

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

**IN THE MATTER OF THE
APPLICATION BY CROWNED RIDGE
WIND, LLC FOR A PERMIT OF A WIND
ENERGY FACILITY IN GRANT AND
CODINGTON COUNTIES**

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**Docket
EL19-003**

Reply of Intervenors, Amber Christenson, Patrick Lynch, Melissa Lynch, Kristi Mogen, and Allen Robish, “Crowned Ridge Wind LLC’s Letter regarding Transmission Interconnection Status and Deferral of Constructing of 100 MWs of the Wind Facility” letter filed by Crowned Ridge Wind LLC on September 12th, 2019.

On September 12th, Crowned Ridge Wind LLC notified the PUC and all on the Service List that it was not cost effective to construct 100MW and provided a map illustrating the turbine locations Crowned Ridge Wind LLC would like to defer for unspecified time. This, not very timely notification came over a month, after Crowned Ridge Wind LLC withdrew the MISO interconnection queue position J721 on August 9th, 2019, just a few days after receiving the South Dakota PUC permit for Docket EL 19-003. At this very late hour, months after the Evidentiary Hearing, and after construction has begun, it is concerning that the applicant withdrew from the MISO interconnection queue position 14 days after receiving the Final Decision and Order Granting Permit To Construct Facility: Notice of Entry (FDOGP) from the PUC.

Not in Codington or Grant County CUP's, public presentation or application, the applicant ever mentioned or asked to the ability to have a deferment. There is no Permit in which the applicant holds that allows for material changes or a deferment of a portion of the project. In the letter by the applicant dated September 12, 2019, the applicant refers to SDCL 49-41B-27, the applicant fails to inform that County CUP permits will begin expiring December 17, 2020 clearly not 4 years. The application was permitted on statements, written and oral, made to the public, the BOAs, the PUC Commission and Staff and the Intervenors, which now are all misstatements and material changes.

On Page 17 of the Crowned Ridge Wind LLC application, the applicant addresses interconnection fees, "5.0 Estimated Cost of the Wind Energy Facility (ARSD 20: 10:22:09) ARSD 20:10:22:09. Estimated cost of facility. The applicant shall describe the estimated construction cost of the proposed facility. The Project has an estimated capital cost of approximately \$400 million. **Fluctuations in capital costs could be as much as 20% percent for the Project, dependent on final micrositing and MISO interconnection costs.**" No where in this letter does the applicant show proof of the cost for the withdrawn MISO interconnection J721. According to the statement in the PUC application the applicant budgeted up to 80 million dollars for MISO interconnection costs.

The applicant is now presenting an **Entirely New Project**. The existing Crowned Ridge Wind permit should be revoked, and the applicant should be required to apply for a new permit with information related to the new 200 MW project. This revision of the project is only 200 MW; never once did Crowned Ridge Wind LLC utter the words "if the project is cost effective

this is our plan, or if the project is not cost effective, we may change the project.” In the CUP applications to Grant and Codrington counties and the local BOA hearings, the applicant touted all the money the counties and schools would be receiving, the local jobs and saving the Aberdeen turbine blade factory. Local Board of Adjustments (BOA) relied on the information presented to approve their respective county CUPs.

In the testimony of Tyler Wilhelm and Sam Massey on the PUC docket EL 19-003, filed on January 30, 2019, “The Wind Facility will deliver enough energy to power more than 150,000 homes.” We must not forget the promised economic development and landowner payments, page 98 of the PUC application, “The chief economic effect of the Project will result from property taxes paid for the proposed improvements in Codrington and Grant Counties infrastructure of approximately \$41 million. Land lease payments to Project landowners will result in approximately \$40 million over the contracted term of the Project.” These statements can no longer be true if the applicant is only developing two third of the project. The PUC should not allow the applicant a blank check to “further defer the construction of the last 100 MW until such a date that the MISO and SPP systems can be cost effective.” What if the last 100 MW never becomes cost effective? The whole new project makes the above statements no longer true, in which the PUC Commissioners relied on to approve the PUC docket EL 19-003 Crowned Ridge Wind LLC application. The PUC should not allow a bait and switch tactic and revoke this permit. SDCL 49-41B-33 directs the PUC on revocation of a permit.

In the PUC, FDOGP To Construct Facility: Notice of Entry EL 19-003 issued on July 26th, 2019, Condition 22 deals with turbine shifts and material change, “Applicant may make turbine

adjustments of 250 feet or less from the turbine locations identified at the time.... Any turbine adjustment that does not comply with the aforesaid limitations, or turbine model change, would be considered a “material change,” and Applicant shall file a request for approval of the “material change” prior to making the adjustment pursuant to the following approval process”

In Condition 27 of the same document, a material change is allowed “ Applicant agrees to use alternative turbine locations instead of the following primary turbine locations CR-16, CR19, CR-23, CR-49, CR-60, CR-67, and CR-68..... Applicant and Commission Staff shall meet and attempt to resolve the dispute within 10 business days of the filing of the affidavit. If the dispute cannot be resolved within 10 business days, Applicant shall file a request for a material change with the Commission” In Attachment 2- Project Map with 200 MWs under Construction, September 12th, 2019, the applicant is still representing that it will be using turbine locations CR67 and CR68 and still has not filed a material change.

Nowhere else in the Conditions of the FDOGP allows for material changes. This is a substantial material change that should not be allowed.

In the applicant’s filing on September 12th, 2019, the applicant provided two maps. According to Attachment 2, Crowned Ridge Wind LLC will be deferring **38** primary turbines and **13** alternate turbines, including everything North of the very two leases Crowned Ridge Wind LLC did not possess before the start of testimony for the evidentiary hearing. In PUC FDOGP condition 27, turbine locations CR16, CR19, CR23, CR49, CR60 and in Findings of Fact 7 turbine CR17 are previously agreed to be dropped. Curiously, turbines CR67, and CR68 are still included in turbine locations even though these two turbines are also addressed in condition 27.

Without explanation Crowned Ridge Wind LLC chose to remove primary turbine locations CR119 and CR113 South of HWY 20 instead of CR67 and CR68.

In pre-filed testimony, PUC expert witness, Hessler, recommended removing 16 turbines, to minimize adverse noise effects, over 40 DBA to non-participators. In Attachment 2, the applicant persists in its plan to use 11 of these turbines which were recommended to be dropped. These turbine locations include turbines CR44, CR46, CR52, CR53, CR55, CR67, CR68, CR95, CR100, CR109, CR114. Crowned Ridge Wind LLC chose to adversely affect non-participators even though there are 33 viable turbine locations that could be used instead of the offensive 11 turbines. The applicant is clearly not concerned with the public welfare as shown by their choice of turbines.

In SDCL 49-41B-1 “the legislature finds it necessary to ensure that the location, construction, and operation of facilities will produce **minimal adverse effects** on the environment or the **citizens** of this state...” In this substantial reworking of the project, the applicant had the opportunity to lower the noise impacts to non-participators, the applicant chose not to do this.

During the evidentiary hearing, the applicant submitted exhibit A55 in which the applicant presented 16 not truly dropped turbines. When pressed the applicant produced a sound study in which two intervenors noise impacts were raised. In the last paragraph of the letter by Crowned Ridge Wind dated September 12, 2019, the last sentence states the sound and shadow flicker studies are unchanged, because CRW intends to construct and operate the last 100 MW’s later. Crowned Ridge Wind gives no guarantee this construction will happen, in

fact the applicant admitted at the Evidentiary Hearing that CRW had no money, and this letter states money is now an issue. This entirely new project requires a new application accompanied by a new sound study.

The permitting process for the Crowned Ridge Wind project has been wrought with issues, including an incomplete application, misstatements, misrepresentations, missing biological studies, and due process issues to name a few. The Intervenors respectfully demand the PUC Commission revoke the Crowned Ridge Wind LLC FDPGP under SDCL 49-41B-33.