

BEFORE THE PUBLIC UTILITIES COMMISSION
STATE OF SOUTH DAKOTA

In the Matter of the Application by)
CROWNED RIDGE WIND, LLC *for a*) Docket EL19-003
Permit of a Wind Energy Facility in)
Grant and Codington Counties)

APPLICATION FOR PARTY STATUS
(Application of Timothy Lindgren & Linda Lindgren)

The above named and within identified Proposed Intervenors now petition the Public Utilities Commission for allowance of party status in the above-referenced facility permit proceeding, pursuant to the provisions of SDCL § 49-41B-17(3), and ARSD 20:10:22:40, said Proposed Intervenors having submitted this request by their counsel, undersigned.

Proposed Intervenor's Name: _____ *Address:* _____

Timothy Lindgren 16050 464th Ave., South Shore, SD 57263

Linda Lindgren 16050 464th Ave., South Shore, SD 57263

Proposed Intervenors (married persons) are the owners of an occupied dwelling at the address shown above, and maintain their principal residence upon and at such address. The address is within the boundaries of the proposed "wind energy facility" as has been defined by the wind developer, Crowned Ridge Wind, LLC. ("Applicant").

Until the close of June 10, 2019, Proposed Intervenors were parties to a certain "Wind Farm Lease and Easement Agreement," effective June 11, 2014; this instrument, in favor of Boulevard Associates, LLC (understood to be an assignor of Applicant). This document included a so-called "Effects Easement" (Section 5.2), as has been outlined in counsel's prior communications to Staff Attorney Edwards (see letters of June 11 and 12, 2019, each of which is in the Commission's docket under "comments and responses"). The "Effects Easement," *inter alia*, would have permitted Applicant to dump or display "shadow flicker" (and many other attributes or detriments of being close to a Wind Farm) "over and across the Owner's Property."

As a consequence of the expiration of Applicant's option concerning the property of Proposed Intervenors, the recent submissions to the Commission (including Exhibit A55, Exhibit A59, and Exhibit A68) reflect the following facts relevant to this Application:

- Turbines CR-56 and CR-57 have been eliminated;
- Turbine CR-50 will be moved some distance, details unknown; and
- Applicant's wind energy facility is now projected to display 16 hours, 5 minutes (annually) of shadow flicker on the residence of Proposed Intervenors (understood as being *Receptor ID CRI-C37-P*, although the suffix designation should be "NP").

Exhibit 3
Lindgren Affidavit

Proposed Intervenor continue to maintain that they are the exclusive owners, in fee simple, of the property and residence at the address indicated, and they have given over to Applicant no right or entitlement (in form of an easement, grant, lease or servitude) to make a use of the property that is adverse to the interests of Proposed Intervenor, an unwelcome invasion of the continued enjoyment of their property.

It is recognized that by the terms of ARSD 20:10:22:40, the application for party status is to be filed within 60 days of the date from the date the facility siting application was filed. This Application comes well after that point. But, this application *is* made within 60 days of the date on which it became clear that Applicant has *no* contractual or other right – vested by law, or blessed by the issuance of a siting permit – to dump or dispose of the resulting “shadow flicker” (and other detriments) upon the property and residence of Proposed Intervenor. Likewise, this Commission has no authority to approve any proposal of Applicant for the infliction of “shadow flicker” upon these persons.

Thus, Timothy Lindgren and Linda Lindgren seek the right to gain party status, and as a consequence thereof, to further appear and participate in any remaining phases of this proceeding, including the right of appeal to Circuit Court of the Commission’s forthcoming decision and any issued siting permit to Crowned Ridge Wind, LLC that purports to take the interests of these fee owners and re-confer them upon Applicant as an inherent privilege of the siting permit.

These premises considered, Proposed Intervenor, each of them, pray accordingly.

Dated at Canton, South Dakota, this 13th day of June, 2019.

Respectfully submitted,

/s/ A.J. Swanson
A.J. Swanson
State Bar of South Dakota # 1680

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Attorney for Proposed Intervenor,
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20:10:22:40. Application for party status. A governmental agency, person, or nonprofit organization, as specified in SDCL 49-41B-17(2) and (3), shall be granted party status in a proceeding commenced pursuant to SDCL 49-41B upon applying in writing to the commission on a form provided by the commission.

The application shall contain the following:

- (1) Date;
- (2) Verified signature of the applicant; and
- (3) A statement requesting party status.

The application shall be filed within 60 days from the date the facility siting application is filed.

Source: 9 SDR 55, effective November 7, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 32 SDR 109, effective December 26, 2005.

General Authority: SDCL 49-41B-35(2).

Law Implemented: SDCL 49-41B-17(1)(2)(3).