

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION BY) Intervener, Kristi Mogen
CROWNED RIDGE WIND, LLC FOR A) Complaint
PERMIT OF A WIND ENERGY FACILITY IN) DOCKET EL-19-003
GRANT AND CODINGTON COUNTIES)

Complaint, by Intervener Kristi Mogen, CRW changed hub heights of Wind Turbines in the Facility and CRW did not construct the Facility as presented during the Permitting Process. CRW is in Violation of Condition No. 2 and may be in violation of Condition No. 34 of the ORDER Granting Permit to Construct Facility (ORDER) and is in violation of SDCL 49-41B-4 “Any Facility, with respect to a permit required, shall thereafter be constructed, operated, and maintained in conformity with such permit including any terms, conditions, or modifications contained therein.”

On July 26, 2019 the South Dakota Public Utilities Commission (Commission) filed the Final Decision and Order Granting Permit to Construct Facility (ORDER) including Procedural History, Findings of Fact, including No.5 “...The Project is situated within an approximately 53, 186-acre Project Area and will include the following: (i) up to 130 GE 2.3 MW wind turbine generators; ...” and 45 Conditions, including Condition No.2 “**Applicant shall construct, operate, and maintain the Project in a manner consistent** with (1) descriptions in the Application, (2) Application supplements and corrections, (3) commitments made by Applicant in response to data requests, (4) the Final Decision and Order Granting Permit to Construct Facility, and attached Permit Conditions, (5) all applicable industry standards, (6) all applicable permits issued by a federal, state, or local agency with jurisdiction over the Project, and (7) evidence presented by Applicant at the evidentiary hearing.”

On August 12, 2019, CRW filed Notice for Start of Construction Letter with the PUC. The Letter stated “Crowned Ridge Wind, LLC (CRW) plans to commence

construction ... located in Grant and Codington County, South Dakota no earlier than **August 29, 2019.**”

According to documents filed by CRW on December 13, 2019 CRW changed the hub height on certain turbines. CRW is in violation with Condition No.2 of the ORDER. It is unknown if CRW is in violation of Condition No. 34

On December 13, 2019, CRW filed Attachment 1- Sound Modeling Table (curtailment) and Attachment 2 – Sound Modeling Table (with LNTE).

Portions of these two tables are attached with Exhibit A22-1 and Exhibit A22-3 as **Mogen 12-13-2019 & Exhibit A22-1 & A22-3.**

Until the CRW Waiver Request, Exhibit A22-1 and Exhibit A22-3 were the last complete tables presented by CRW that shows turbine locations, size, hub height, and sound profile.

Comparing Attachment 1- Sound Modeling Table (curtailment) and Attachment 2 – Sound Modeling Table (with LNTE) to Exhibit A22-1 and Exhibit A-22-3, **CRW shows Turbine numbers CRI-89, CRI-90, CRI-91 and CRI-97 increased from 80 meter hub height to 90 meter hub height, 32 feet 9.701 inches.** These **4 turbines surround the Intervenor Lynch’s property and family home.** This change will affect noise and shadow on property and homes and was not presented by CRW in the Application, application supplements and corrections, data requests, and/or evidence presented by CRW at the evidentiary hearing.

It is unknown if CRW is in violation of Condition No. 34 “shadow flicker at residences shall not exceed 30 hours” and Condition No. 26, noise limits

There is nowhere in the ORDER that would allow changes to the hub height. Condition No. 22 allows for a turbine location adjustments with prior filing to the docket. Condition No. 22 also allows for “material change” for a model change, with prior notice, but does not mention turbine hub height change.

CRW constructed turbines that do not comply with Condition No.2 **“Applicant shall construct, operate, and maintain the Project in a manner consistent** with (1) descriptions in the Application, (2) Application supplements and corrections, (3) commitments made by Applicant in response to data requests, (4) the Final Decision and Order Granting Permit to Construct Facility, and attached Permit Conditions, (5) all applicable industry standards, (6) all applicable permits issued by a federal, state, or local agency with jurisdiction over the Project, and (7) evidence presented by Applicant at the evidentiary hearing.”

CRW constructed turbines that may not comply with Condition No. 34
“Shadow flicker at residences shall not exceed 30 hours per year unless the owner
of the residence has signed a waiver”

CRW’s arbitrary **changes in hub heights are a serious violation** and have **caused harm** to the Intervenor’s Due Process Rights and the right to make careful and critical examination of the CRW Facility and the Commission’s requirement “to ensure that the location, construction, and operation of the facilities will produce minimal adverse effects on the environment or the **citizens** of this state...”
SDCL 49-41B-1.

CRW agreed to the Conditions in the ORDER, but continues to break the rules. The Commission should tell CRW this is not the Wild, Wild, West, we have laws, we have rules, we have conditions, and the State of South Dakota expects CRW to follow those laws, rules, and conditions that CRW agreed CRW would abide. **The Commission should Sanction CRW for violations and the Commission should Initiate an Onsite Compliance Investigation by a Third Party (approved by the Intervenor’s) and in Accordance with SDCL 49-41B-33 Revocation of the ORDER Granting the Permit filed July 26, 2019.**