

**LYNN
JACKSON**

A T T O R N E Y S

110 N. Minnesota Ave., Suite 400
Sioux Falls, SD 57104
Phone (605) 332-5999 · Fax (605) 332-4249

909 Saint Joseph Street, Suite 800
Rapid City, SD 57701
Phone (605) 342-2592 · Fax (605) 342-5185

311 N. 27th Street, Suite 4
Spearfish, SD 57783
Phone (605) 722-9000 · Fax (605) 722-9001

From the office of Miles F. Schumacher
e-mail address: mschumacher@lynnjackson.com

August 15, 2022

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. EL19-003 Application to the SD PUC for a Facility Permit to
Construct A 300 Megawatt Wind Facility

Dear Ms. Van Gerpen:

On August 10, 2022, Amber Christenson filed a motion requesting an additional sound study be conducted ("Motion"). The Motion claims that an additional sound study is required to determine whether Crowned Ridge Wind, LLC ("Crowned Ridge")¹ is in compliance with the Commission sound thresholds. The Motion is without merit and should be denied without a hearing.

Epsilon Associates, Inc.'s ("Epsilon") February 14, 2021 sound study, using the Commission-approved sound study protocols, found Crowned Ridge to be in compliance with the Commission's sound threshold. On April 11, 2021, Staff's expert, Hessler and Associates, Inc. ("Hessler"), submitted an analysis of Epsilon's study, concluding:

Our independent analysis of the survey data indicates that the sound emissions from the project are, in fact, compliant with the noise limits contained in the permit conditions. Additionally, we find no faults or errors in Epsilon's final report on the survey and agree with its conclusions. In fact, Epsilon should be commended for the massive amount of time and effort that went into properly carrying out this lengthy field survey during difficult wintertime conditions.

Neither the Epsilon nor Hessler reports indicated that an additional sound study was warranted. Therefore, as two third-party experts have determined Crowned Ridge is compliant with the Commission's sound thresholds, there is no basis for an additional sound study.

¹ For clarity, the sound study and analysis referenced herein are not associated with Crowned Ridge Wind II, LLC, only Crowned Ridge which was approved in Docket No. EL19-003.

Furthermore, the Motion is procedurally out of order. The contested case for Crowned Ridge has been completed. Ms. Christenson is no longer a *pro se* intervenor, and, therefore, there is no procedural basis upon which to submit the Motion, along with the submittal of associated discovery that proceeded the Motion. The Commission has explained to Ms. Christenson there is a complaint process, yet she has repeatedly refused to follow that process and instead files discovery, arguments, and the Motion – none of which are procedurally allowed. Even if the Commission were to interpret her Motion as a complaint, which it should not, there is no merit to the complaint. The sound at Ms. Christenson residence was modelled and has been measured by the Epsilon sound study to be well below the Commission's threshold. In the Epsilon sound study, Table 8-1 shows that Ms. Christenson's sound levels to be between 32 to 42 dBA, well below the 45 dBA limit. Indeed, the Third Judicial Circuit Court found Ms. Christenson had failed to show any prejudicial effect from the sound threshold approved by the Commission, as her sound level was modelled well below the limit. *Amber Kaye Christenson, et al. v. Crowned Ridge Wind, LLC and South Dakota Public Utilities Commission*, CIV 19-290 (Memorandum Opinion), Judge Means at 13-14 (April 15, 2020). There is no basis upon which the Motion, even if considered a complaint, could be substantiated, much less lead to a requirement for Crowned Ridge to conduct an additional sound study. Accordingly, the Motion, whether it be considered a complaint or some other form advocacy, is without merit, and should be denied without a hearing.

If you have any questions, please contact me.

Yours very truly,

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



Miles F. Schumacher