the Board of Adjustment*), whereby the zoning authority seeks to take property rights of each Petitioner, while re-conferring them upon Applicant. To the extent the manufacturer's so-called "safety zone" (see paragraph 11, above) then intrudes upon lands of Petitioners, are not these Petitioners to be forever precluded (for the life of the IWT operation) from full use and enjoyment of their own lands? With respect to road rights-of-way, Petitioners are likewise concerned for the reason expressed in paragraph 11 – persons residing within the boundary of this wind farm should not be required to make use of the roads and highways at their own peril simply because of undue proximity to "Crowned Ridge Wind."

19. Each County's ordinance likewise purports to "permit" the infliction of Shadow Flicker upon nearby properties, so long as its presence does not exceed 30 hours annually. Petitioners, as stated previously, assert that Deuel County (nor any other county) has been granted actual zoning power to permit or foster this kind of invasion. To be clear, Petitioners further maintain this Commission likewise has no actual legal authority to make such an award to Applicant, as an agency of the State of South Dakota. The concept of "Shadow Flicker" is akin to an easement, the exclusive right to make or withhold such rights being statutorily vested entirely with the fee owner – namely, these Petitioners. Thus, this Commission should neither purport nor propose to approve the infliction of Shadow Flicker upon any property of these Petitioners, unless this is intended to mark the beginning of an attempted "taking" of inherent, vested interests in land.

20. In general, Petitioners submit that neither the statement of Wells nor of Thompson have much if anything to do with the key burden of proof placed on Applicant, that being whether the facility will "substantially impair the health, safety or welfare of the inhabitants" (SDCL § 49-41B-22).

21. The statement of Jay Haley (12 pages) focuses on wind farm design; Mr. Haley is the "North and South American sales and support representative for windPro, . . . the world's leading software tool used for the design of wind farms including noise and shadow flicker." Haley mentions he has expertise in "ice throw" impacts, but other than this single reference, the witness offers nothing more in the way of manufacturer's recommendations on this point. As Petitioners understand the Haley statement, his testimony is focused on the noise within the audio spectrum of 20 to 20,000 Hz (thus, Haley ignores any effects from LFN), and Shadow Flicker.

22. Petitioners submit that even if Haley is now taken as sufficient evidence that the noise emitted from the wind farm – along with the Shadow Flicker being exuded – is *entirely compliant* with each of the three Zoning Ordinances implicated by the placement of this wind farm, this conclusion must further assume that each of the Zoning Ordinances has been prepared and adopted locally by persons having only the "health, safety and welfare of the inhabitants" foremost in mind. This would be a faulty, infirm assumption. The record of adoption and amendment of the Zoning Ordinance in these counties is, Petitioners assert, replete with representations that the wind farm developers would ignore this county, or that one, and go elsewhere with their development dollars (and landowner payments) if the ordinance imposes too great a burden on them. The health, safety and welfare of the local population was not the uppermost concern of these local political and decision-making bodies. Petitioners are trusting that this Commission will have a greater focus on such matters, and will seek input from hired consultants knowledgeable of the health, safety and welfare risks to humans, as are now being associated with long-term wind farm exposure.

23. As noted, even if noise and Shadow Flicker being imposed upon Petitioners is consistent with whatever limits are deemed acceptable under the Deuel County Zoning Ordinance, it does not follow that the County has been afforded actual zoning power to impose those afflictions upon Petitioners. Nothing in the zoning power delegation allows this Applicant, with some dutiful blessing by County officials, to simply take (the verb "steal" also comes to

mind) from these Petitioners the rights of property ownership – and the inherent right to safety and personal protection – that Applicant's agents were unable to negotiate to a successful transfer by easement or other instrument. Even if the declared public policy of this State is to actively encourage the development of wind farms, wherever and whenever possible (and as fast as possible), the State's role is not tantamount to an actual governmental power (delegated to the County by the Legislature) that can simply roll over and crush the private rights and interests of Petitioners, who themselves have sought no land use relief (other than the right to be left alone as to the enjoyment of their property) under the provisions of the Deuel County Zoning Ordinance.

Section C:
Applicant is Not Self-Disclosing, Despite Having the Burden of Proof!

24. Petitioners submit that Applicant does not wish to voluntarily produce information of the kind or nature of interest to Petitioners, and as is required by the statutory provisions in SDCL § 49-41B-22. Applicant's attitude, we further submit, is both cavalier and rather shocking. The Commission's attention is directed to the responses of Crowned Ridge Wind (this Applicant) to written discovery efforts initiated by Petitioners in the pending writ of certiorari case, 19CIV18-000061, such responses having been served April 12, 2019. Exhibit A, annexed, is a 10-page document executed by Applicant's local counsel, Miles F. Schumacher, constituting "First Set," and Exhibit B is a similar (but shorter) document of Mr. Schumacher, marked "Second Set." In due course, Applicant's position will be addressed also in further proceedings before the Circuit Court (Honorable Dawn Elshere), but for purposes of this docket, at this stage, the following several examples fully reflect Applicant's attitude:

From Exhibit A, p. 4-5:

> INT-13: State whether the manufacturer of the wind turbines, as identified in Your response to INT-8, has published, printed or promulgated (whether for public use, customer information, as a confidential document, or under a claim of privilege) any Document establishing or recommending a "danger zone," "keep out area," or similar exclusion zone for the safety of the public and any personnel called to maintain the wind turbines (herein, "Exclusion Zone") within a specific circumference of, or the general area near, a wind turbine.
>
> **RESPONSE:** Objection. This interrogatory seeks information that is irrelevant and is not reasonably calculated to lead to admissible evidence. Crowned Ridge further objects because the terms "danger zone," "keep out area," and "exclusion zone" are vague and ambigious.

From Exhibit A, p. 5:

> INT-16: If an Exclusion Zone is known to You (as referenced in INT-13), whether or not established in a Document prepared, published, printed or promulgated by the manufacturer, do any of the roads or highways (constituting statutory highways or other improved roads, accessible to the public for travel and

transit), in, near or adjacent to the project described in Your Permit, lay, in whole or in part, within some part of the Exclusion Zone?

RESPONSE: Objection. This interrogatory seeks information that is irrelevant and is not reasonably calculated to lead to admissible evidence. Crowned Ridge further objects because the term "exclusion zone" is vague and ambiguous.

From Exhibit A, p. 5:

INT-19: To Your knowledge or belief, do wind turbines, while operating, produce Infrasound?

RESPONSE: Objection. This interrogatory seeks information that is irrelevant and is not reasonably calculated to lead to admissible evidence.

Finally, from Exhibit A, p. 6:

INT-23: Have You or any Affiliate been sued (whether in state, federal or tribal courts), by Persons within the United States, for any loss or damage to property (or claimed loss or damage to property, including market value loss) or any personal injury (or claimed personal injury) arising from exposure to either audible noise emitted by wind turbines, or Infrasound associated with the operation of wind turbines?

RESPONSE: Objection. This interrogatory seeks information that is irrelevant and is not reasonably calculated to lead to admissible evidence.

25. We get it – Applicant does not intend to answer (voluntarily) such questions, even though Petitioners believe the questions are highly pertinent, whether before a County Board of Adjustment, or here, before this Commission. Such kinds of discovery exchanges – if that is what Applicant's lawyer-driven, non-responses can be called – reflect a high level of arrogance on the part of Applicant. This attitude, as we read it, is somewhat akin to – "Where's our permit? What's the hold-up here?"

Section D:
Conclusion

26. This is a most unequal contest. As a practical matter, Applicant has unlimited financial resources to accomplish its economic objectives. Statutorily, it is presented with several evidentiary burdens as potential obstacles en route to those goals, that found within SDCL 49-41B-22(3) being key. In line with this Commission's regulations, Applicant must deem its submission as being full, complete and sufficient for this purpose, and, as demonstrated by the "responses" to discovery, Applicant has no plans to say more. Petitioners beg to differ.

27. Petitioners are gravely concerned also about the loss of value to their respective properties, should this siting permit be issued as sought. Regarding the prospective loss of

market value, Applicant anticipates the argument by submitting (Appendix L to Application EL19-016) the infamous study from the Ernest Orlando Lawrence Berkley National Laboratory, issued August 2013, Hoen, *et al.*, "A Spatial Hedonic Analysis of the Effects of Wind Energy Facilities on Surrounding Property Values in the United States." Pausing to briefly recognize that E.O. Lawrence (a true genius, which is not to agree that all who henceforth come in his name are likewise) was born and raised in Canton, South Dakota, the county seat of Lincoln County (a place thus far spared the onslaught of wind farm development), we then further note the National Laboratory bearing the Lawrence name is funded (as was this cited work) by the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy. If this writer recalls correctly, this may have been the very same office that promoted development of the "model zoning ordinance" for wind farm activities, suggesting that a 1,000 foot setback to occupied dwellings was fully sufficient (this being the same model ordinance this Commission's website formerly offered as an available resource). Many counties (including Deuel) in South Dakota rather slavishly copied this model, although Deuel has since moved away from the mold to some extent. Petitioners, for their part, having a vital interest in the protection of both their homes and their health, are not inclined to fully trust the federal government's tireless (and bottomless fiscal support) promotion work for further wind energy development, and would now ask this Commission to likewise question its validity or veracity to this specific circumstance. Let's look instead for a market value study of homes and properties, intended for continued human habitation, situated within the "Johnny-come-lately" project boundaries of a wind farm using IWT installations nearly 500 feet in height, with some 68 locations alone in Deuel County, each capable of emitting noise at about 107 dB(A), along with LFN – and capable of throwing ice (in season)! For its part, Applicant maintains these features are all irrelevant. But, in the name of all that is holy, just who would want to live there, other than those already calling this place home? (This writer lives and practices law on his great-grandparents' Lincoln County homestead from 1870, with full appreciation of the reluctance of other South Dakotans, including these Petitioners, to sell, abandon or leave their homes despite great affliction and adversity, even in the face of the kind of high-level "stealing" referenced in this Petition.)

28. Petitioners would further observe the State itself has also unfairly cast, from the forge of our Legislature, the evidentiary burden as one where Applicant is free to somehow or to some extent "impair the health, safety or welfare" of these Petitioners, so long as the project doesn't do so "substantially."

29. Petitioners thus conclude with the stated request for a preliminary ruling or for further direction from this Commission, or Commission staff, as to whether the evidence submitted with the application is sufficient to meet the statutorily defined burdens of proof. This inquiry seems entirely apt, as the crux of this matter is whether Applicant's submission, at this threshold, suffices to carries the day for the proposition that "the facility will not substantially impair the health, safety or welfare of the inhabitants." The statutory label of "inhabitants" seems more appropriate to describe a clutch of laboratory rats, under dire test and at risk of substantial impairment to life and health, yet hoping to outlast an experiment professing such noble aspirations.

30. Petitioners, rather, are citizens of South Dakota, entitled to constitutional protections. They have not indulged in contractual privity with Applicant. Having long lived in

their respective homes and on their properties, Petitioners were unaware that others – in the form of Applicant, driven by land agents and those neighbors electing to enter into wind development easements with Applicant – would yet have the full power and perfect privilege, under the blessings of a local board (whose actions are under review by writ issued by the Circuit Court), armed with a favorable (or unfavorable, depending on one's point of view) zoning ordinance, and now subject to the further imprimatur of this Commission, mixed in with the expenditure of a mere projected $425 million, to radically change, *entirely and forever*, the place they have as home. Before this Commission adds further, final approval to this facility siting scheme, Petitioners wish to urge that Applicant be taxed also for the express purpose of funding this Commission's retention of qualified, independent experts, for the giving of opinions as to whether this wind farm will – *or will not* - substantially impair the health, safety or welfare of these Petitioners.

31. On April 12, 2019, even as counsel for Applicant doubtlessly mulled over just how to avoid meaningful answers to Petitioner's discovery requests, the editor-in-chief of the *Oberlin Review*, a weekly college newspaper established in 1874 (Oberlin, Ohio) published his opinion, entitled "Wind Farms Do Pose Health, Procedural Justice Concerns," a true copy being annexed as Exhibit C. The writer – obviously an avid supporter of wind farm development – takes note of an article published by Gwen Ottinger in 2013, "The Winds of Change: Environmental Justice in Energy Transitions," having focus on Wind Turbine Syndrome ("WTS"), "a condition experienced by many people who reside in close proximity to wind farms." At the mere mention of WTS, we imagine that Applicant's personnel, and their cohorts within the wind development industry tasked with providing responses to written discovery (prime examples being annexed as Exhibit A and Exhibit B) – will stop just long enough in the writing of professional non-responses to snicker, and then, we would further surmise, laugh out loud – "Wind Turbine Syndrome!! There is no such thing!!" But, what Editor Nathan Carpenter then writes is most compelling:

> Before I read Ottinger's article last summer, I had never encountered the idea of WTS, or indeed any documentation of the potentially negative impacts that wind farms can have on the communities they are placed within. However, as I began to talk with people about this issue – particularly residents of Oberlin and other communities across the Midwest, where wind energy has exploded in recent decades – I discovered exactly what Ottinger contends: these harmful impacts are widely understood by those in rural areas who are directly affected, but not usually discussed or validated in the dominant literature or media narratives.

32. Armed with boatloads of money, and having in hand the signed easements from many of the landowners (neighbors, we suppose, of these Petitioners) in the general area of Goodwin, South Dakota, Applicant is now before this Commission, expecting the issuance of a siting permit. It has been smooth sailing thus far – Deuel County's Board of Adjustment has unanimously approved a conditional use permit (special exception permit in local jargon) for these gigantic sixty-eight (68) IWT installations in that county, as have also the boards in adjoining Codington and Grant Counties. Applicant did not bother to disclose to these local boards *any* information about Infrasound (or LFN), and *nothing* apparent was said either about General Electric's recommendations about "stay-back" or "exclusion zones" – concepts that

Crowned Ridge Wind now pretends also to not understand. Nothing has been said about these topics in the opening presentation before this Commission either, and it seems quite apparent Applicant is entirely unmotivated to now say (or disclose) anything whatsoever about these important subjects.

33. Petitioners hasten to assure this Commission – they are not willing to quietly become part of some decades-long experiment in living (or survival), one that finds IWTs closely crowded into the proximity of their residences and properties. Further, we say, Petitioners possess important constitutional and statutory protections which are offended by this "wind farm" effort – so far led by local government – to take (as in steal) without any compensation (let alone "just compensation"), by the overwhelming presence of numerous, no-matter-what-direction-you-look, IWT installations (approaching 500 feet in height, towering multiple times above anything else visible in and around Goodwin), designed to cast audible noise and Shadow Flicker and also Infrasound (LFN) onto their properties and into their residences, without any disclosure whatsover (whether to local government, to these Petitioners, or to this Commission) of the safety concerns and "stay back" recommendations propounded by General Electric. These are not the actions of corporate citizens to be admired and avidly promoted in their well-funded endeavors.

34. Petitioners thus submit this Petition, urging this Commission, in consultation with Commission staff, to further inform Applicant – this veritable, immense Goliath, even now preparing to take the field (around Goodwin) and all who may stand in its way - that absent such full and complete disclosure, the burden of proof required under SDCL § 49-41B-22 has not been met, and cannot be met. Applicant's presentation ignores the crucial points raised by this Petition; these topics are directly and legally relevant to this Commission's inquiry, contrary to what Applicant, now fully fitted in this stunning array of wealth and power, is likely to assert, assuming the themes displayed in both Exhibit A and Exhibit B, annexed, hold true.

Dated at Canton, South Dakota, this 15th day of April, 2019.

Respectfully submitted,

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