

**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 GRANT, )  
CODINGTON AND DEUEL COUNTIES )**

**Docket  
EL19-027**

Reply of Kristi Mogen on the issue of “Confidentiality of Easement Agreement” brief  
filed by Crowned Ridge Wind II LLC on August 27<sup>th</sup>, 2019.

This reply is response to the applicants request for confidentiality. On Monday, August 26<sup>th</sup> at the PUC public input meeting in Watertown SD, I submitted the applicant’s capacity factor for both Crowned Ridge I LLC and Crowned Ridge II LLC. This information was obtained in the public domain at *edockets.state.mn.us*. During the PUC Docket 19-003, the applicant, Crowned Ridge Wind I LLC declared this information confidential.

This applicant has a habit of requesting confidentiality for evidence that is or has been in the public domain. During the Grant County WES ordinance review in 2018, Grant County Government Website provided a link to the First District/Grant County WES Website which contained documents submitted by the Wind Industry, including the applicant’s representatives, and the public. The applicant or its representatives had knowledge and access of this public website. Grant County and First District facilitated this website during the 2018 Grant County WES Planning and Zoning process. The link was accessible for approximately 8 months and was removed in December 2018. On January 10<sup>th</sup>, 2019, I requested from Grant County and First

District all the information that was posted to the public WES Grant County Website. Attachments titled Grant CO PDF, Grant CO PDF 2, and Grant CO Compressed PDF3, were submitted from the public to Grant County Planning and Zoning Board at the April 17, 2018 meeting. In the document Grant CO Compressed PDF3, a Crowned Ridge Wind Farm Lease and Easement Agreement starts on page 54 and on page 58 contains the section 5.2 effects easement. To my knowledge the applicant raised no objections to the information presented on the First District/Grant County WES Website and the information was never removed during the entire time the WES website was available to the public.

In another example of the of the applicant requesting confidentiality of publicly available information is Attachment B, in which the applicant submitted to the PUC Docket 19-027 on August 27<sup>th</sup>, 2019. This document is on the PUC website and contains section 5.2 the “effects easement” as well as other now publicly available Crowned Ridge II LLC, Wind Farm Lease and Easement Agreement information.

During the proceeding for PUC Docket 19-027, there has been much back and forth about the possession and use of a Crowned Ridge Wind II LLC Wind Farm Lease and Easement Agreement placed freely, in the hands of an intervenor by an agent for the applicant. SDCL 43-13-20.5 Confidentiality agreements. No wind or solar developer may require a property owner to maintain the confidentiality of any negotiations or terms of any proposed easement or lease except that the parties may agree to a mutual confidentiality agreement in the final executed wind or solar easement, wind or solar lease, or a separate document. Any disclosure of trade secrets or competitive business plans of the developer may be subject to the confidentiality

agreement whether occurring before or after execution of the wind or solar easement or wind or solar lease. Can the applicant provide a mutual confidentiality agreement in the final executed wind or solar easement, wind or solar lease, or a separate document confidentiality agreement signed by the intervenor who was freely given a proposed Crowned Ridge Wind II LLC, Wind Farm Lease and Easement Agreement?

The Crowned Ridge Wind Farm Lease and Easement Agreement has been by the applicant or it's representatives, handed out throughout the countryside, been placed in the public domain on more than one website. This Commission should stop the applicant from abusing the declaration of confidential information, especially when the applicant itself, provided the information publicly on the PUC Docket 19-027. The very serious matter of the Crowned Ridge Wind II, LLC PUC application covering 66,996 acres of South Dakota will forever change the fabric of rural Grant, Codington and Deuel Counties and should not be taken lightly or done without all the information available to the public.

Respectfully Submitted,

/s/ Kristi Mogen

Kristi Mogen

August 29<sup>th</sup>, 2019