

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

**AMBER CHRISTENSON, LINDA
LINDGREN & TIMOTHY LINDGREN**

v.

CROWNED RIDGE WIND, LLC

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CE 22-001

COMPLAINANT'S OPPOSITION

RESPONSE TO

OBJECTION TO DISCOVERY AND

MOTION FOR PREFILED TESTIMONY

COMES NOW Linda Lindgren and Timothy Lindgren, as two of Complainants herein, by and through their counsel, R. Shawn Tornow, of Tornow Law Office, P.C., and hereby resist and oppose the Crowned Ridge Wind's Objection to Discovery and Motion to Require Prefiled Testimony, as filed on March 9, 2023, in this file.

Initially, it must be noted that following Complainants' Formal Complaint, as dated and later filed after September 21, 2022, Crowned Ridge Wind, LLC took no steps to work with Complainants to address the Sound Study deficiencies as outlined and raised to the Commission in Complainants Complaint. Instead, however, Crowned Ridge Wind on October 28, 2022, filed its Motion to Dismiss Formal Complaint and, thereafter, on December 20, 2022, the Commission considered the matter after hearing arguments from the parties and, at that point, the Commission unanimously denied the Motion to Dismiss. The Commission's Order Denying Motion to Dismiss the Formal Complaint and Excluding Attachments was filed and served on December 27, 2022.

Approximately two (2) weeks later, beginning on January 11, 2023, informal discussions were addressed about a potential future hearing date for the hearing on said Complaint. On January 20, 2023, PUC Staff, by and through Jon Thurber, made clear to the parties that, "*[D]iscovery can be sent at any time.*" Thereafter, Complainants' are aware that, on March 6, 2023, Amber Christenson requested initial discovery by and through her First Data Request to Crowned Wind Ridge. After March 6, 2023, in lieu of providing any discovery responses to Complainants, Crowned Ridge Wind instead advanced to the Commission its unexplained and/or disingenuous "Objection to Discovery" while also oddly requesting an extension of time to respond to such discovery. As a result, Complainants have not been provided any *legal objection* to the (only) eight (8) discovery requests served on Crowned Ridge on March 6, 2023; however, its only other response as to a potential extension can be addressed by a simple stipulation

between the parties to allow for the necessary responses to prior and future discovery requests to be made and served within, if agreed, 30-days for such responses.

As to Crowned Ridge Wind's premature Motion to Require Prefiled Testimony, Complainants respectfully remind the Commission that the Formal Complaint that it requested to be submitted by Complainants and heard by the Commission in this form and manner is not a typical proceeding envisioned under the provisions of ARSD § 20:10:01:22:06. That is, typically that rule provision would be for an evidentiary hearing following or in response to a necessary application by entities such as Crowned Ridge Wind. In such evidentiary hearings, prefiled testimony can, at times, be useful insofar as addressing various aspects of such Application requirements and/or statutory requirements. However, that is not the case here. Instead, Complainants here must first be able to receive and review responses to its good faith discovery requests from Crowned Ridge's previous failed sound study(s) - like Ms. Christenson's well-outlined and reasonable pending discovery requests that have been previously served and as anticipated to additionally be served going forward. At this preliminary juncture, however, to have the complained-against party attempt to limit Complainants ability to call witnesses or to fully cross-examine witnesses is essentially equivalent to demanding that the proverbial cart pull the horse. As such, this is not a particular proceeding for which prefiled testimony can or should be ordered.

In sum, in part to the extent outlined herein, Complainants join to oppose Crowned Ridge's motion objecting to discovery and to require prefiled testimony in an apparent attempt to try to limit Complainants Formal Complaint, as encouraged and requested by the Commission, related to the critical but failed sound study(s) as heretofore ordered and required by the Commission.

Dated this 27th day of March, 2023, at Sioux Falls, South Dakota.

/s/ R. Shawn Tornow

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