

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

<b>IN THE MATTER OF THE APPLICATION ) BY BUFFALO RIDGE II LLC, A ) SUBSIDIARY OF IBERDROLA ) RENEWABLES, INC., FOR AN ENERGY ) CONVERSION FACILITY PERMIT FOR ) THE CONSTRUCTION OF THE BUFFALO ) RIDGE II WIND FARM AND ASSOCIATED ) COLLECTION SUBSTATION AND ) ELECTRIC INTERCONNECTION SYSTEM )</b>	<b><u>AMENDED</u> JOINT MOTION FOR APPROVAL OF DECOMMISSIONING PLAN AND STIPULATION OF FINANCIAL ASSURANCE  EL08-031</b>
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COMES NOW, Staff of the South Dakota Public Utilities Commission (Staff) and Buffalo Ridge II LLC (Buffalo Ridge II), a wholly owned subsidiary of Avangrid Renewables, LLC, f/k/a Iberdrola Renewables, LLC, and hereby file this Joint Motion for Approval of Decommissioning Plan and Stipulation of Financial Assurance.

Background

The South Dakota Public Utilities Commission (SD PUC) issued a *Final Decision and Order; Notice of Entry* (Permit) on April 23<sup>rd</sup>, 2009, in accordance with SDCL Chapter 49-41B that granted an energy conversion facility permit to Buffalo Ridge II, subject to certain terms and conditions, for the construction of an up to ~~204~~-306 MW wind energy facility and associated facilities (Project). Condition 24 of the Permit states:

“[...] within 90 days following the date ten years after the project commences operation, the Applicant shall submit a Project status report, updated decommissioning plan for the Project and financial information for Applicant [...] for the Commission's review and approval. At such time, the Commission will determine whether

Applicant shall be required to provide a bond, letter of credit, guarantee or other security to assure adequate funding is available to fully perform decommissioning obligations [...].”

On March 31, 2021, Buffalo Ridge II filed a *Wind Project Decommissioning Plan* in accordance with condition 24 of the Permit. On May 5, 2021, Buffalo Ridge II filed a project status report. Staff reviewed the filings and issued discovery to Buffalo Ridge II in order to gather additional information regarding the decommissioning plan and obtain the necessary financial information to assess the financial condition of the applicant in accordance with ARSD 20:10:22:33.01. Buffalo Ridge II’s responses to Staff’s discovery are attached as Exhibit 1.

#### Stipulation of Financial Assurance

It is hereby stipulated and agreed by and between Buffalo Ridge II and Staff that Buffalo Ridge II shall obtain a financial assurance in the form of a surety bond for the purpose of fulfilling decommissioning obligations set forth in the Permit. It is further stipulated that:

- 1) Within 90 days of the Commission order approving this Stipulation and Joint Motion, Buffalo Ridge II shall file with the Commission a surety bond, for Commission review and approval, in the amount of \$10,870,523 to cover the Project’s decommissioning obligations. The bond must contain the following specific terms:
  - a. The surety bond shall comply with the provisions of SDCL 49-41B-39.
  - b. The South Dakota Public Utilities Commission shall be named ~~a—the~~ beneficiary. The Commission has and reserves the right to assign all or a portion of its beneficial interest to a 3<sup>rd</sup> party, pursuant to notice and hearing, in order to decommission the project in accordance with the Permit.

- c. The surety bond shall remain in full force and effect until Buffalo Ridge II's decommissioning obligation is fulfilled and the bond is released by order of the Commission.
  - d. The Surety may only cancel the bond if it provides the Commission with 90 days' advance written notice and Buffalo Ridge II provides a replacement security acceptable to the Commission as demonstrated through a Commission order approving the replacement security. The Surety's notice to the Commission of the bond cancellation shall not discharge the liability of the Surety for any default prior to the effective cancellation date.
  - e. If Buffalo Ridge II does not provide a replacement security acceptable to the Commission, the Surety shall: (1) rescind the bond cancellation, or (2) promptly arrange for the decommissioning of the Project as required per the decommissioning obligations, or (3) pay the bond beneficiary ~~ies~~ and/or the assignee(s) of the beneficiary's interest for any out of pocket costs incurred to decommission the Project, minus salvage value.
- 2) Buffalo Ridge II shall file an updated decommissioning cost estimate for Commission approval by June 1, 2026, and by every fifth anniversary thereafter (or more frequently if ordered by the Commission during future review of an updated decommissioning cost estimate), until the Project is decommissioned. Within 90 days of the Commission approving the updated decommissioning cost estimate, Buffalo Ridge II shall adjust the surety bond amount to align with the cost estimate approved by the Commission.

3) If Buffalo Ridge II is unable to acquire a surety bond consistent with paragraph (1), above, then Buffalo Ridge II shall, within 90 days of the Commission's order approving this Amended Stipulation and Joint Motion, petition the Commission for approval of the company's proposed financial security that is consistent with SDCL 49-41B-39. Nothing in this stipulation binds Staff to a specific position on the company's proposed financial security filed in accordance with this paragraph (3).

WHEREFORE, both Parties are in agreement and respectfully request the Commission grant the Amended Joint Motion for Approval of Decommissioning Plan and Stipulation of Financial Assurance.

Dated this ~~29<sup>th</sup>~~-20<sup>th</sup> Day of ~~June 2020~~September 2021.

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SIGNATURE PAGE- JOINT MOTION FOR APPROVAL OF DECOMMISSIONING PLAN AND FINANCIAL ASSURANCE

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