

1 Mr. Murphy, and David Gill, who is an executive director
2 of development for NextEra Energy Resources.

3 Thank you.

4 ACTING CHAIR NELSON: Thank you.

5 We will now go to Intervenors. We've got a
6 couple in the room. Whoever wants to speak, if you'd
7 like to, go ahead.

8 You've got to be up here. And punch the button
9 on the microphone so it turns green.

10 MS. CHRISTENSON: Good morning. Amber
11 Christenson.

12 Since our last meeting you told me to bring
13 meaningful information. I believe I brought some very
14 meaningful information, and I'm just going to drop that
15 as an elephant in the room just to get us started. Shall
16 we?

17 Crowned Ridge Wind was permitted for
18 2.3 turbines and low noise trailing edge blades.
19 Instead, Crowned Ridge has installed 2.7 megawatt
20 generators and only less than 10 percent of the low noise
21 trailing edge blades that they were going to.

22 We Intervenors drove around looking at blades,
23 which is how we came upon all the 2.7 generators. So we
24 contacted a noise expert to look at what they submitted
25 as affidavits, and those are meaningless, totally

1 meaningless, because they're for 2.3s, which is what the
2 permit said they were supposed to have.

3 I'm not blaming Tran and I'm not blaming Haley
4 because Crowned Ridge Wind supplied them with the
5 information. But they're definitely all 2.7 generators.
6 We never saw one 2.3 generator.

7 Not only that, they changed heights of turbines
8 from 80 meters -- they were permitted as 80 meters, and
9 they changed them to 90 meter turbines. There's no
10 flicker study to show that. And all of that is in the
11 PUC documents, all the tables from the PUC hearing to
12 what they permitted -- or what they submitted to you.
13 There's no -- I have a table of which ones changed, if
14 you need to know, but I'm sure Staff can look at that.

15 They changed from -- at the county they were
16 supposed to be 1.7s and 80 meter hub heights. They got
17 to the PUC. They changed to -- they changed turbines and
18 went with 2.3s and 80 meters. So they're not in
19 compliance with the County Application.

20 Tyler Wilhelm will tell you, well, we said in
21 the Application we do 485 feet. Yes, you did. But you
22 also submitted to the PUC, to the Intervenors, to the
23 public which ones were going to be 80 meters, and there's
24 studies that would reflect that.

25 I want to say more than anyone in this room or

1 anyone on the phone I'm the one who's going to suffer the
2 most impacts from this turbine project. I live right in
3 the project. I have 14 turbines within two miles of me.
4 I have a substation nearly a mile from me. I have
5 transmission lines. I have things going on around me all
6 over the place.

7 There's five Intervenors in this docket. We've
8 worked together on many issues. We've submitted
9 documents to the Commission as five Intervenors. But I
10 am speaking for myself today as being the most impacted.

11 I have followed my sound and flicker, of course,
12 throughout the whole process. When I started at the
13 county it was -- I thought I had that a little bit more
14 clear. 44.2 I believe it was at the county permit
15 hearing. When Crowned Ridge came to the PUC initially
16 they raised -- they changed it to 42.5 because they added
17 low noise trailing edge blades.

18 On the very last day of the evidentiary hearing
19 my sound was 38.6. And you, Commissioner Nelson,
20 graciously said I appreciate that you have taken care of
21 the Intervenor and reduced her sound like that. You
22 know, the Commission appreciated that they took that into
23 account.

24 They also submitted the last day of the
25 evidentiary hearing that I would have zero flicker.

1 July 29, I believe, they submitted. My sound magically
2 went up to 42.5, and my flicker went to 6:56, six hours
3 and 56 minutes. So it changed from the evidentiary
4 hearing to the time we got the permit.

5 Now they're going to curtail turbines, and my
6 noise goes up to 43.7, which is a doubling of perception
7 in sound -- noise. I'm going to call it noise. From
8 what they told the Commission at the end of the hearing
9 to what they're saying today, my sound has effectively
10 doubled.

11 I believe this has been a poorly managed project
12 right from the start. They haven't completed studies
13 they were supposed to, not securing necessary easements,
14 mapping the project through land where they had no
15 leases, not vetting their experts' credentials, not
16 notifying the PUC and Intervenors of material changes in
17 hub heights, no flicker study to reflect any of those
18 changes, changing generators to 2.7, which are not
19 approved in the permit. We didn't talk about a 2.7 at
20 all. And now they have less than 10 percent of the
21 turbines in compliance with the low noise trailing edge
22 blades, and they want a waiver.

23 This project is a mess. I believe it's out of
24 control. I don't think anyone's minding the store. I
25 don't know who's supposed to be watching these things or

1 how they're supposed to be monitored, but apparently
2 they're not being monitored. And so I would like you to
3 deny their waiver. I would like a stop order until this
4 generator and turbine height and flicker study are all
5 rectified.

6 You said at the hearing that's a lofty goal for
7 you to try to get these done by the end of the year. And
8 that's when we thought it was going to be 130 turbines.
9 But they said no problem. They've owned those blades
10 since 2015. The blades were manufactured in various
11 parts of the world, not South Dakota, but they've had
12 them since 2015. They had plenty of time to attach
13 things, which we hadn't talked about attachments at the
14 hearing, but they had plenty of time to attach those
15 sometime between July and October before they even
16 shipped them to the available areas.

17 So until I remember something else, that's what
18 I have to say today. I do have photos of some of the
19 generators if you need.

20 ACTING CHAIR NELSON: Thank you. And we'll just
21 kind of see where this goes. Obviously you raised a lot
22 of issues that are kind of outside the question that
23 we've got to deal with today. But I do think we need to
24 at least explore that and understand kind of what's
25 actually going on. So thank you.

1 Mr. Robish.

2 And we'll just hold all our questions until
3 everybody's testified.

4 MR. ROBISH: Okay. All right. Okay.

5 I'm wanting this waiver denied because they
6 haven't complied with their permits too. The permits
7 they granted out here were different than the county.

8 And they also installed the 2.7 generator on the
9 turbines. And I haven't been able to find any of the
10 studies from these because they're so new. We were here
11 to talk about waiver for blades, and it just goes -- we
12 see that. Then it goes to this and this.

13 There's no studies on it. I can't find them.
14 Now maybe the PUC knows what they are, but I don't know
15 what they are, and I want them to be accountable for this
16 stuff.

17 At the evidentiary hearing they were granted a
18 permit with 2.3 turbines that were to have low noise
19 trailing edge blades installed; the county at 2.3s and
20 1.7 turbines.

21 At that hearing Tyler Wilhelm must have been
22 very confident with his testimony at that hearing because
23 he sat in the back of this room blowing bubbles with his
24 bubble gum. We all thought that was very disrespectful
25 of the process of this hearing. I was wondering when

1 this will be taken seriously to protect us citizens from
2 this project.

3 Tim Noick [phonetic] lives real close to these,
4 and he talked to me about it. He doesn't know that
5 they're 2.7s yet. And he has an autistic child, and they
6 are voicing their concern to me about the infrasound and
7 the noise. They live one mile south of Kevin and Dawn
8 Dahlgren's turbines, three-quarters of a mile south of
9 Gary and Kathy Granquist's turbines.

10 Jake Peterson also has a child with a medical
11 condition that is requiring regular draining of fluid
12 from his brain. He was to -- specifically to have a
13 1.7 turbine at the county level. A 2.7 turbine has been
14 installed just across the road. No trailing edge blades.
15 And that's on David and Cindy Larson's land. There's
16 three of them in a row.

17 Bob Tuttle [phonetic] called me yesterday in my
18 motel room in Strandburg. He called yesterday saying all
19 the turbines are spinning, then held up his phone and
20 said listen to all the noise. He said I thought they
21 could not operate without the waiver. No trailing edge
22 blades. That's what he relayed to me.

23 My wife called yesterday also. She said I could
24 hear a lot of noise from the turbines. The turbines are
25 at least 2.4 miles away.

1 They were constructing in Codington and Grant
2 County without all their permits. Amber reported them in
3 Codington County. They went and inspected, and they were
4 building without permits. They were fined, issued the
5 permits, and then they displayed them at every
6 building -- construction site of every turbine and the
7 O&M building after they paid their fine.

8 They were also reported in Grant County to the
9 Planning and Zoning office. There were no fines that I
10 am aware of, and still to this day no building permits
11 are displayed at each construction site. I think maybe
12 they're riding around in someone's pickup. I don't know.

13 We've went to the Blatner [phonetic] -- we can't
14 see them at any of their offices or anything. I don't
15 know where their building permits are.

16 And I was wondering why they didn't contact the
17 PUC for a waiver when they were installing the blades on
18 the eight that they had blades for when they discovered
19 they didn't have any for the rest. This was real early
20 this fall. It was warm out.

21 And did they contact the PUC for a waiver when
22 they discovered they had installed the wrong size
23 generators, not what they were permitted for? That's
24 something we discovered when we looked at blades. I
25 mean, it just goes on and on and on.

1 I think this has been a mismanaged project from
2 the start. And what kind of a misery the citizens are
3 going to endure for the next 40 years. These new ones I
4 saw on GE's website are so new they have a 40-year life
5 cycle versus 20. And I think they just bought these this
6 summer. I don't know for sure.

7 And then Tyler said at the hearing that they
8 could go into 2020. I don't know why they need a waiver.
9 He said they could do that. Miles and Tyler even stated
10 at the 12-9 Board of Adjustment hearing that we had that
11 they had started construction before having all their
12 permits when asked by the Board of Adjustment board
13 member. There were many witnesses to that.

14 I just want these projects done right. We go
15 through all this process, rules and regulations and
16 everything all drawn out. Nobody's watching the
17 henhouse. I don't understand what's going on, why we
18 have to find all this stuff and bring it to you. Just do
19 it the right way. You guys understand?

20 Thank you.

21 ACTING CHAIR NELSON: Thank you.

22 We have one Intervenor on the phone. Ms. Mogen,
23 would you like to say anything?

24 MS. MOGEN: Yes, I would.

25 Commissioners, thank you for giving us this

1 extra time. We have used it well. I'm actually still
2 not done evaluating. I've been working on this since
3 2:00 this morning. And you, Commissioner Nelson, had
4 mentioned it being relevant to this waiver request.

5 Well, this is how it's relevant. Crowned Ridge
6 Wind submitted information with the waiver request
7 concerning Condition No. 2, the attachments. In those
8 attachments is where we found information that was
9 conflicting and new. And that is how this all ties
10 together with their waiver request.

11 I find it amazing that we're talking about a
12 condition and waiver request and we're not even talking
13 about South Dakota Codified Laws. 49-41B-4 says that
14 "Any facility with respect to which a permit is required
15 shall thereafter be constructed, operated, and maintained
16 in conformity with the special permit, including any
17 terms, conditions, or modifications contained therein."

18 This is nothing like what has been presented at
19 the county level or the state level. We have followed
20 this from the very beginning, and it is not anything like
21 that.

22 I submitted some complaints right here so you
23 can see those pictures of the 2.7s. I am so in disbelief
24 that they put in 2.7s when they were only approved to
25 have 2.3s, and at the county level they weren't even

1 approved to have 2.3s on many turbines.

2 I'd like to look at their waiver because
3 there's even some issues in there. In the Affidavit of
4 Jay Haley he says, "I completed the sound study -- the
5 sound model for the project using the same assumptions
6 used during the original studies."

7 Those original studies, I went back and looked
8 at them. They've been updated, corrected, supplemented
9 many times.

10 Exhibit H, "The sound software (Inaudible)
11 model was general ground attenuation and attenuation
12 factor of .5, which represents typical mixed vegetation
13 and prairie grass, weeds, brush as cover crop."

14 "The realistic sound pressure calculated was at
15 1.5 (Inaudible) at the participating and nonparticipating
16 existing occupied structures. The term realistic in this
17 case means that some amount of ground attenuation is
18 accounted for."

19 They're asking for this waiver during the winter
20 with bare ground. Hard, frozen ground. That attenuation
21 is zero. They didn't use the right attenuation factors
22 in this ask.

23 So we have many people in this project, and
24 their attached document's showing 44.6. What happens
25 when they put the correct ground attenuation there at

1 zero for the cold weather, the frozen hard ground? That
2 was totally missed by everybody. And so I don't believe
3 their sound study is accurate and is a representation of
4 what's going to happen here in the project.

5 Changing the hub heights, I used the December 13
6 attachments, and I compared them to the last sound and
7 modeling tables that were presented during the
8 evidentiary hearing, and that was Exhibit A22 and A23 and
9 we found that Turbine No. 89, 90, 91, 97 went from
10 80 meter hub height to 90 meters. Those turbines
11 surround the Lynches' home.

12 The Lynches are Intervenors in this project.
13 Not one word has been said about that. And we have to go
14 digging through the minute details that they try and slip
15 by. That is not right, and the Commission should
16 definitely go after them and punish harshly for it.

17 When they did that they also violated, as Amber
18 and Alan had said -- they violated local agencies.
19 Somewhere along the line we're missing the point that
20 Crowned Ridge Wind has permits with the PUC, the DENR,
21 the local agencies, the FAA. They have to abide by every
22 single one of those permits. None of the permits
23 supersede another. Those rules for each permit must be
24 followed.

25 They're not doing that. And Condition No. 2

1 clearly states that they must follow the permit,
2 especially the local agencies. The Commission has talked
3 about local control and local control during SB-15, at
4 our hearing. It's very important. They need to tell
5 Crowned Ridge you can't just willy-nilly out there and do
6 whatever you want because that is exactly what they have
7 done.

8 Dave covered it -- Amber covered it very well.
9 I submitted pictures of the 2.7 documentation, and that
10 was -- yes. We were out there during construction,
11 talked to the guys, the construction guys. They're all
12 very, very nice. Asked them what was going on, what this
13 meant. We were out there learning about what we were
14 going to be living near and around and driving through.

15 You know, it was kind of amazing. KELOLAND the
16 other day was talking about the ice throw with this storm
17 out in Highmore. I can't imagine what that area looks
18 like this morning with all the ice that I see.

19 This project needs to -- the waiver needs to be
20 denied. The project needs to be ended, the permit
21 revoked, and Crowned Ridge needs to come over and give an
22 Application that is truly what they have done or take the
23 turbines down because they were definitely not permitted
24 to this. And it's against state law, it's against the
25 conditions, and it's against the local ordinances, the

1 local conditional use permits.

2 So I do ask that you fully investigate and that
3 all of this information came about because of the
4 information in their filing for the waiver request.

5 ACTING CHAIR NELSON: Thank you.

6 We will go to Staff.

7 MS. EDWARDS: Thank you. This is Kristen
8 Edwards for Staff.

9 That was a lot of elephants in the room to pick
10 through, and my e-mail went down. So I see Ms. Mogen was
11 filing information as we were talking, but I was unable
12 to open it. So I'm not exactly sure what she sent other
13 than a few pictures I was able to open.

14 We filed a memorandum, and I guess at this point
15 we would just say that Condition No. 26 requires
16 compliance with the noise levels. And if there's a
17 complaint, there's a process to go through that. But I
18 am interested to hear the Applicant's response before
19 going forward.

20 ACTING CHAIR NELSON: Thank you.

21 And it is time for rebuttal, whoever would like
22 to handle that.

23 Mr. Murphy.

24 MR. MURPHY: Thank you, Commissioners, for
25 having us back today to consider the waiver.

1 I listened carefully to the Intervenors. I came
2 up with three issues that I thought were relevant to your
3 inquiry today. If there were more, you know, please let
4 me know. I believe we have the right experts on the
5 phone.

6 ACTING CHAIR NELSON: Yeah. And I'll just
7 interrupt. You can go ahead and identify those.

8 I mean, obviously some very serious allegations
9 were made, and we're going to have to kind of clean that
10 up, figure out what's going on before we can move
11 forward. But go ahead with your presentation, and we'll
12 go from there.

13 MR. MURPHY: Thank you.

14 And the way I divided it up, to your point, is
15 allegations that I would consider either complaints or
16 would have been requests for reconsideration versus what
17 needs to be cleaned up for the purposes of the waiver
18 today.

19 I believe the 2.3, 2.7 issue is relevant, and
20 Josh Tran can speak to that. Also the fact that we are
21 testing the turbines to ensure they're safe and that the
22 electricity that would run between the turbines and the
23 substation are safe, and we can address that as well.
24 And Jay Haley is on the phone to discuss his assumptions.

25 So I would propose to go through each one of

1 those. And, Josh Tran, if you're still on the phone, if
2 you could start with the point that the Intervenors were
3 making that these are actually 2.7 versus 2.3 GE
4 turbines.

5 MR. TRAN: Thank you.

6 ACTING CHAIR NELSON: Mr. Tran, if you would
7 just introduce yourself for the record, please.

8 MR. TRAN: Yeah. My name is Joshua Tran with
9 NextEra Energy. I am director of construction,
10 responsible for overseeing all of our construction --
11 wind construction projects. And I've been in the
12 industry for about 15 years, 10 of which have been in the
13 engineering and construction department.

14 To the point of the turbine output, these
15 turbines are 2.3 megawatt machines. They're controlled
16 by parameter settings at each turbine that do not allow
17 them to generate over 2.3 megawatts. We can show
18 evidence of that in the parameter screen shots, if
19 requested.

20 ACTING CHAIR NELSON: This is Commissioner
21 Nelson. I just want to interject a question. And I
22 apologize, but I'm trying to parse your words.

23 Are these, in fact, 2.7 megawatt turbines that
24 are being purposely restricted at 2.3?

25 MR. TRAN: Sir, all of the turbines for GE at

1 this site are on the 2X platform. So they have the
2 ability to go over the 2.3 megawatts. But they have been
3 restricted at this site to 2.3. That is correct.

4 ACTING CHAIR NELSON: You may continue.

5 MR. TRAN: Are there any other questions as
6 regards the megawatt output? They are also limited at
7 the point of interconnection too. So it's a 200-megawatt
8 wind farm with 87 2.3 megawatt machines.

9 COMMISSIONER HANSON: I would have one,
10 Mr. Chairman.

11 ACTING CHAIR NELSON: Go ahead.

12 COMMISSIONER HANSON: I'm curious. How are
13 those monitored to make certain that two years from now
14 they're not 2.7, that they're -- how difficult is it to
15 change and what type of official monitoring takes place
16 to make certain that they remain at 2.3?

17 MR. TRAN: There are a number of things that
18 have to be done in order to change that setting. You
19 have to have secure passwords at each turbine and get on
20 our corporate network.

21 In order to manipulate any settings we have to
22 go through General Electric, which is the turbine
23 manufacturer, to get permission on that as well. And
24 then you'd have to open up the control system and
25 manipulate specific turbine settings.

1 COMMISSIONER HANSON: Thank you very much.

2 MR. TRAN: One of the ways that we monitor that
3 is through our remote operations center. We have an
4 office in Juneau and a backup office in Orlando that
5 controls all of our sites, and we'll have a site team --
6 operations and maintenance team on-site as well to ensure
7 that these turbines are operating as they -- as they
8 should.

9 COMMISSIONER HANSON: Thank you, Mr. Chairman.

10 MR. TRAN: Any other questions regarding the
11 2.3 megawatt?

12 ACTING CHAIR NELSON: I'm going to have
13 Mr. Rislov ask a question.

14 MR. RISLOV: This is Greg Rislov, Commissioner
15 Advisor.

16 Does your interconnection agreement specify
17 2.3 versus 2.7? And I assume the Midwest -- or the
18 Midcontinent ISO would be involved in this?

19 MR. TRAN: Yes, sir. Our GIA or Generator
20 Interconnection Agreement with Otter Tail and the MISO
21 has 87 2.3 megawatt turbines.

22 MR. RISLOV: So let's say there was for some
23 reason a decision to move above 2.3. Would that also
24 have to be vetted with Otter Tail and the Midcontinent
25 ISO?

1 MR. TRAN: It would, sir. They would have to do
2 additional studies and coordination with the ISO and the
3 offtakers to get approval for that.

4 MR. RISLOV: Okay. And, without that, there
5 would be, I assume, congestion issues and operational
6 issues on the Midcontinent ISO?

7 MR. TRAN: Depending on what the (Inaudible) is,
8 there's certainly the possibility.

9 MR. RISLOV: Thank you.

10 ACTING CHAIR NELSON: You may continue.

11 MR. TRAN: I don't have anything else to add
12 unless there's additional questions on that subject.

13 MR. MURPHY: Joshua Tran, this is Brian Murphy.
14 I would like you to talk about the test energy that you
15 have run and your coordination with Mr. Haley on the
16 running of this test energy.

17 MR. TRAN: So currently we are under test energy
18 conditions. We are coordinating with MISO and Otter Tail
19 to produce roughly 45, 50 megawatts from the site on
20 various turbines. We're cycling through to ensure that
21 we have a voltage generation and curtailment testing. As
22 compliance, we have to be compliant with GIA and our
23 power purchase agreements.

24 MR. MURPHY: Mr. Tran, this is Brian Murphy
25 again. It's my understanding you also coordinated the

1 running of those turbines with Mr. Haley to ensure sound
2 was at a very low level. Can you explain that?

3 MR. TRAN: Yeah. We limited the turbines to the
4 15 turbines that Mr. Haley had outlined to shut down at
5 9 meters per second. So all those turbines will not
6 operate over 9 meters per second.

7 We have a setting called storm shutdown. So
8 basically it reduces the cutout speed from about
9 20 meters per second to 9 meters per second at these
10 particular turbines.

11 MR. MURPHY: This is Brian Murphy again,
12 Joshua Tran. What I was asking was a different question.

13 Did you coordinate with Mr. Haley on the running
14 of the turbines at a low speed level during the test
15 energy phase? And how was that coordinated?

16 MR. TRAN: We have a list of turbines that
17 have -- that were recommended to be shut down at 9 meters
18 per second. And we worked with General Electric and the
19 commissioning team on-site to reduce the setting of those
20 turbines.

21 Is that answering your question?

22 MR. MURPHY: No. So it's harder with you on the
23 phone.

24 My understanding, and you tell me if I'm
25 wrong -- my understanding is that you worked with

1 Mr. Haley, and that the turbines in general were run at
2 very low speed levels during the test energy, around 5 or
3 6 meters per second. That's what I would like you to
4 explain.

5 MR. TRAN: Yes. That is correct. So we've
6 actually shut down even lower. So all the turbines have
7 been carefully put online and taken off for a couple
8 hours at a time.

9 So if I took six turbines that we are talking
10 about with the lower, the noise requirements and the
11 curtailment requirements on all 15 were coordinated with
12 Mr. Haley --

13 MR. MURPHY: And --

14 MR. TRAN: -- to not exceed any noise
15 restrictions.

16 MR. MURPHY: Can you explain why you have to run
17 test energy, the specific reason why you do it before you
18 go into full operations?

19 MR. TRAN: We want to validate all the turbine
20 settings to ensure that the turbines can send and receive
21 signals and can be controlled as specified. So we go
22 through a long conditioning process for each turbine
23 where we do all of our mechanical and electrical checks
24 and then check all the software and in order to validate
25 all of that we have to run these at a minimum output of

1 about -- of about a couple hundred kilowatts.

2 ACTING CHAIR NELSON: Mr. Murphy, I've got a
3 couple other questions. Do you want to continue along
4 this line first? Do you have any other questions?

5 MR. MURPHY: I was going to go just to Haley to
6 discuss his assumptions.

7 ACTING CHAIR NELSON: Let me ask Mr. Tran a
8 couple of questions. The first follows up on
9 Mr. Rislov's question about the output and coordinating
10 with MISO.

11 MR. TRAN: Uh-huh.

12 ACTING CHAIR NELSON: Is it correct that MISO is
13 concerned with the total output of the project and they
14 are not concerned with the output of each individual
15 turbine?

16 MR. TRAN: That is incorrect. They are
17 concerned with the output of each individual turbine, and
18 we submit to them a study showing each individual
19 turbine's max output. So, again it's 87 2.3-megawatt
20 turbines.

21 MR. MURPHY: I might be able to add as well, I
22 believe it's a material modification if the turbine is
23 changed. And when we've dealt with MISO -- so any -- you
24 know, they are expecting 2.3s.

25 COMMISSIONER FIEGEN: Commissioner Nelson,

1 Brian Murphy -- we cannot hear Brian Murphy.

2 MR. MURPHY: I apologize. I was explaining that
3 it's my understanding that anything other than the 2.3s
4 would be material modifications with MISO and have to be
5 re-studied.

6 ACTING CHAIR NELSON: And the other question is
7 regarding Ms. Christenson's claim that the tower heights
8 have changed from what was permitted.

9 Is Mr. Tran the person who's going to address
10 that, or do you have somebody else?

11 MR. MURPHY: I would hesitate to put Mr. Tran on
12 the spot, given that this is brand new information.

13 ACTING CHAIR NELSON: Well, somebody's going to
14 need to answer it today.

15 MS. EDWARDS: Can I interrupt? I think
16 Mr. Thurber can answer that.

17 ACTING CHAIR NELSON: Well, we can wait and deal
18 with that during the regular rounds of questions.

19 MR. MURPHY: And, Commissioner Nelson, I'm more
20 than happy to get the right people on the phone to answer
21 each one of the allegations. But I would need the
22 information like which turbines. I listened intently,
23 but it was not clear to me which ones they were. And I'd
24 just like to get that photographic evidence, whatever
25 evidence they have, so I can verify.

1 ACTING CHAIR NELSON: We'll just wait until our
2 regular round of questions and see what comes out of
3 that. So you may continue.

4 MR. MURPHY: Mr. Haley, the Intervenor's question
5 whether you were using the appropriate assumptions when
6 you ran the model for the waiver. Can you address that
7 allegation?

8 MR. HALEY: Sure. The assumptions that were
9 programmed into the model remain the same as she
10 indicated. The reason for that was to try to keep
11 our numbers and our comparisons as much of an
12 apples-to-apples comparison as possible.

13 The difference that we did make was that we
14 modeled 200 megawatts rather than the 300 megawatts,
15 which all of the original Application reports and
16 appendices were based on a 300-megawatt layout. And
17 since only 200 megawatts have been built and are the
18 subject of this temporary waiver, we only modeled the
19 200-megawatt layout in this case, which is why some of
20 those numbers look different to her.

21 MR. MURPHY: Those are all the questions that I
22 would have that I thought was in the realm of the waiver.
23 Happy to address any issues that come up during the
24 hearing.

25 ACTING CHAIR NELSON: Thank you. So what we're

1 going to do now is we're going to go to Commissioner
 2 questions and see where those go.
 3 Commissioner Hanson, I'm going to give you the
 4 first opportunity to ask your questions.
 5 COMMISSIONER HANSON: Thank you, Mr. Chair.
 6 The last speaker from the Application discussed
 7 a little bit of what I was concerned with regarding sound
 8 level. When Ms. Mogen spoke of originally being told it
 9 was going to be around 36 and then it increased to I
 10 believe 42 and if I recall correctly, she said it is now
 11 somewhere around 43.7, I think.

12 Was that what the last speaker was referring to?
 13 I don't think it was. I'm curious why it changes there,
 14 if there are changes.

15 MR. HALEY: This is Jay Haley, the sound
 16 modeler. I can respond to that.
 17 I don't really know. I would have to get those
 18 numbers that she mentioned and review the reports and
 19 appendices that have been submitted. But I'm not aware
 20 of those changes that she's talking about, other than
 21 changes that would have resulted from modifications to
 22 the array over time.

23 There were some changes to the array that took
 24 place, at which time we remodeled and refiled new
 25 results. That's the only thing I can think of that she

1 might be referring to.
 2 COMMISSIONER HANSON: Have you examined the most
 3 recent sound level for her location?

4 MR. HALEY: Yes. It was submitted with a table
 5 of the Intervenor's impacts.

6 COMMISSIONER HANSON: And what is that?

7 MR. HALEY: One second.

8 Mrs. Christenson, with the curtailed scenario,
 9 it's 42.2 decibels, which is the same as if we had the
 10 LNTE blades installed. That would be with the 23 LNTE
 11 blades that we're talking about. When it's ultimately
 12 completed and all the LNTE blades are installed, the
 13 number drops to 40.6 decibels.

14 COMMISSIONER HANSON: And what about Ms. Mogen?

15 MR. HALEY: Ms. Mogen's numbers are quite low.
 16 21.6 with curtailment, 21.8 with the 23 LNTE blades, and
 17 21.9 with all LNTE blades.

18 COMMISSIONER HANSON: Forgive me. I was writing
 19 it down. What was the very last one?

20 MR. HALEY: 21.9.

21 COMMISSIONER HANSON: Thank you. And obviously
 22 I'm saving the entire PUC from catching a cold by not
 23 being there.

24 The flicker Ms. Mogen said was at zero and now
 25 it's at 6 hours 56 minutes, that's certainly considerably

1 less than the 30 hours I believe it is as I recall that
 2 we allotted for that.

3 Do you have the flicker, what it is? And was it
 4 originally zero?

5 MR. HALEY: I'm going to have to look that up.
 6 It will take me a second.

7 MS. MOGEN: Can I clarify that's Amber
 8 Christenson who is in the project and being impacted
 9 terribly. Not Kristi Mogen. I didn't bring my changes
 10 to the board today.

11 Thank you.

12 COMMISSIONER HANSON: And I assume that was
 13 Ms. Christenson that was just speaking?

14 MS. MOGEN: I'm sorry. It was Kristi Mogen.

15 ACTING CHAIR NELSON: Thank you. And I
 16 appreciate that clarification. We do have to identify
 17 ourselves because the court reporter, unfortunately, is
 18 not present here today but will be transcribing this from
 19 the tape. So we need to make sure we identify. This
 20 obviously is Commissioner Nelson.

21 MS. MOGEN: This is Kristi Mogen. While we're
 22 waiting for them to look that up, can we find out -- I
 23 mean, this (Inaudible) definitely different than 2.3 --

24 ACTING CHAIR NELSON: Ms. Mogen, we're going to
 25 do this in an orderly fashion. Commissioner Hanson has

1 the floor at this point. He is waiting on a response.

2 MS. MOGEN: Okay. Thank you.

3 MR. HALEY: And this is Jay Haley. I'm back on
 4 again.

5 We did not run the Shadow Flicker Analysis for
 6 this temporary waiver request. We only ran the noise
 7 modeling. So the last shadow flicker numbers that were
 8 reported were six hours 39 minutes.

9 Wait a minute. Wrong line. Six hours 56
 10 minutes.

11 COMMISSIONER HANSON: Thank you. And that's
 12 based upon how the -- how you propose to build the
 13 facility and how you've applied to build the facility
 14 through that -- with your Application with the PUC?

15 MR. HALEY: That is correct.

16 COMMISSIONER HANSON: All right. And a bit
 17 curious on a couple of things. One is Ms. Mogen said
 18 that the blades have been known since 2015. I assume --
 19 I'm going to make an assumption, but I'll let you give
 20 the correct answer that they were ordered in 2015 and --
 21 when did you receive them?

22 MR. MURPHY: This is Brian Murphy. Joshua Tran,
 23 can you answer that question?

24 MR. TRAN: Yes, sir. I was just jumping back on
 25 here. Yeah. The blades were received on-site the

1 beginning of July through October.
 2 MR. MURPHY: Okay.
 3 MR. TRAN: So we --
 4 MR. MURPHY: This is Brian.
 5 Joshua, the question is the -- the allegation is
 6 that we have owned them and had possession of them since
 7 2015. So if you're aware -- if you're not aware, we will
 8 get the right person on the phone to answer the question.

9 If you are aware.

10 MR. TRAN: We didn't take possession of the
 11 blades until the summer of this past year. Not in 2015.

12 COMMISSIONER HANSON: Okay. So you don't
 13 know -- this is Commissioner Hanson. So you don't know
 14 when they were actually owned by the Applicant; you just
 15 know that they were -- you started receiving them July,
 16 and I believe it was October that you stated that you
 17 received the last ones.

18 How many of them have the trailing edge attached
 19 to them at this time on?

20 MR. TRAN: Eight.

21 COMMISSIONER HANSON: Eight of them.

22 I'm curious. Can you tell me why the trailing
 23 edge wasn't applied a lot earlier, if you had been
 24 receiving them since July?

25 MR. TRAN: They started -- the trailing edges

1 didn't come in -- the blades themselves started being
 2 delivered in July. The trailing edges were not being
 3 received until September. They were not installed on
 4 manufacturing, which would have been obviously better for
 5 everybody. So they stopped installing them the middle of
 6 October due to the temperatures not being conducive to
 7 what we needed them to be.

8 COMMISSIONER HANSON: So can you give me a good
 9 reason why they hadn't been ordered earlier? Is there
 10 some exceptional reason for a lack of better management
 11 on why they weren't received at least a lot earlier? I
 12 mean, you folks know what the weather's like up here.

13 MR. TRAN: Sure. I do not know the answer to
 14 that question, sir.

15 COMMISSIONER HANSON: Okay. I don't believe
 16 you're the person to answer this. Maybe you are. But it
 17 just seems to be with all of the allegations and the --
 18 what in some cases are perfectly reasonable answers and
 19 in some cases there aren't answers and others there's
 20 sort of lacking in good common sense answers.

21 It seems to be a terrible communication between
 22 the citizens in that area and especially those with party
 23 status and with the Applicant. Can someone tell me why
 24 there isn't a better communication?

25 Because they certainly -- did someone explain

1 the governing restrictions on the megawatts from a -- I
 2 believe it was a 2X platform facility that could
 3 produce -- a unit that can produce higher than the 2.3
 4 but it's a 2X platform and certainly it's governed to
 5 restrictions under -- numerous restrictions and it's not
 6 about to be above a 2.3?

7 Someone tell me why there's such a lack of
 8 communication here.

9 MR. MURPHY: This is Brian Murphy. I can try.

10 I do know I work on a number of wind projects
 11 where it is not uncommon for individuals in the project
 12 area to have questions and to have those questions
 13 answered in the field either through a project manager or
 14 a liaison similar to the one you all appointed in this
 15 case.

16 With respect to this specific issue, it's the
 17 first time that I'm hearing it was a concern. It may be
 18 for some I'm hearing it is a concern because they are
 19 reading the turbines and what's written on the turbines.
 20 I do believe that we'd be more than happy to explain to
 21 the Intervenors or anyone in the project area the nuances
 22 of these machines or any other questions they have.

23 I do take your point that the Intervenors are
 24 raising these issues today. And like I said in the
 25 beginning, I'm happy to go through each one of them and

1 have them answered in a meaningful way. That will
 2 probably require getting other individuals from the
 3 company on the phone who have that particular expertise
 4 to do that.

5 Joshua Tran, for example, is not in our
 6 procurement division of our company so he would not be,
 7 unfortunately, the right person to explain how we
 8 procured the turbines and when they were delivered.

9 But, again, I make the offer to get the right
 10 folks on the phone. And, as I started with, questions
 11 come to us, to our project manager or liaisons. They
 12 should be answering these questions in a timely manner.
 13 And it's my experience we do that in other projects.

14 COMMISSIONER HANSON: If I may continue,
 15 Mr. Chair, just with that line.

16 To the parties, to Ms. Mogen and
 17 Ms. Christenson, I would like to hear from you as well
 18 regarding the communication factor and why this rises to
 19 the Commission to be the party that somehow has to be a
 20 go-between on something of this nature.

21 It should be far more simple than -- I assume
 22 you know who you could contact in this regard with
 23 concerns. And I know I said previously at the last
 24 meeting that we don't know what we don't know. And that
 25 was certainly serious from my standpoint that when

1 someone makes an Application and you only have a very
2 short period of time to get ready for that Application
3 before the Commission, I understand that there's
4 significant challenges there, but I don't understand why
5 phone calls weren't immediately made. And perhaps there
6 were. Inform me if they were to the Applicant.

7 Do you have a relationship with them where you
8 can communicate, someone you feel comfortable in
9 discussing these issues with?

10 ACTING CHAIR NELSON: Here's what I want to do
11 to get that question answered. Ms. Christenson, do you
12 want to handle -- take that?

13 Yeah. I guess if you want to sit over here,
14 because I think we're going to have rounds and rounds of
15 questions.

16 And while you're approaching, Ms. Christenson,
17 I'm going to maybe put just a little finer point on
18 Commissioner Hanson's question.

19 You know, you brought a number of allegations
20 this morning. Have those been raised with the liaison
21 for this project?

22 With that, take it away.

23 MS. CHRISTENSON: Amber Christenson.

24 No. They haven't been raised with the liaison.

25 This is all new information. I have spoken to Brian

1 about a couple of noise complaints that I've made. He's
2 been very helpful. Nothing he can do about it, he says,
3 but at least he's kind and listens so I can complain.

4 As for contacting the Applicant, I don't feel
5 like we get a straight answer from the project manager.
6 I did bring my concern of the 80 meter hub height versus
7 the 90 meter hub height to our Codington County Planning
8 and Zoning officer, who he did issue building permits in
9 the nonpermitted size.

10 So he permitted them at 90 instead of 80. And I
11 brought that in front of the Board of Adjustment, and
12 that's where Tyler Wilhelm actually misdirected the
13 board, totally misdirected the board, in answering the
14 question, saying, Oh, no. We said on our Application
15 they would be 485 feet.

16 And my time to speak had passed so I couldn't
17 clarify, no, it's supposed to be 80 and you built it at
18 90 and that changes the flicker considerably when you
19 raise the hub height 10 meters. It's 10 percent.

20 So no. I haven't talked to the liaison about
21 the 2.7 generators and didn't realize that he would be
22 the person to talk to about that. I thought that was a
23 material change that wasn't in the Application. This
24 model is not in the Application.

25 A 2.7 is not in there. Whether they govern it

1 or not, it was not in the Application. So I thought this
2 was the appropriate body.

3 COMMISSIONER HANSON: Thank you.

4 ACTING CHAIR NELSON: Mr. Robish, anything to
5 add for Commissioner Hanson's question?

6 MR. ROBISH: No. This is Al Robish. I don't
7 have anymore to add.

8 I was at the meeting when she was talking about
9 that in Codington. And she wanted to expand and explain
10 it, and they shut her off and said, no, you're done
11 talking, wouldn't let her explain. Tyler just came back
12 in the room from the bathroom so he didn't even know what
13 we had been talking about. So she didn't get to explain.
14 They just cut her right off. So I witnessed that.

15 Thank you.

16 ACTING CHAIR NELSON: Ms. Mogen, do you have a
17 response to Commissioner Hanson's question?

18 MS. MOGEN: I do.

19 You know, the PUC is the regulatory body here.
20 They're the ones that gave the permit. And the whole
21 fact that they're going to try and explain away that they
22 used 2.7 with a generator --

23 This has a totally different sound profile,
24 whether it's governed or not. It's not what they
25 presented. It's not what we received information on. I

1 question nameplate. What's the revenue off of this, and
2 how is South Dakota going to request that now?

3 You guys -- the PUC is a regulatory body.
4 Crowned Ridge Wind poo-poops us and redirects and explains
5 away things. This cannot be explained away. There is a
6 different turbine with a different sound profile. It
7 changes everything. It changes everything. And that
8 can't be explained away.

9 ACTING CHAIR NELSON: Thank you.

10 Commissioner Hanson, you may continue.

11 COMMISSIONER HANSON: Thank you.

12 I just -- unfortunately, I don't think I heard
13 the answer that I was searching for. Are there
14 efforts -- is the liaison on? I don't see that he's on
15 the line here.

16 ACTING CHAIR NELSON: No.

17 MS. EDWARDS: Yes, he is.

18 MR. RINIKER: This is Brian. I'm on the call.

19 ACTING CHAIR NELSON: He is.

20 COMMISSIONER HANSON: Oh, Brian. You're on the
21 line.

22 Could you explain what type of discussions have
23 taken place between you as a go-between for the parties?

24 MR. RINIKER: A lot of the issues that I've

25 helped resolve have been related to changes in access

1 roads and changes in collection and crop damage
 2 complaints.
 3 I did have two noise complaints from Amber, one
 4 as recent as Friday. And I had a few calls early on in
 5 the project relating to the 300 to 200 megawatt
 6 conversion and the deferment of such.
 7 But I haven't really had any questions about the
 8 size of the turbine or anything like that. No questions
 9 regarding interconnect or anything like that as well.
 10 COMMISSIONER HANSON: Okay. Thank you. Thank
 11 you very much, Brian. Appreciate it.
 12 A question for the Applicant. When you examined
 13 the noise did you take into consideration the middle of
 14 winter when we have snow on the ground and basically
 15 sound travels for a much farther distance?
 16 MR. HALEY: This is Jay Haley, the noise
 17 consultant. We used the ground attenuation factor of
 18 0.5, which is I'll call it a middle of the road
 19 representation, that it's not representing an extreme at
 20 either end in the dead of winter or in the middle of the
 21 summer when all the crops and vegetation is at its
 22 fullest. So it's a balance of those two.
 23 COMMISSIONER HANSON: So it's an average of
 24 the -- what it's like in the winter as opposed to what
 25 it's like in the summer, and what it's like in the winter

1 would actually be -- what level would you use? 0.0.
 2 UNIDENTIFIED SPEAKER: Probably not a zero.
 3 You'd maybe go down to a .3 or something like that. But
 4 it's really dependent on the landscape. The landscape is
 5 not always entirely covered in snow.
 6 COMMISSIONER HANSON: Well, my experience is out
 7 in the country and -- I guess I won't testify, but noise
 8 travels a lot farther when there's snow on the ground,
 9 even in the city limits.
 10 0.3 is a 40 percent decrease. That would say to
 11 me that the sound level is going to travel farther.
 12 What's your --
 13 MR. HALEY: Well, it's not going to be a linear
 14 relationship like that. But, yes, to your point, it
 15 would travel further under the harder ground conditions
 16 than under softer ground conditions.
 17 COMMISSIONER HANSON: And I recognize that
 18 engineering -- that 40 percent, I didn't mean to imply
 19 that it's going to be 40 percent farther, but it
 20 certainly is going to be farther than it would have been
 21 by a considerable distance. So what is it going to be?
 22 What would you expect it to be in your
 23 experience? You've got a lot of experience in this
 24 field. You can give us a SWAG estimate here.
 25 MR. HALEY: I'm not sure what question you're

1 asking me to answer.
 2 COMMISSIONER HANSON: All right. How much
 3 louder will the sound be at -- instead of a 0.5, at a 0.3
 4 at, say, a Mogen or Christenson residence?
 5 MR. HALEY: I don't know what that would be
 6 off the top of my head. I would have to run the
 7 calculations.
 8 COMMISSIONER HANSON: All right. If it was at
 9 43.7 and with -- at a 0.5, what would it be at a 0.3?
 10 MR. HALEY: Like I say, I can't answer that off
 11 the top of my head. I would have to run the calculations
 12 to give you a reasonable answer.
 13 COMMISSIONER HANSON: With your experience,
 14 approximately how much higher would it be?
 15 MR. HALEY: I really don't want to speculate on
 16 that. I don't know what that would be without running
 17 the calculations. It's not -- it's not that simple when
 18 you've got a collection of turbines in an array and
 19 they're all making a contribution. You pretty much have
 20 to model it to know.
 21 COMMISSIONER HANSON: All right. Well,
 22 regardless of how this ends up today, I would like that
 23 information provided to us.
 24 Mr. Chairman, I have some other questions, but I
 25 know that my learned colleagues will have very pertinent

1 and interesting questions and I would like to listen to
 2 those at this time.
 3 Thank you, Mr. Chair.
 4 ACTING CHAIR NELSON: Thank you.
 5 Commissioner Fiegen.
 6 COMMISSIONER FIEGEN: Thank you, Commissioner
 7 Nelson. I do have two questions, and then I'll let my
 8 other Commissioners continue to start. I have a question
 9 of the Applicant and then a question for the Staff.
 10 When this came up to us it was a very immediate
 11 response that the Applicant wanted because of this
 12 December 31 operational situation where there was a -- I
 13 think it was a \$75,000 fine per day by Xcel Energy.
 14 At the time of the hearing last time the
 15 Commission I believe -- and I can't remember which
 16 Commissioner asked or maybe it was an Intervenor asked
 17 the Applicant if they had talked to Xcel Energy to see if
 18 they would impose that fine. And they didn't know at
 19 that time.
 20 So I'm asking again the Applicant and then I'm
 21 going to ask the Staff if that fine will be imposed and
 22 if the Commission would really have more time to make
 23 this decision if the fine would not be imposed.
 24 So, Applicant, if you could start. Thank you.
 25 MR. MURPHY: Thank you for the question. This

1 is Brian Murphy for the Applicant.

2 We have not contacted Xcel, to my knowledge, to
3 discuss a waiver of that provision. As I was mentioning
4 at the original hearing and if I wasn't clear, I
5 apologize, we view that as a legal obligation, a right of
6 Xcel that they can exercise. We have not missed a
7 commercial operation date to put us in that position
8 before so we're not accustomed to asking a customer to
9 waive something that they -- they negotiated as a hard
10 penalty.

11 At the same time, I believe I mentioned based on
12 my experience as a lawyer that's done many rate cases
13 that if I was in their shoes, I'm not sure what I would
14 say to my regulator if I left that amount of money on the
15 table.

16 But to your immediate question, to the best of
17 my knowledge, we have not contacted Northern States Power
18 or Xcel.

19 COMMISSIONER FIEGEN: Okay. Thank you. And
20 when you talk about not missed an operational date, I
21 just remember the evidentiary hearing being so confusing
22 for not only the three Commissioners but for the
23 Intervenors, the Staff, et cetera. It was probably one
24 of the most confusing evidentiary hearings that I've been
25 a part of with a wind docket.

1 And I remember there was somebody, and I can't
2 remember if it was one of the three Commissioners that
3 continued to ask, can you really have this ready December
4 of 2019.

5 So I'm going to go to Staff now and find out --
6 I know you have relationships with Xcel Energy. Have
7 you had the opportunity to visit with them about this
8 matter?

9 MS. EDWARDS: This is Kristen Edwards for Staff.
10 And to be honest, when this came in I did reach out to
11 one of our contacts at Xcel and asked him about it. But
12 I had to be very cautious because you at the same time
13 don't want to create an anticipatory breach of contract.
14 And I'm certain Mr. Murphy had that same thought as well.

15 At the time I don't think that they knew. I
16 haven't talked to them since the last time we had this
17 hearing. One thing that I would point out is I don't
18 think we found a way that this could go back into rates.

19 So Mr. Murphy brought up being a regulatory
20 attorney and the regulators wanting them to capture it.
21 I'm just not sure that we could do that. So I don't
22 think that they would probably have that fear.

23 COMMISSIONER FIEGEN: Okay. Thank you.

24 So is it my understanding -- I'm going to go to
25 the Staff one more time. Is it my understanding the

1 immediacy of the decision today by the three

2 Commissioners is because of that fine and that's really
3 why we're meeting December 30, although we might have a
4 lot more questions?

5 Is that your understanding, Public Utilities
6 Commission Staff?

7 MS. EDWARDS: That is our understanding, yes.

8 And I have reached back out to Xcel. So I should know, I
9 would think, this afternoon, but that's all I know for
10 now.

11 COMMISSIONER FIEGEN: Right. Okay. Thank you.

12 And then I'm going to go to the Applicant and
13 the Staff for this question. As you remember, the
14 evidentiary hearing was quite burdensome for people to
15 continue to ask for more documentation. One of them
16 certainly was the sound study.

17 So the final sound study that you gave us, was
18 that the 2.3 turbine and not the 2.7 turbine that was
19 curtailed or like Governor -- Governor. You just got a
20 promotion -- Commissioner Hanson stated, you govern it
21 back?

22 And I'm going to start with the Applicant and
23 then go to the Staff.

24 MR. HALEY: This is Jay Haley, the noise
25 consultant. The noise data that was used and modeled was

1 for a turbine generator operating at 2.3 megawatts.

2 COMMISSIONER FIEGEN: So when you say -- state
3 operated at 2.3 megawatts, a lot of times when the
4 Commissioners look at turbines and the sound study we
5 usually look at a certain model number, I believe anyway
6 when I read those sound studies. And we've had so many
7 different wind dockets.

8 So don't you usually put the turbine model
9 number, which is like a 2.3 model? Or am I all confused
10 about that?

11 MR. HALEY: Well, we get a document from the
12 turbine manufacturer that labels the turbine model that
13 that data is representing, and in this case it was
14 representing a 2.3-116 model turbine.

15 COMMISSIONER FIEGEN: What's 1.16 [sic] mean?

16 MR. HALEY: The 2.3 is the size of the
17 generator. The 116 is the rotor diameter.

18 COMMISSIONER FIEGEN: So what you're telling me
19 is when you did the model it was not the 2.7 model that
20 was governed down?

21 MR. HALEY: It would be -- the noise profile
22 would be the same for a 2.7 operated at 2.3 or a 2.3
23 platform.

24 COMMISSIONER FIEGEN: According to your
25 testimony. But did the expert of this -- now I'm going

1 to go to the Staff.
2 Did the expert of the Staff understand the
3 complexity of the sound model? And I'm just going to ask
4 the Staff in general. I certainly have questions as a
5 Commissioner today, more questions than I started with,
6 and I'm going to leave it an open-ended question.

7 Thank you, Staff.

8 MR. KEARNEY: This is Darren Kearney for Staff.
9 And first I would just note that the installation of
10 2.72 megawatt machines is news to us today. We haven't
11 reviewed a filing from the company notifying us of that.
12 If they did file it, we might have overlooked it.

13 All the sound modeling that has been produced in
14 the past has been 2.3 megawatt machine-based nameplate.
15 The sound pressure level data that our sound expert
16 reviewed for this waiver request to verify the proper
17 cutout wind speed was based on a 2.3-116 machine.

18 So Staff would want to verify that through
19 either GE or GE's technical data that what Mr. Haley has
20 stated to us is, in fact, the case where if you limit a
21 2.72 megawatt machine at 2.3, the sound pressure levels
22 would remain the same. So that's the verification that
23 Staff would need to see from the company in order to
24 stand by our memo with this new information.

25 And in follow-up to Commissioner Hanson's

1 question about Amber Christenson's property and her
2 statement that it was modeled at 38 or around there, now
3 it's modeled at 42, approximately 42, well, during the
4 hearing one of the models ran was without the Turbine 67
5 and 68, which the company had switched to alternates.
6 And without those turbine and the model, she was at 38.

7 The turbines are considered alternates today.

8 They have not been constructed. And so from Staff's
9 review it's my opinion that the information that was
10 submitted based on this waiver request overstates the
11 impact to what Ms. Christenson should expect, unless the
12 company ends up building Turbines 67 and 68.

13 So that's kind of why there is the two -- the
14 gap there between a 38 or a 42. And Staff asked the
15 company when you're going to decide if you're going to
16 build those turbines or not because they're not part of
17 the first phase project, and they said they're holding on
18 to those turbines for the 100 megawatt phase.

19 So that's kind of the status of that and why the
20 modeling now is showing you 42 versus what was at the
21 hearing when they had removed those turbines from the
22 model.

23 COMMISSIONER FIEGEN: Thank you, Staff. And I'm
24 going to come back and ask a question after all the
25 questions are answered.

1 As you can tell today, trust is a really
2 important factor to me and I know all three
3 Commissioners. Trust is really important. And I feel
4 like today there are things that have come up that is
5 starting to make me uncomfortable with how we get
6 information from the Applicant. So today I will ask a
7 final question of Staff after we're all done of the
8 decision today.

9 So that's my questions right now, Commissioner
10 Nelson. And if I could ask questions at the end, I'd
11 appreciate it.

12 ACTING CHAIR NELSON: Thank you. Absolutely.

13 I do have a series of questions and they're
14 going to be kind of scattered among all three parties.
15 I'm going to start with Mr. Thurber.

16 Can you explain to us this issue of the 80
17 versus 90 meter tower heights?

18 MR. THURBER: In the Application -- I believe
19 it's on page 20 in the original Application -- 80 and 90
20 meter hub heights were under consideration. And if you
21 look at the description within the sound model profile of
22 the turbines, they do have certain turbines modeled at
23 80 versus 90 meter hub heights. So it's been
24 communicated through the process.

25 ACTING CHAIR NELSON: And so is it accurate that

1 the permit that was granted was with the understanding
2 that certain of those turbines would be 80 high and
3 certain would be 90 high? Is that correct?

4 MR. THURBER: That's my understanding.

5 ACTING CHAIR NELSON: So, Ms. Christenson, that
6 was not what you alleged today. So my question for you,
7 do you have evidence that they have put 90 meter turbines
8 in locations that were permitted for 80?

9 MS. CHRISTENSON: Amber Christenson.

10 Yes. According to their tables, yes. They've
11 all been submitted to the PUC so...

12 ACTING CHAIR NELSON: Okay.

13 Mr. Thurber.

14 MR. THURBER: You know, that seems like a
15 complaint that we would want to evaluate. I have not
16 seen that evidence. So if that information's provided,
17 we can go through a normal complaint process where
18 evidence is submitted, Staff reviews it, provides the
19 complaint information to the Applicant, gets that, gets a
20 response from the Applicant, and then we would evaluate
21 it. Or, I mean, it would, you know, generally get filed
22 with the Commission. But, yeah, we would want to pursue
23 that if that was the case.

24 ACTING CHAIR NELSON: Excellent.

25 Ms. Christenson, have you provided Mr. Murphy

1 with a copy of that today? And if not, if you would do
2 that, and, Mr. Murphy, if you would respond.

3 MR. MURPHY: I mean, I don't have a copy of any
4 of the allegations.

5 ACTING CHAIR NELSON: Well, let's just take this
6 80 to 90 height meter issue right now.

7 MR. MURPHY: I'm happy to --

8 MS. MOGEN: Commissioner Nelson, this is Kristi
9 Mogen. It has been submitted.

10 ACTING CHAIR NELSON: Well, I know it's been
11 submitted to the docket filing perhaps. And we're not
12 even sure of that.

13 What I'm asking is if we can just walk a copy to
14 Mr. Murphy. And that's happening right now.

15 MS. MOGEN: Okay.

16 ACTING CHAIR NELSON: We're going to just be a
17 little bit at ease while there's a little bit of a
18 conference going between Ms. Christenson and Mr. Murphy
19 so that Mr. Murphy can respond.

20 (Pause.)

21 MR. MURPHY: Commissioner Nelson, I've been
22 handed a table. I would have to compare the table to the
23 maps that we submitted. I don't know the 87 turbines off
24 the top of my head. I'm happy to take a break to do that
25 and see if there's, you know, a response that I can give

1 today. I'm happy to take a 15-minute break and do that.

2 ACTING CHAIR NELSON: Okay. Well, let's go
3 through the rest of my questions. And we may well do
4 that. And part of that may be whether Staff prefers to
5 try to get at least some initial answer today or whether
6 you'd rather take some additional time. But, I mean,
7 this is a substantive issue.

8 Staff, do you have a preference whether we --

9 Okay. While they're conferring I'm going to
10 continue with my questions.

11 Ms. Christenson, in relation to the decibel
12 level projected at your residence, we've heard a lot of
13 explanation. Your contention that it would be at 43.7,
14 I'm not finding that. Where did you get that? What I'm
15 seeing is the 42.2.

16 MS. CHRISTENSON: Mr. Haley's Attachment 1,
17 Table A and Table -- or Table A2 and Table A3. So one
18 must be Tran's.

19 ACTING CHAIR NELSON: Okay. Mr. Haley, I'm
20 going to go to you. Do you understand what she is
21 referring to?

22 MR. HALEY: I'm sorry, but I actually do not
23 know what table she is referring to.

24 ACTING CHAIR NELSON: Okay. Let's try it again.
25 Go ahead.

1 MS. CHRISTENSON: It's the table -- it was your
2 Affidavit. Your Affidavit for the waiver.

3 MR. HALEY: I'm looking now.

4 ACTING CHAIR NELSON: And, Staff, if you've got
5 any insight into where that number might have come from,
6 feel free to jump in.

7 MR. KEARNEY: I do not recall off the top of my
8 head, and I don't have access to our website right now
9 for some reason.

10 MS. CHRISTENSON: I'd like to make one
11 clarification too. They make noise suggestions to the
12 boundary and to the structure, and our permitting -- our
13 county ordinance is to the boundary of our property line
14 for noise, just so you know, not the structure.

15 ACTING CHAIR NELSON: And, Ms. Christenson, can
16 you remind me what your receptor ID is?

17 MS. CHRISTENSON: CR1C29 nonparticipator. It's
18 the fifth page of your Attachment 1, Mr. Haley, if that
19 helps you, about a little over halfway down.

20 MR. HALEY: I'm still looking for the Affidavit.
21 Can you tell me what the date of that is?

22 MS. CHRISTENSON: It's Attachment 1 that you
23 submitted with your waiver request. Or that Crowned
24 Ridge submitted for the waiver.

25 ACTING CHAIR NELSON: Yeah. I'm seeing it. I

1 found it.

2 Actually I'm thinking it's December 13 is the
3 one I'm looking at. Attachment 1.

4 MR. MURPHY: Jay, are you looking in the
5 attachments that you provided as part of the waiver?

6 MR. HALEY: Yeah. I found the request for
7 waiver, and I'm looking at Attachment 1 right now.

8 Yeah. I see there's a 43.7 at the boundary.

9 MR. MURPHY: And, again, this is Brian Murphy.
10 If I'm correct, the threshold at the boundary was 50 dBA.

11 MR. HALEY: That's correct.

12 MR. MURPHY: Okay. Thank you.

13 ACTING CHAIR NELSON: Okay. So that probably
14 explains the discrepancy, whether it's at the boundary or
15 the residence?

16 MR. HALEY: Yes. I think that's correct. And
17 at the residence it's listed as 42.1.

18 ACTING CHAIR NELSON: Thank you. I appreciate
19 helping me understand that.

20 So, Mr. Haley, Ms. Mogen's contention that you
21 should have used something less than .5 for the
22 attenuation certainly makes sense to me. Actually I'm
23 going to go to Staff with this question first.

24 You heard Mr. Haley tell us that probably a .3
25 would be more appropriate for the winter season. And I

1 know you don't have your sound expert with you. Do you
2 have any insight as to whether .3 is appropriate, or
3 should it be .0 or somewhere in between those two?

4 MS. EDWARDS: This is Kristen Edwards again.
5 Unfortunately, we would need to run that by Mr. Hessler.

6 ACTING CHAIR NELSON: Thank you.

7 I'll say I understand why you ran it the way you
8 did. You wanted consistency. But the fact of the matter
9 is this waiver is primarily for the winter season, and .5
10 does not make sense for the winter season.

11 MS. EDWARDS: Commissioner Nelson, I did miss
12 something from one of my brains here, Mr. Thurber. There
13 is a 2 dBA uncertainty factor built in. So that would
14 probably mitigate any concerns.

15 ACTING CHAIR NELSON: And I don't disagree with
16 that. But I think it would be wise to have it run in the
17 most realistic fashion, still understanding that we've
18 got that 2 on top of it.

19 MS. EDWARDS: Sure. And just within the last
20 few seconds, I did hear from Xcel, and they're willing to
21 call in. So if you'd like.

22 ACTING CHAIR NELSON: Okay. If anybody would
23 like to talk to them. Okay.

24 So for Mr. Murphy or whoever, this reference to
25 a 2 -- we went through a long hearing. We had a long

1 Application. This reference to a 2X platform, I've never
2 heard that term. Here we are --

3 MR. TRAN: This is Josh Tran, NextEra Energy.

4 ACTING CHAIR NELSON: Here we are, two days away
5 from when this thing's supposed to be operational, and
6 we've got a new term, 2X, that's been thrown on the
7 table. So I want you to explain to me, where did this
8 term come from? Why did we not hear about this during
9 the hearing?

10 And then explain to me what technically and
11 physically happens with a turbine to take it from a
12 nameplate of 2.7 to 2.3. Help me understand this.

13 MR. MURPHY: This is Brian Murphy. I'll start,
14 and then I'm going to have Josh Tran come in and help
15 with the more technical aspects. In the Application we
16 did explain that it was a 2 megawatt series from GE.
17 They view these as generic series that can be 2.3, can be
18 2.5, can be 2.7.

19 When you look at our Application, and it's on
20 page 19, it kind of goes through that step process. I
21 understand it wouldn't be as clear as what is -- and I
22 haven't seen the photograph that says it's 2.7. But with
23 that said, we were in that Application trying to explain
24 that this is a series that they make, and we are
25 constructing them to operate at 2.3.

1 And Mr. Tran can explain how that happens.

2 MR. TRAN: Sure. Thank you. This is Josh Tran.

3 And I want to make it real clear that this site was
4 designed, engineered, all the studies on the collection
5 system, on the turbines, on the foundation loading
6 systems, were all done as a 2.3 megawatt turbine.

7 So that being said, we have not done any
8 engineering or studies on the 2.7 for the site. And
9 there's multiple limitations that are going to govern
10 these turbines to a 2.3 megawatt turbine.

11 MR. MURPHY: So, Mr. Tran, this is Mr. Murphy.
12 If you can explain -- if not, I think Mr. Gill can
13 explain how GE brands these particular series. And
14 maybe, Mr. Gill, you want to start and Joshua can help.

15 MR. GILL: Yeah. I'd be happy to. My name is
16 David Gill with NextEra Energy Resources, executive
17 director.

18 I'm sorry for all the confusion here. We look
19 at these things all the time and so to us this kind of
20 seems like a small detail but I understand how the
21 confusion here is causing some -- some consternation,
22 let's call it.

23 GE makes these turbines, and typically they
24 start off on some sort of megawatt like a 2.3 megawatt.
25 And over time they often progress and become 2.5, 2.7.

1 It's all really based on software. So it's the exact
2 same turbines. It's the exact same blades. It's the
3 exact same foundations, exact same -- you know, all the
4 pieces are the exact same in terms of the turbine.

5 You actually have to pay more if you want to buy
6 a 2.5 to get that software grade or 2.7 megawatt machine.
7 You know, those cost more, in addition to what we had
8 mentioned before about the interconnection. We only have
9 interconnection for a 200 megawatt project. And the
10 details for the turbines, the exact specs. for the
11 turbines are included in those interconnection agreements
12 as well as the Power Purchase Agreement.

13 So everything we have done here for this project
14 is based on using a 2.3 megawatt machine. The 2.3
15 megawatt machine looks the same as a 2.7, 2.5. We
16 internally say 2X because the 2. megawatt machines can
17 come in different configurations in terms of how many
18 megawatts you want it to produce.

19 But, you know, in terms of the sound studies,
20 the shadow flicker studies, all those things are going to
21 be the same -- are going to be based on what we model for
22 2.3 megawatts. So while there may be a plate or a
23 sticker on that machine that says 2.7, most likely the
24 reason for that is because those are the newest turbines.
25 And so they always kind of -- whenever they've got the

1 newest they stick on the nameplate capacity for, you
2 know, whatever it is that the maximum production for that
3 turbine is.

4 But, you know, we have programmed it,
5 conditioned it, designed it for 2.3. So accurately all
6 of the noise studies, everything that has been done, is
7 based on an accurate profile for that machine. So that's
8 kind of a description of the 2 megawatt machine.

9 A couple of other points, if you don't mind me
10 clarifying questions that you had asked before, there was
11 a question about when the turbines were purchased. And
12 the 2015 somebody had mentioned -- I think you will
13 recall that there are safe harbor turbines in order to
14 qualify for the production tax credits. We did have to
15 order safe harbor turbines.

16 Originally it was 13, but then it was shifted
17 down to 9 when the project downsized from 300 to 200
18 megawatts. So those 9 turbines were purchased earlier,
19 but, again, they didn't have the LNTes already installed.

20 All the new turbines that Josh had mentioned
21 that were direct shipped to the site between I believe it
22 was July and September, those are all purchased on an
23 annual basis. We do turbine purchase orders on a yearly
24 basis based on how many turbines we think we're going to
25 use across the portfolio of projects that we have at

1 NextEra.

2 And so when we go to GE we don't just buy
3 turbines for Crowned Ridge, for example. We buy turbines
4 for all the projects that we think we're going to build
5 in any given year. And so we would have purchased those
6 turbines this year, with the exception of the safe harbor
7 turbines.

8 ACTING CHAIR NELSON: Okay. So help me
9 understand. We've got a generator that's capable of
10 doing 2.7 megawatts output. Software limits it to 2.3.
11 How does it limit it? Does it slow down the maximum
12 RPMs? Help me understand how it limits it.

13 MR. TRAN: This is Josh Tran. There's a set
14 point for power limitation within the software. There's
15 a power limitation parameter at each turbine that's set
16 to 2.3. And there's a series of other settings as well
17 that has cutout load limiting and thrust and then RPM.
18 I'll open up the exact parameter settings right now.

19 So the software package along with the
20 parameters all limit that turbine to 2.3 megawatts.

21 ACTING CHAIR NELSON: Okay. I'm going to ask it
22 one more time.

23 Explain to me how -- what changes on the
24 turbine -- is it the feathering of the blades? Is it the
25 maximum RPM? What changes to limit it to 2.3 as opposed

1 to 2.7?

2 MR. TRAN: Yes, sir. Those parameters do
3 communicate back to the pitch settings of the turbine
4 that feather the blades in and out and limit generator
5 speed as well. So all that's being done with that
6 software control.

7 ACTING CHAIR NELSON: And so is it the
8 generating speed that -- is it the maximum generating
9 speed that determines the maximum output?

10 MR. TRAN: Yes. That, and it gets a little bit
11 more complicated. I don't want to get too technical with
12 the Commission. But the generator speed and the
13 converter limitations down power.

14 ACTING CHAIR NELSON: Well, talk to me about
15 these converter limitations. Are we talking in the
16 transformer?

17 MR. TRAN: No. At the base of the tower there's
18 a converter that switches from AC to DC, and that also
19 manages the output of the turbine. So it's a redundant
20 system from the generator -- well, it starts from the
21 rotor to the generator down to the converter.

22 ACTING CHAIR NELSON: Okay. That helps me. So
23 if feathering the blades and the maximum rotation speed
24 is part of that computation that limits the output, is
25 that going to change the noise output as opposed to a

1 2.7 megawatt turbine or a turbine being run at 2.7?

2 Mr. Haley or whoever can answer that.

3 MR. HALEY: This is Jay Haley. I can take a --
4 I can take that question.

5 The noise profile for a 2.7 machine is going to
6 be different than the noise profile for a 2.3.

7 MR. MURPHY: If I may.

8 ACTING CHAIR NELSON: Certainly.

9 MR. MURPHY: Jay, this is Brian Murphy. Can you
10 elaborate on that? I think what you're saying is if you
11 were to upgrade the software to 2.7, the noise profile
12 would be different. But I don't want to put words in
13 your mouth.

14 MR. HALEY: Yeah. What you just said is exactly
15 what I meant.

16 So the noise profile for a machine operating at
17 2.7 would be different than the profile for a machine
18 operating at 2.3 megawatts. And the profile at 2.7 would
19 typically be at higher levels than at 2.3.

20 ACTING CHAIR NELSON: Thank you.

21 Mr. Murphy, apparently the nameplate on this
22 turbine is 2.7; correct?

23 MR. MURPHY: Subject to check, that's what I'm
24 hearing the Intervenors said they went out and took
25 pictures on and that it has the ability to go up to 2.7

1 with up grades in the software.

2 MR. TRAN: This is Josh Tran. I'd like to add
3 some more clarity to that. The generator component of
4 that turbine has the ability -- its nameplated at that
5 2.7. The turbine as a whole is a 2.3.

6 ACTING CHAIR NELSON: So and obviously our state
7 taxation structure taxes based on the nameplate capacity.
8 So are you paying taxes on 2.7 or 2.3?

9 MR. MURPHY: It would be -- my understanding
10 would be 2.3. But I would like to look into that with
11 our tax experts and get back to you.

12 ACTING CHAIR NELSON: Thank you.

13 So I guess my question for Staff, we've got this
14 issue of 2X, 2.7, 2.3. What did we permit?

15 MS. EDWARDS: The nameplate in the permit was
16 2.3. I know Sweetland came back for a material deviation
17 when they changed their nameplate. That's the only other
18 time I can think of that happening.

19 ACTING CHAIR NELSON: So we've permitted 2.3.
20 These folks have told us that that is what this will be
21 operated at. Do you believe that that complies with our
22 permit?

23 MS. EDWARDS: Unfortunately, I cannot answer
24 that question today. We need to think it through. This
25 is all new information, and we'd have to run it by our

1 sound expert.

2 ACTING CHAIR NELSON: And I respect that answer.
3 Thank you.

4 Staff -- and this is probably tangential to the
5 real issue today, but this issue of Xcel and the fine, it
6 would appear -- this is being done on a PPA; correct?

7 So would not a fine flow back through the PPA to
8 the benefit of customers?

9 Mr. Thurber.

10 MR. THURBER: I think it would have to be a
11 special regulatory filing because the fuel clause
12 generally is set up on specific expense accounts in
13 accumulated and calculated -- and, I mean, there's a
14 fairly standard tariff process that's outlined.

15 I'm not sure how the contract was reworked from
16 300 megawatts down to 200 megawatts. With it being a
17 PPA, what is the LNP that Xcel is paying by not being
18 served with this power? Is it a benefit?

19 So, I mean, whether it's a refund or not, you
20 know, we would have to think it through. I do know that
21 operational start dates do get delayed. I'm not sure how
22 other parties have worked through these processes in the
23 past. So this is kind of new.

24 You know, based on my experience, I haven't seen
25 a lot of those type of transactions transpire, but those

1 are some of the things that are going through my head
2 right now.

3 MS. EDWARDS: This is Kristen Edwards again.
4 Amanda Rome from Xcel is on the line, and I think she's
5 had conversations, which have been trying to follow via
6 e-mail, with other folks on that issue and whether or not
7 COD of January 7, which is the next meeting time, is
8 doable.

9 ACTING CHAIR NELSON: So, Ms. Rome, let me just
10 ask a couple more questions here, and then we'll let you
11 weigh in.

12 For Mr. Murphy, we've talked about the status of
13 Alternate Turbines 67 and 68. It's been represented by
14 Staff that it's their understanding that these will not
15 be constructed unless you move forward with the last
16 100 megawatts.

17 Is that, in fact, the case?

18 MR. MURPHY: Yes. That's correct.

19 ACTING CHAIR NELSON: Thank you. Okay,
20 Ms. Rome. I don't know how much of today's discussion
21 you have picked up on or Ms. Edwards has advised you of,
22 but if you'd like to share the thoughts of Xcel as to
23 where we're at today in regard to this contract.

24 And introduce yourself fully, if you would.

25 MS. ROME: Sure. Amanda Rome, vice president

1 and general counsel of Xcel Energy. I apologize for my
2 voice. Last name is R-O-M-E.

3 So I just jumped on the call based on a series
4 of e-mails from Ms. Edwards so I haven't heard a lot of
5 it, and I sort of want to caveat my responses with that
6 because I just am jumping here and I haven't even
7 reviewed the contract recently.

8 But my understanding is, and I think this is the
9 discussion, I think I jumped in on, per the PPA they are
10 required to go COD by tomorrow or they're subject to
11 the -- you know, the LDs, the liquidated damages.

12 You know, I heard some discussion with
13 Mr. Thurber on how that would flow back to the customer,
14 but that's my understanding of how the contract would
15 work. The PTCs and the risk of the PTCs sits with
16 NextEra is my understanding, not NSP. I'm not sure how
17 much conversation was around that piece of it. I'll stop
18 there to see if I confused matters further or not.

19 ACTING CHAIR NELSON: Thank you.

20 I'm going to go back to my fellow commissioners
21 and see what additional questions they may have.

22 Commissioner Hanson.

23 Commissioner Hanson, we're not hearing you.

24 Okay. We think we've lost him for the moment.

25 Commissioner Fiegen.

1 COMMISSIONER FIEGEN: I don't know legally even
2 if I can ask this question. So I'll ask it and just --
3 the parties will just have to say we can't answer that
4 because of legal constraints.

5 So the \$75,000 fine per day, is that an issue on
6 the table that we have to consider today? I asked it
7 more bluntly about an hour ago. And so if anybody would
8 like to weigh in on that, they can.

9 ACTING CHAIR NELSON: Well, this is Commissioner
10 Nelson. I'll weigh in on it.

11 You know, whether or not it's imposed or not
12 imposed and what the ultimate customer benefit may or may
13 not be, I don't think that's relevant to really what we
14 need to decide today. I think there's some greater
15 issues that have been placed on our plate today that are
16 really what need to be resolved before any of that can be
17 resolved.

18 But that's just my opinion. If anybody else
19 wants to weigh in, fine.

20 MS. ROME: This is Amanda Rome. I'm not sure --
21 since I didn't hear all of the conversation, I'm not
22 really sure if I can weigh in any further other than to
23 say I think that we would have to take a look at the
24 contract as the company and see whether we would want to,
25 you know, proceed with those liquidated damages.

1 ACTING CHAIR NELSON: Thank you, Ms. Rome.

2 COMMISSIONER FIEGEN: Thank you.

3 ACTING CHAIR NELSON: Commissioner Fiegen, any
4 additional questions?

5 COMMISSIONER FIEGEN: No.

6 ACTING CHAIR NELSON: Commissioner -- do we have
7 Commissioner Hanson?

8 Okay. We don't have him back.

9 So here's what I'm going to do on the fly, if
10 this is okay with Commissioner Fiegen. It appears to me
11 if the issue that's been raised about this 80 versus
12 90 meter hub height has -- is accurate, we've got much
13 bigger questions on our plate than we came in with today.
14 And so it almost seems to me like we need to get some
15 understanding of where that is at before we can proceed.

16 Commissioner Fiegen, would you be okay if we did
17 a 15-minute recess to allow Mr. Murphy and his people to
18 figure out what's going on?

19 COMMISSIONER FIEGEN: Absolutely.

20 ACTING CHAIR NELSON: Okay.

21 COMMISSIONER FIEGEN: And who knows how long the
22 recess will have to be today. Thank you.

23 ACTING CHAIR NELSON: Yeah. So we're going to
24 try for 15, and we'll see where it goes. So we're in --
25 oh. Just a moment.

1 (Discussion off the record.)

2 ACTING CHAIR NELSON: Okay. So he's got
3 questions before we go into recess. Okay. So we'll just
4 hang tight here.

5 Commissioner Hanson, have you joined us?

6 COMMISSIONER FIEGEN: Commissioner Nelson.

7 ACTING CHAIR NELSON: Yes.

8 COMMISSIONER FIEGEN: I would like to give the
9 Staff an assignment when we're all on recess. And I
10 heard Staff talk about concerns that they need to --
11 actually they have learned a lot of new information today
12 and are uncomfortable answering several questions because
13 they have to go do more research.

14 So I just want to make sure that we'll be asking
15 that question again in 15 minutes. Because I'm not for
16 sure if Staff can do all their research in 15 minutes.
17 So I just want to make sure I get to ask that question
18 once again.

19 ACTING CHAIR NELSON: Yeah. Absolutely. And
20 I'll just tell you from my perspective I'm not expecting
21 them to have answers for all of those in 15 minutes. My
22 focus right now is on this 80 versus 90 meter deal. But
23 if they do, great, but I'm not expecting that.

24 Commissioner Hanson, here's where we're at.
25 We'll let you ask whatever questions you might have, and

1 then we've agreed to take a 15-minute recess to allow
2 Crowned Ridge to try to figure out what the issue is with
3 the 80 versus 90 meter height on certain of the turbines.

4 But go ahead with your questions.

5 COMMISSIONER HANSON: Thank you. Commissioner
6 Nelson, I sincerely apologize. I pressed the speaker
7 button instead of the mute button and ended up saying
8 good-bye to the meeting. So I haven't heard anything up
9 until the very end of Commissioner Fiegen's statement.

10 And so if I'm being redundant, please stop me.

11 I was -- I assure you I had articulated an
12 outstanding question prior to cutting myself off.
13 However, I'll try and be brief.

14 The foundation of the entire request seems to
15 rest upon the \$75,000 fine that is imminent if they do
16 not immediately begin providing electricity. And so my
17 question would be to Ms. Rome, unless it has already been
18 asked and answered, is is that a reality?

19 Is that something that the Applicant is facing
20 for certainty if they do not begin generating electricity
21 by the deadline?

22 MS. ROME: Sorry, Commissioner. This is Amanda
23 Rome.

24 It looks to me that in the contract they are
25 subject to those liquidated damages. I think we would

1 have to look to see what the language is around the
 2 contract and if there's any other reason why we would
 3 not -- we would not seek those contractual damages from
 4 other, you know, frustration of purpose or some kind of
 5 other legal reason why we think they aren't subject to
 6 them. But, otherwise, it is part of the contract that we
 7 have, you know, in the past pursued against parties that
 8 don't meet those deadlines.

9 COMMISSIONER HANSON: All right. So your very
 10 last few words there were going to be my second question.
 11 So it sounds as if you at least implied, if not stated,
 12 that you do pursue these fines in events where the
 13 Applicant is not compliant; is that correct?

14 MS. ROME: That is correct. Commissioner, it's
 15 situational. And so there are sometimes when the facts
 16 we find don't warrant it based on kind of the language of
 17 the contract. But they're absolutely (Inaudible)
 18 historically we've pursued those if we think the
 19 counterparty is at fault for not hitting those
 20 milestones.

21 COMMISSIONER HANSON: All right. Thank you very
 22 much.

23 And, Mr. Chairman, my decision here today
 24 doesn't weigh entirely by any means on the \$75,000 fine,
 25 but I felt that was foundational from the standpoint that

1 if they were not going to be fined at all, it answered my
 2 question of whether I was supporting this completely.

3 So now it gets into all the nuances of the
 4 discussions and arguments and questions that we've had
 5 up to this juncture. So I just very much appreciate
 6 Commissioner Fiegen bringing up the foundation regarding
 7 the \$75,000 fine was something that -- it was a question
 8 that I asked originally, and I was very interested in
 9 that.

10 And the answer at that time was very similar to
 11 the answer that we heard today. And so I -- at this
 12 juncture it's still not something that we can be positive
 13 on so I guess I have to assume that the fine would be --
 14 would be levied and so I'll go on to the nuances that
 15 we're faced today.

16 And that's all the questions that I have at this
 17 time. Thank you.

18 ACTING CHAIR NELSON: Thank you. At this point
 19 then we will take a 15-minute recess. Let's come back at
 20 a quarter to 1:00, at 12:45. We are in recess.

21 (A short recess is taken.)

22 ACTING CHAIR NELSON: We will call the meeting
 23 back to order. We left off with the issue of certain of
 24 the turbine heights and whether they were constructed as
 25 per the permit.

1 And so, Mr. Murphy, we'll let you address that.

2 MR. MURPHY: Thank you. This is Brian Murphy.

3 Over the break we did get with our technical
 4 folks, and, to start with, the numbers that Intervenors
 5 are saying are at a 90 are at a 90. And those were
 6 actually modeled at 90 for the purposes of this waiver.

7 The series of events that get us to not as many
 8 safe harbors is the deferral from the 300 and having a
 9 200 megawatt array and having to have 5 percent safe
 10 harbors in that array and then having enough safe harbors
 11 if and when we go forward with the 100 array.

12 So for the purposes of the waiver request,
 13 Mr. Haley has confirmed and hopefully he's back on the
 14 phone, that he did model these with the 90 versus the 80.

15 ACTING CHAIR NELSON: Okay. So I heard and
 16 understood everything that you said, but you didn't
 17 address probably the key issue, and that is the permit
 18 was granted for 80 meter turbines at these particular
 19 locations; correct?

20 MR. MURPHY: I have searched, and I'm happy to
 21 have someone point it out to me. I do not believe it was
 22 permitted specifically per location. And when I went
 23 through the maps we did not indicate a specific location
 24 until we were about to start construction and then soon
 25 thereafter we went to this 100, 200 bifurcation. So I

1 don't recall having, you know, on the record that we were
 2 going to build it at this point or at that point.

3 Now, happy to be corrected and to do further
 4 looking at it, but based on the map set I helped review,
 5 I don't recall doing that, other than towards
 6 construction.

7 ACTING CHAIR NELSON: So, with that, we'll pitch
 8 that hand grenade to Staff and see if they can respond to
 9 that on the fly. And if not, you know, we'll take
 10 whatever time it needs.

11 MR. KEARNEY: Thank you. This is Karen Kearney
 12 for Staff, and I do not recall in the Application itself
 13 the company identifying the specific heights for certain
 14 turbines.

15 However, in the sound study when you review the
 16 tables and the configuration of the turbines in the sound
 17 study, they have the hub height identified in the table
 18 for the wind turbines. So that would have factored into
 19 our review of the sound analysis and shadow flicker
 20 analysis where if the hub height changed from what was
 21 filed in the original permit, we'd want to make sure that
 22 the shadow flicker and sound levels are still below the
 23 regulatory limit and set forth in the condition.

24 ACTING CHAIR NELSON: Thank you. And,
 25 Mr. Murphy, I want to say thank you for taking time to

1 kind of sort that out. We'll see where we end up going
2 with it, but I appreciate your explanation and I do
3 understand your explanation.

4 So at this point I'm going to ask my two
5 colleagues if they've got any further questions before we
6 go to motions.

7 Commissioner Hanson, any further questions?

8 COMMISSIONER HANSON: Thank you, Mr. Chair. And
9 I very much appreciate Mr. Kearney's answer.

10 Mr. Kearney, the question for you, you stated
11 that it was -- that the hub height was stated in the --
12 in a particular portion of the permit, but you didn't
13 specify what that height was. Would you share that with
14 us?

15 MR. KEARNEY: This is Darren Kearney, and you
16 kind of cut out there so maybe if I don't correctly
17 answer your question, please reask it.

18 But within the Application itself they
19 identified that 13 turbines will be 80 meters and the
20 remainder will be 90 meter hub heights. They didn't
21 specify which turbine numbers those 80 or 90 meters were
22 associated with in the application itself.

23 However, in an appendix to the Application and
24 the sound study and shadow flicker modeling, there's a
25 list of the turbines and the parameters associated with

1 each turbine, and that's where the hub height and the --
2 well, I guess that's where the hub height associated with
3 each turbine is identified through that.

4 So what was reviewed by Staff for our testimony
5 in the permit was -- during the permit proceedings was
6 the sound studies provided based on those hub heights
7 identified in the sound studies.

8 COMMISSIONER HANSON: Thank you very much,
9 Mr. Kearney. I appreciate that.

10 Thank you, Mr. Chair.

11 ACTING CHAIR NELSON: We're going to be at ease
12 for just a moment. There may be some additional Staff
13 response.

14 MR. KEARNEY: There's also a preconstruction
15 filing that the Applicant was required to make to Staff
16 after the permit was issued, and I have not been able
17 to -- have not had the time to go in to verify whether or
18 not those changes were accounted for or if they made a
19 change in that preconstruction filing with the updated
20 project information in that filing.

21 So it could have been identified in that filing
22 by the company. I just haven't had time to go through
23 and verify yet.

24 ACTING CHAIR NELSON: Thank you.
25 Commissioner Hanson, any further questions?

1 COMMISSIONER HANSON: No. Thank you much.

2 ACTING CHAIR NELSON: Commissioner Fiegen,
3 questions.

4 COMMISSIONER FIEGEN: Thank you, Commissioner
5 Nelson.

6 So for the Applicant, is it your understanding
7 that in the Application, like Mr. Kearney said, you have
8 13 turbines in your Application that are at 80 feet and
9 the rest possibly at 90 feet?

10 Is that my understanding?

11 MR. MURPHY: This is Brian Murphy. Correct.
12 That's in Section 6.1 of our Application.

13 COMMISSIONER FIEGEN: And you do actually have
14 13 at 80 feet currently?

15 MR. MURPHY: Currently, no. I was trying to
16 explain to Commissioner Nelson at the time of deferring
17 the 100 megawatts we had to make a split between those
18 safe harbors, and at that time we have delegated the
19 number of safe harbors needed to qualify for the PTCs at
20 5 percent. That's why there's 13 in the Application that
21 would ultimately be the case if we build all 300. But
22 currently we're only capable of building 200.

23 UNIDENTIFIED SPEAKER: And 9 safe harbors.

24 MR. MURPHY: Right. And 9 safe harbors.

25 COMMISSIONER FIEGEN: So if you could clarify,

1 how many of the turbines that are currently built are at
2 80 feet then?

3 MR. MURPHY: Nine.

4 COMMISSIONER FIEGEN: Okay. I did hear that.
5 I'm sorry. I didn't hear that. I heard the number, but
6 didn't write it down properly.

7 And also to the Applicant, I do appreciate your
8 response to the model, the model of the 2.3 and the 2.7.
9 It is my understanding now that the model of the turbine
10 and the machine, everything, is the same thing. The only
11 thing that is different is the software that you can turn
12 it down.

13 So I had a lot of questions in the beginning,
14 but is my understanding correct? And that question is to
15 the Applicant.

16 MR. GILL: One clarification. David Gill with
17 NextEra.

18 The way that we have gotten these turbines is
19 they're actually 2.3 model with all 2.3 capabilities, and
20 if you wanted to change it to 2.7, you'd have to change
21 the software to take it up. You had mentioned taking it
22 down. So it's a subtle distinction, but they came as
23 2.3.

24 COMMISSIONER FIEGEN: All right. Thank you. I
25 appreciate that.

1 And so then I'm going to go back to the Staff
2 with my final question.

3 It appears that the modeling of the sound would
4 be appropriate and they would still comply with our
5 permit if we approved the waiver today. So that
6 question -- because the industry standard -- although we
7 can differ right now, the industry standard of the sound
8 studies is similar to what we've always done in the
9 past.

10 So my question to the Staff, the Public
11 Utilities Commission Staff, is the waiver would be
12 appropriate, and we would adhere to all permit conditions
13 that the PUC have voted on; is that correct?

14 MR. KEARNEY: This is Darren Kearney for Staff.
15 And I will note that during the recess we were able to
16 get ahold of David Hessler, our noise expert, and he's
17 offered up that the company's responses make sense to
18 him.

19 We explained to him what the company had
20 communicated to us. He said he wouldn't expect a large
21 variation in sound power level between the 2.3 to the
22 2.72 machine and that there was no real cause for alarm,
23 that he considered, as far as that response.

24 And for the ground attenuation factor of being
25 .5, his response was that he models -- his models run a

1 .5 year-round because there's an inherent
2 conservativeness built into that .5 ground attenuation
3 factor. And he would not recommend modeling a 0.0
4 because from his experience he has noticed that sound --
5 or that snow might actually have some absorptive --
6 ability to absorb the sound being emitted from the
7 turbines.

8 And so after discussing with our noise expert,
9 our Staff's concern about the sound power levels were
10 alleviated, and we think that the waiver request would
11 comply with the permit limit based on the modeling that
12 was provided to us as part of that waiver request. And
13 that's kind of a long answer to your question, but
14 hopefully --

15 COMMISSIONER FIEGEN: Thank you.

16 MR. KEARNEY: -- I didn't ramble on too long.

17 COMMISSIONER FIEGEN: Perfect. Thank you,
18 Mr. Kearney. I certainly appreciate you guys doing your
19 work, and I hope the Applicant works harder to
20 communicate with our Staff so we don't get to this point
21 in the future.

22 Thank you.

23 ACTING CHAIR NELSON: Thank you. I'm going to
24 ask maybe just one more question for Ms. Christenson.

25 One issue that we really haven't talked about

1 that you raised was your contention that the Applicant is
2 out of compliance with their county permits; correct?

3 And I guess my question is are there issues
4 beyond tower height, generator size, noise level, issues
5 beyond that where you believe they are out of compliance
6 with the county permits?

7 MS. CHRISTENSON: Amber Christenson. The way
8 you list them, no. Not off the top of my head. Not the
9 way you listed. But there are nuances in there, yes.

10 ACTING CHAIR NELSON: Thank you.

11 And the reason I said that is I think we're
12 going to deal with those. And so I wanted to know
13 whether if we deal with that boundary, if there were
14 other things that we needed to be looking at.

15 But, given your answer, I think if we deal with
16 those questions, then maybe we've got it surrounded.
17 Does that make sense?

18 MS. CHRISTENSON: Amber Christenson. Yeah.

19 There was only one more issue that we had in
20 front of the counties where the permits in our Findings
21 of Fact at the county say they could not proceed -- our
22 conditional use permits would not become effective until
23 all permits were granted by the state and federal
24 agencies.

25 At the county levels in both Grant and Codington

1 County they combined their Application -- they have
2 Crowned Ridge II and Crowned Ridge I together as one CUP.
3 Our contention is they don't have a state permit for
4 Crowned Ridge II so it really is not effective at the
5 county level. The permits aren't effective.

6 ACTING CHAIR NELSON: I hear your argument.
7 Mr. Murphy, would you like to address that?

8 MR. MURPHY: Yeah. I'll defer to Miles
9 Schumacher who's been handling our county appeal. This
10 is actually an issue that's been appealed.

11 Miles.

12 MR. SCHUMACHER: Thank you. Thank you. Miles
13 Schumacher for Applicant.

14 I attended hearings before the Board of
15 Adjustment both in Grant and Codington Counties where
16 those arguments were raised. At both Grant and Codington
17 Board of Adjustment meetings it was specifically found
18 that the Applicant was currently in full compliance in
19 the matter before them, which was an appeal of a denial
20 of a stop order by the zoning office from each county.

21 The denial was upheld by both counties. So
22 those matters have been heard and resolved at the county
23 level in favor of the Applicant.

24 ACTING CHAIR NELSON: Thank you, Mr. Schumacher.
25 So is that issue being litigated currently?

1 MR. SCHUMACHER: No. The process is -- unless
2 there's been some appeal of the finding of the Board of
3 Adjustment, no. Any current matters that I'm aware of
4 have been heard and determined by the Board of
5 Adjustment, which is where the appeal of the denial of
6 the stop order by the zoning officer is heard.

7 And as far as an appeal of the determination by
8 the Board of Adjustment to Circuit Court, I'm not aware
9 of any.

10 ACTING CHAIR NELSON: Okay. Thank you. One
11 last opportunity for either of my colleagues if you've
12 got questions.

13 If not, we will go to motions. And I'm going
14 to -- as I sometimes do, I'm going to throw a motion out,
15 and we'll see where it goes.

16 I'm going to move that we postpone this issue
17 until January 7 or at whatever point in time after that
18 the issues that I will enunciate have been resolved.

19 Discussion on the motion.

20 Well, obviously, I think most of the folks
21 involved would have liked to have this resolved today,
22 other than the Intervenor. I will readily grant that.
23 But there's been a lot put on the table today that we
24 need to chew through and that I need answers for.

25 First, this issue of -- and I asked Staff

1 specifically the question of the turbine model and the
2 way that it is being utilized and the software settings
3 and everything that has been represented to us today.
4 Does that, in fact, comply with the permit that was
5 granted?

6 Staff indicated that they couldn't answer that
7 question today. I respect that restraint in answering
8 that because it's a big question. And we need to have
9 the answer right. And so I respect that, but I need to
10 have that answered before I can deal with this waiver
11 question.

12 Secondly, the issue of the 80 versus 90 meter
13 hub heights. I understand perfectly Mr. Murphy's
14 rationale. I get why they did that. I appreciate the
15 fact that in the sound modeling that they did for the
16 waiver requests that they had the appropriate heights
17 modeled.

18 But I also need some assurance from Staff that
19 those changes, in fact, comply with the permit that was
20 issued. And I don't know that we can answer that
21 question affirmatively today, but that is an important
22 question.

23 The sound study. I heard and I think -- and,
24 you know, Ms. Mogen is not a sound expert, nor am I, but
25 the fact that the attenuation level for modeling for this

1 waiver period, which will largely be wintertime, should
2 be different than an average attenuation over the entire
3 year, that makes sense to me.

4 Now I understand Mr. Hessler may disagree. But
5 even Mr. Haley said, you know, maybe .3 is the right
6 place to be. And so I would like to see the sound study
7 redone for the purposes of this waiver using .3.

8 And then I guess the issue of county compliance.
9 Hopefully we've got all of those issues kind of
10 encapsulated in the things that I would like to see
11 answered in this deferral period.

12 Additional discussion on the motion.

13 COMMISSIONER HANSON: Mr. Chair, this is
14 Commissioner Hanson.

15 ACTING CHAIR NELSON: Go ahead.

16 COMMISSIONER HANSON: I appreciate the motion.
17 I appreciate the January 7 date. If it takes longer than
18 that, then it takes longer than that.

19 The fact is that bringing something to the
20 Commission last minute was I believe preventable. It
21 appears that having received the blades beginning in July
22 they could have anticipated and they certainly -- if they
23 were planning on putting the leading edge -- installing
24 them, then they certainly could have begun that at an
25 earlier time period. And if they're hard pressed, they

1 can -- they could find other means by which to do it.

2 There are very large buildings that manufacture
3 these, and they could move into those buildings and place
4 them on at that time or fix them to them.

5 But the questions that are brought up and the
6 concerns that were brought up by the Applicants and the
7 follow-up questions really just created a great deal of
8 concern to me. As we have gone through this process it
9 just seems to get murkier and murkier.

10 And Commissioner Fiegen had stated -- and I
11 don't know if I had stated it earlier or not, but I had
12 written it down that this is a trust me request. And
13 Commissioner Fiegen talked about a matter of trust. And
14 it is. And with something like this it just becomes more
15 and more uncomfortable as we go through the process.

16 I just think that -- I won't say it's -- the
17 construction up to this point has been poorly managed
18 because certainly it's a very, very complex process, but
19 you can't have any slips (Inaudible) while you're doing
20 of something of this magnitude. And there has to be
21 better communication that when a business recognizes that
22 there's a problem with communication that any questions
23 are answered. And they need to make certain they have a
24 good relationship with the citizens, especially when it's
25 a situation that's as controversial as this has been.

1 The nameplate -- well, the compliance with the
2 permit is foundational. If they're not in compliance,
3 then there's a much larger challenge to be faced here.
4 And nameplate and sound and flicker, these are not --
5 these are not new to this process right now.

6 So at the very least this needs to be deferred
7 so we can get those answered. Otherwise, you know, my
8 only other position on this would be to deny the waiver.
9 So that is the very least that I think needs to be done
10 at this juncture.

11 Thank you, Mr. Chair.

12 ACTING CHAIR NELSON: Additional discussion.

13 COMMISSIONER FIEGEN: Thank you for the motion,
14 Commissioner Nelson.

15 As you know, when a Commissioner wants a
16 deferral, I try to support that.

17 The Applicant answered some of my questions
18 today, and certainly the model gave me a lot more
19 assurance of the models that they're using, how GE
20 develops a turbine and how one turbine can be at
21 different nameplate capacity. And I appreciate that
22 explanation.

23 I wish I would have had the Intervenors'
24 information even early this morning at 8 o'clock. It's
25 hard to see stuff on the fly while people are talking and

1 try to open documents and study them.

2 So although I know we had a tight time frame, I
3 wish I would have seen that. Even early this morning
4 would have helped. But I will support the deferral so
5 all the questions that Commissioner Nelson has can be
6 answered.

7 Thank you.

8 ACTING CHAIR NELSON: Any additional discussion?

9 Hearing none, all those in favor will vote aye;
10 those opposed, nay.

11 Commissioner Hanson.

12 COMMISSIONER HANSON: Aye.

13 ACTING CHAIR NELSON: Commissioner Fiegen.

14 COMMISSIONER FIEGEN: Commissioner Fiegen votes
15 aye.

16 ACTING CHAIR NELSON: Nelson votes aye.

17 Motion carries.

18 Now I want to bring up maybe the elephant in the
19 room issue. Obviously the permit is not valid until we
20 get these issues resolved. But we also understand that
21 you're going through this testing phase where you're
22 operating some turbines and making sure that everything
23 is proper.

24 That all makes sense to me. I mean, I'd much
25 rather have you test and make sure it's right before you

1 turn everything up and have problems. That makes sense
2 to me.

3 But I guess maybe my question for Staff is is it
4 anticipated that they can, in fact, do this kind of
5 testing prior to commercial operation or prior to being
6 in full compliance with the permit? Is that legally
7 permitted?

8 MS. EDWARDS: That's generally considered part
9 of the construction phase, and so it is our understanding
10 that it would be permissible.

11 ACTING CHAIR NELSON: Thank you. And I think
12 from a practical standpoint that makes sense to me.

13 Mr. Murphy, if I'm not mistaken, you indicated
14 that your output during testing is limited to 45 or 50
15 megawatts. Is that correct?

16 MR. MURPHY: Yes. That's correct.

17 ACTING CHAIR NELSON: And that we would not
18 anticipate anything greater than that until the permit
19 has been fully validated and we're ready to move forward;
20 correct?

21 MR. MURPHY: That's my understanding. I'll want
22 to confirm it with Josh Tran who is actually on the boots
23 on the ground in the commissioning.

24 Josh, is that your understanding?

25 MR. TRAN: This is Josh Tran. That's correct.

1 We will remain limited.

2 ACTING CHAIR NELSON: Thank you. And obviously
3 I think you've got the message today that surprises are
4 not a good thing, and so let's not have a surprise in
5 this area that we're not anticipating.

6 Fellow Commissioners, anything to add for the
7 good of the order?

8 Yes. Ms. -- and actually. So we're at the
9 point of public comment, and so whether or not -- you can
10 be our comment.

11 Go ahead. Just introduce yourself.

12 MS. CHRISTENSON: I apologize. Amber
13 Christenson.

14 I would like the Commission to perhaps authorize
15 or ask for a flicker study because the flicker study
16 would not be relevant since they changed the meter hub
17 height and some people are going to be greatly affected
18 by that.

19 Thank you.

20 ACTING CHAIR NELSON: That is a great comment.
21 I would concur with that. And so include that. You get
22 the picture.

23 Thank you.

24 (The proceeding is concluded at 12:52 p.m.)
25

1 STATE OF SOUTH DAKOTA)
2 :SS CERTIFICATE
3 COUNTY OF SULLY)
4

5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter, Certified Realtime Reporter and
7 Notary Public in and for the State of South Dakota:
8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 30th day of
11 December, 2019, and that the attached is a true and
12 correct transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 18th day of
14 January, 2020.
15
16
17

18 /s/ Cheri McComsey Wittler

19 Cheri McComsey Wittler,
20 Notary Public and
21 Registered Professional Reporter
22 Certified Realtime Reporter
23
24
25

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