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From the office of Miles F. Schumacher
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September 9, 2019

Ms. Patricia Van Gerpen, Executive Director
South Dakota Public Utilities Commission
Capital Building, 1st Floor
500 East Capital Avenue
Pierre, SD 57501-5070

Re: Docket No. EL19-027
Application to the SD PUC for a Facility Permit to Construct
A 300.6 Megawatt Wind Facility

Dear Ms. Van Gerpen:

As a follow-up to the Brief on the Confidentiality of Easement Agreement (“Brief”), Crowned Ridge Wind II, LLC (“CRW II”) provides the following: (1) a refinement of the requested redactions in Intervenor’s August 6, 2019 Corrected Application for Party Status¹ (“Intervenor’s Application”); and (2) proposed language for a protective order.

On the first matter, after further review of Intervenor’s Application, CRW II is only seeking redaction of the full quote to Section 11.10 in the middle of page 4. CRW II requests that Section 11.10 be protected for the reasons set forth in the August 27, 2019

¹ The Application sought party status for Garry Ehlebracht; Steven Greber; Richard Rall; Amy Rall; and Laretta Kranz (“Intervenor’s”). Each of these individuals was granted party status. See *Order Granting Party Status*, Docket No. EL19-027 (August 26, 2019).

Brief. CRW II no longer has an objection to making public the remainder of Intervenor's Application.

On the second matter, in Appendix A to this Letter CRW II proposes language for a protective order related to the form of easement submitted as Attachment B (Public) and Attachment C (Confidential) as well as discovery in this proceeding.

If you have any questions, please contact me.

Yours very truly,

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.

MILES F. SCHUMACHER

Miles F. Schumacher

APPENDIX A

1. All documents, data, information, studies, including the form of easement submitted on August 27, 2019, and other matters furnished pursuant to any discovery procedures or cross-examination which is identified by CRW II as confidential (*hereinafter*, Confidential Information) shall be furnished to Intervenor Attorney(ies) and shall be treated by Intervenor Attorney(ies) as proprietary and confidential information in accordance with this Order.

2. Confidential Information shall not be used or disclosed except for purposes of this proceeding; and, therefore, access to the Confidential Information is authorized *solely* for the purposes of presenting evidence, cross-examination, or argument in this proceeding and shall not be used or relied upon for any other purpose. Prior to receiving Confidential Information, Intervenor Attorney(ies) must execute the attached Exhibit A protective agreement, and provide CRW II with an executed copy. By executing the Exhibit A, Intervenor Attorney(ies) agrees to fully comply with and be bound by the terms of this Order.

3. Intervenor Attorney(ies) may incorporate or store, or may cause to be incorporated or stored, such Confidential Information in any electronic data base as may be reasonably necessary to render professional services in connection with this proceeding.

4. To the extent that reference is made to any Confidential Information by Intervenor Attorney(ies) during any aspect of this proceeding, including but not limited to motions, briefs, arguments, direct testimony, cross-examination, rebuttal, and proposed offers of proof, any public reference to the Confidential Information shall either be solely

by title or exhibit reference or in such a manner as to not unnecessarily disclose the Confidential Information, and the disclosure of the Confidential Information shall be limited to the Staff and Commissioners of the South Dakota Public Utilities Commission and the attorneys of CRW II. To the extent that reference is made to any Confidential Information by Intervenor Attorney(ies) in oral testimony, cross-examination, or argument, it shall be on such prior notice as is feasible to CRW II, and, in any event, with sufficient notice to clear the hearing room of persons not bound by this Order. "Public reference" means a reference that will not be placed in the sealed portion of the record. That part of the record of this proceeding containing Confidential Information, including all exhibits, writings, direct testimony, cross-examination, argument, response to discovery procedures, and the like, shall be sealed for all purposes other than as may be further ordered by the South Dakota Public Utilities Commission.

5. Intervenor Attorney(ies), after having been afforded access to Confidential Information, shall neither use nor disclose the Confidential Information for business, commercial, or competitive purposes, or for *any* purpose other than solely for the preparation for and the conduct of this proceeding and any following administrative or judicial review, and then only under the terms of this Order. Intervenor Attorney(ies) is/are afforded access to any Confidential Information by reason of this Order and shall keep the Confidential Information secure from access from others, including the public.

6. The parties affected by the terms of this Order retain the right to question, challenge, or object to the production, non-production, admissibility, or inadmissibility of any and all data, information, studies, and other matters requested or furnished under the terms of this agreement in response to discovery procedures or cross-examination on any

lawful ground. If the parties are unable to resolve differences of this nature, the appropriate party may, pursuant to the rules of the South Dakota Public Utilities Commission, request that the Commission determine whether the data, information, studies, and other matters are inadmissible, subject to protection, or discoverable.

7. Upon completion of this proceeding, including any administrative or judicial review, or upon the termination of this Order or its becoming void for any reason, each copy of the Confidential Information made available or made under the terms of this Order shall be destroyed or returned to CRW II, and all notes or records concerning the Confidential Information shall be destroyed. Any Confidential Information received during this proceeding shall be permanently erased from any electronic data base incorporating or storing such Confidential Information. Within ten calendar days of completion of this proceeding, Intervenor Attorney(ies) shall certify in writing that all Confidential Information in his possession was either returned to CRW II and/or destroyed.

8. Nothing in this Order shall prevent or otherwise restrict Intervenor Attorney(ies) from rendering advice to their clients-Intervenors, and in the course thereof, relying generally on the examination of Confidential Information; provided, however, that in rendering such advice and otherwise communicating with the Intervenors, counsel shall not make specific disclosure of any item so designated.

EXHIBIT A

NONDISCLOSURE AGREEMENT

I hereby certify that I am familiar with the terms and conditions of the Protective Order entered by the Commission in the above-captioned docket and agree to be bound by the terms and conditions thereof.

I further agree the information requested shall be used only for the valid purposes of these proceedings as provided in said Order.

DATED this ____ day of _____, 2019

Signature: _____

Name:
(Printed/typed) _____

Address,
Phone, and
Email _____

Representing: _____

Title: _____

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE 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)	EL19-027 CERTIFICATE OF SERVICE
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I hereby certify that true and correct copies of a letter to the PUC in follow up to the Brief on the Confidentiality of the Easement Agreement were served electronically on the parties listed below on the 9th day of September, 2019, addressed to:

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