

1 THE PUBLIC UTILITIES COMMISSION
2 OF THE STATE OF SOUTH DAKOTA
3 =====
4 IN THE MATTER OF THE APPLICATION EL19-003
5 BY CROWNED RIDGE WIND, LLC FOR
6 A PERMIT OF A WIND ENERGY FACILITY ORIGINAL
7 IN GRANT AND CODINGTON COUNTIES
8 =====
9 Transcript of Proceeding
10 January 7, 2020
11 9:30 a.m.
12 =====
13 BEFORE THE PUBLIC UTILITIES COMMISSION,
14 GARY HANSON, CHAIRMAN
15 CHRIS NELSON, VICE CHAIRMAN
16 KRISTIE FIEGEN, COMMISSIONER
17
18 COMMISSION STAFF
19 Karen Cremer
20 Adam de Hueck
21 Eric Paulson
22 Jon Thurber
23 Patrick Steffensen
24 Lorena Reichert
25 Darren Kearney
26 Brittany Mehlhaff
27 Deb Gregg
28 Kaitlyn Baucom
29
30 A P P E A R A N C E S
31
32 Miles Schumacher and Brian Murphy,
33 appearing on behalf of Crowned Ridge Wind;
34
35 Kristi Mogen and Amber Christenson,
36 appearing pro se;
37
38 Kristen Edwards and Amanda Reiss,
39 appearing on behalf of Staff.
40
41 Reported By Cheri McComsey Wittler, RPR, CRR
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1 CHAIRMAN HANSON: The Public Utilities
2 Commission will come back to order. We have before us
3 Docket EL19-003, In the Matter of the Application by
4 Crowned Ridge Wind, LLC for a Permit of a Wind Energy
5 Facility in Grant and Codington Counties.
6 The question before the Commission, today shall
7 the Commission grant Applicant's request for limited and
8 temporary waiver? And I'm going to repeat that. The
9 question is shall the Commission grant Applicant's
10 request for a limited and temporary waiver?
11 We have had a considerable amount of information
12 filed with the Commission. Had a lot of discussion.
13 We've had two meetings already. I believe it was
14 December 20 we had a Commission meeting, and we deferred
15 this matter to December 30 after some considerable
16 discussion. And December 30 we deferred the matter to
17 January 7 after a considerable amount of discussion. And
18 there have been a great deal of filings during that
19 period of time, some of which does not necessarily deal
20 with the temporary waiver.
21 This has morphed into a considerable project.
22 We are dealing with a waiver, a request for a waiver, and
23 Crowned Ridge stated that it was due to weather that they
24 needed the waiver. And the -- there was some question
25 about the \$75,000.

1 The following transcript of proceedings was
2 held in the above-entitled matter at the South Dakota
3 State Capitol, 500 East Capitol Avenue, Pierre,
4 South Dakota, on the 7th day of January, 2020, commencing
5 at 9:30 a.m.
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1 I'm debating and I'd like to hear from our
2 fellow Commissioners. We don't discuss these things
3 prior to entering the chamber here so we're probably all
4 each curious where the other one's going with this.
5 But I'm inclined not to hear debate other than
6 simply asking questions by the Commissioners, if that's
7 all right with the fellow Commissioners. I think we have
8 had a mound of information provided to us. But if
9 there's some questions we need to ask -- otherwise, if
10 you want to give the parties 10 minutes of presentation,
11 that's fine with me too.
12 First off, check the phones because I want to
13 make certain everybody's with us. Mr. Hessler.
14 Mr. Hessler, are you on the line?
15 I'm not hearing from Mr. Hessler.
16 MR. HESSLER: Yes, I am.
17 CHAIRMAN HANSON: All right. Thank you.
18 Ms. Mogen? Kristi Mogen, are you on the line?
19 MS. MOGEN: I'm still here.
20 CHAIRMAN HANSON: Thank you.
21 And, Tyler Wilhelm, are you still with us?
22 MR. WILHELM: I'm on, Mr. Chair.
23 CHAIRMAN HANSON: Great. Thank you. Please
24 place your phones on mute while we're going through this
25 process unless you're called upon or are compelled to

1 speak.

2 What are the druthers of the Commission?

3 Commissioner Nelson, do you have --

4 COMMISSIONER NELSON: You know, I can certainly
5 go with your proposal or I'd be fine with giving each of
6 the parties five minutes to -- no more than five minutes
7 to summarize their positions. I mean, obviously they've
8 made them clear in their filings so I can go either way.
9 But I do have questions.

10 COMMISSIONER FIEGEN: I can certainly go either
11 way too and give five minutes for only the issues that we
12 ask them questions on and to clarify in case they want to
13 restate that.

14 We have read mounds of information in the last
15 week or two, some of it relevant, some of it not. So it
16 needs to be relevant. And if there were questions that
17 were asked, yes --

18 CHAIRMAN HANSON: I would say mountains of
19 information. However, I don't want to specifically say
20 they can only address those certain items. Whatever they
21 wish to address within that five-minute period.

22 Commissioner Nelson.

23 COMMISSIONER NELSON: Mr. Chair, if I could
24 maybe raise a tangential issue to this, Staff -- and I
25 don't remember the day -- filed a letter clarifying the

1 fact that because there are now complaint dockets that
2 have been -- or complaint issues that have been formally
3 filed, that those will need to be handled separately from
4 the issue at hand today. And I just want to say from my
5 perspective, I concur with that.

6 And so while a week ago I thought that some of
7 those were going to be relevant to this, because they're
8 now filed as a complaint they're going to have to be
9 dealt with separately through that mechanism. And so
10 that's not something I'm looking at today.

11 CHAIRMAN HANSON: That is exactly what I was
12 going to go over prior to proceeding of either direction
13 that we take.

14 So we're going to allow five minutes for each
15 party to speak. The challenge a little bit there is that
16 we have Intervenors who have filed individually; correct?
17 And so we would appreciate it if one person could speak
18 on behalf of all of them. Although, as individual
19 parties you do have the right to represent yourself, and
20 each one of you would have five minutes to speak.

21 MS. CHRISTENSON: Only two of us are in the
22 room.

23 CHAIRMAN HANSON: All right. I was thinking you
24 have three. So both of you would be allowed to speak.

25 And I am going to cover the reason I stated the

1 question twice is because we have a motion from an
2 Applicant requesting a waiver, and that's what we're
3 dealing with. This has morphed into all kinds of
4 questions. And I'll refer to a letter from Ms. Reiss who
5 stated quite clearly that Staff recommends the complaints
6 be treated as consumer complaints pursuant to our -- the
7 rules of South Dakota that we follow and the laws that we
8 follow. And Staff believes that the treatment is
9 essential to ensure no violation of due process rights
10 occur.

11 And that is succinctly what we need to do here.
12 We have a motion on a waiver that we need to deal with.
13 The complaints are not something that we're going to rule
14 on today. Those complaints will have to go through an
15 evidentiary hearing process. We cannot pull a permit
16 just because someone has complained about it. We have to
17 go through an evidentiary process.

18 So the Intervenors would need to work with Staff
19 in order to understand -- and I think you probably
20 understand how to go through that process. But those
21 things that specifically deal with the waiver itself.
22 And flicker, of course, height, things of that nature --
23 we're dealing with whether or not the leading edge should
24 or should not -- they should or should not be allowed to
25 do it.

1 And so it's what effect that that has on the
2 properties, the receptors, as opposed to whether it's the
3 right height and whether the capacity factor is correct
4 or whatever. It deals with what effect the leading edge
5 has or does not have.

6 And, of course, sound is obviously one of them.
7 Whether it's going to change flicker, I have seen no
8 evidence whatsoever or information that having or not
9 having a leading edge is going to affect the receptors.

10 So from that standpoint, we need to keep our
11 remarks to the motion -- the request for a waiver. And
12 so keep your remarks within that realm.

13 There was a question about the \$75,000 --
14 frankly, for this Commissioner whether you have to pay
15 \$75,000 per day or not has nothing to do with the issue
16 here. It has to do with whether or not you have put them
17 up. \$75,000 is a lot of money, certainly in my
18 checkbook, and at the same time that is -- that is a
19 burden you have to carry if you didn't get the job done
20 and you don't comply. So it has to do with the effect on
21 the receptors here that we're talking about, why you
22 should be allowed to have that waiver.

23 And so I will allow -- since you folks, the
24 Applicant, has the motion before us and the request for
25 the waiver, I'll allow you to go first.

1 MR. SCHUMACHER: Thank you, Chairman Hanson,
2 Commissioners, Staff. Thank you for the opportunity to
3 make a brief opening statement here today.

4 I would start by emphasizing that Crowned Ridge
5 is very appreciative of the time and resources the
6 Commission and Staff have dedicated to review of this
7 particular waiver request.

8 Specifically, Crowned Ridge requests that the
9 Commission approve a waiver that requires Crowned Ridge
10 to curtail turbines CR1-29, CR1-44, CR1-48, and CR1-95 at
11 wind speeds of 6 meters per second prior to the
12 installation of the LNTE attachments on wind turbines
13 CR1-21, CR1-29, CR1-33, CR1-37, CR1-41, CR1-44, CR1-46,
14 CR1-48, CR1-50, CR1-52, CR1-61, CR1-63, CR1-64, CR1-66,
15 and CR1-95. This is collectively referred to in our
16 comments as the Mitigation Plan.

17 And, further, requires Crowned Ridge to file
18 quarterly updates with the Commission starting on
19 April 1, 2020, explaining the progress on the process of
20 installing the LNTE attachments. The updates will
21 continue until LTNE [sic] installation is complete on all
22 turbine blades.

23 Also as set forth in the January 3, 2020,
24 response, Crowned Ridge is willing to conduct
25 postconstruction sound modeling consistent with the

1 protocol adopted in Condition No. 26 during the period
2 when the waiver is in effect, and we further have no
3 objection to Staff's recommendation for additional
4 postconstruction modeling.

5 Crowned Ridge also commits to the use of a newly
6 developed GE software that GE experts state will reduce
7 sound by approximately 1.5 dBA when compared to normal
8 operation. GE has explained this new software in
9 Attachment 4 to Crowned Ridge's January 3, 2020,
10 response.

11 Crowned Ridge has coupled the Mitigation Plan
12 with these additional commitments to provide the
13 Commission an additional level of assurance that Crowned
14 Ridge will be in compliance with the sound thresholds
15 approved in Docket EL19-003 and to show that Crowned
16 Ridge continues to be committed to finding innovative
17 ways to mitigate sound produced from this wind project.

18 In the January 3, 2020, response Crowned Ridge
19 continues to show it will be in compliance with
20 Condition 26, sound thresholds through the curtailment of
21 the four wind turbines at wind speeds above 6 meters per
22 second prior to installation of the LNTEs on the 15
23 additional turbines. As explained in our January 3,
24 2020, response and our letter of January 6, Mr. Haley's
25 results differ from the December 13, 2019, filing as he

1 had backed out the alternative turbines that were not
2 constructed when he made the January 3 model run to
3 accurately reflect the as-built conditions, and this
4 reduced the number of turbines needed to be curtailed.

5 (Discussion off the record.)

6 MR. SCHUMACHER: Turbines which need to be
7 curtailed from 6 to 4. And he also verified that the
8 curtailment of the four turbines needs to be at 6 instead
9 of 9 meters per second.

10 With me to answer any further questions are my
11 co-counsel, Mr. Murphy, and, in addition, David Gill,
12 an executive director of development at NextEra,
13 Mark Thompson, Joshua Tran, and Shawn Herrington. Each
14 are project directors in NextEra's engineering and
15 construction department. And also here are Jay Haley and
16 Rich Lampiter, sound consultants to Crowned Ridge. And
17 on the phone, Tyler Wilhelm, the project director, is
18 present.

19 Thank you.

20 CHAIRMAN HANSON: Thank you. And we'll turn our
21 attention to Intervenors at this time.

22 MS. MOGEN: I can go ahead. This is Kristi
23 Mogen.

24 CHAIRMAN HANSON: Ms. Mogen, go ahead.

25 MS. MOGEN: Okay. Well, in response to the

1 January 3 filing of Crowned Ridge Wind and especially
2 Jay Haley's Affidavit saying that .5 is the appropriate
3 ground attenuation, I supplied a document to the
4 Commission, and I pointed out that there are, in fact, on
5 the South Dakota docket, information about using a 0.0
6 ground attenuation and the reasons for that. I hope you
7 did get to read those.

8 I also pointed out that there are over 70
9 modeled sound studies that have been given to us during
10 this procedure. It's input in whatever you need, and
11 then satisfy the Commission, and we'll get what we need.
12 I do believe that this project is -- this is happening,
13 the waiver request is happening, during the winter, which
14 is definitely a 0.0 ground attenuation. And, yes, I'm a
15 layperson, but I'm using expert opinions and
16 documentation that has been submitted to this Commission
17 before. And also NextEra has this information because
18 it's been submitted to the Minnesota docket.

19 So I still feel that a 0.0 ground attenuation is
20 the fact that needs to be used. I also pointed out that
21 I just don't understand who's checking all this data.
22 I'm one person with a family and a job. And I don't have
23 paid Staff. I don't have paid attorneys. I don't have
24 all these resources. And when I went and I checked the
25 coordinates for one property, and it's Petersons' family

1 farm, they had been presented that there was going to
2 be -- turbine 120, a 1.7 megawatt turbine, it's now going
3 to be a 2.7. And that is relevant to today.

4 First of all, Mr. Schumacher brought it up that
5 this new turbine has better sound capability -- you know,
6 reduction. So the model is relevant today. They changed
7 models. And Peterson farm, they're right in front -- or
8 right north of Turbine 120, which was a 1.7. Now it's a
9 2.7. And they didn't even use the right receptor
10 placements for the Grant County ordinances.

11 So the numbers that -- all this information
12 they've already provided is still not accurate. Even
13 when they did an as-built situation.

14 We didn't even hear about blade attachments
15 until December 13. In this whole procedure. And the
16 reason we heard about it is because on December 12,
17 Crowned Ridge -- and I submitted that this morning.
18 Crowned Ridge responded to us Intervenors with a photo of
19 the low noise trailing edge blade. I also submitted a
20 picture of that so you can see what we're looking at here
21 and how the attachment is on here. Who is believing that
22 that glue is going to last for 20 to 30 years?

23 And you can clearly see in that picture it's
24 glued on. Nowhere in that Application was it ever
25 submitted that these would be an attachment and glued on.

1 We had no idea. Crowned Ridge omitted key information
2 that was very important because now we have nothing in
3 our condition. We have no standards talking about
4 injuries, property damage. When these blades -- when
5 these attachments fly off of there how far do they go?

6 When they fly off of there do they shut the
7 turbine down, or do they come out and do another sound
8 study? What's going to happen with all of that? Do they
9 have to report it, and who do they report it to? How
10 often do these 50 foot serrated blades come off -- these
11 attachments come off?

12 You know, do they come off in pieces? Does that
13 get in our food chain then? Those have little itty-bitty
14 teeth. I mean, maybe they're not little itty-bitty.
15 It's 60 feet. I didn't count all of those little teeth.
16 But when they come off of there, they come off in pieces;
17 that gets into our food chain.

18 What's going to happen to the disposal of them?
19 You know, when they come off what happens to the disposal
20 of the whole blade?

21 There's just so many questions here now that we
22 don't have answers and they're not part of the conditions
23 and I really request that this waiver be denied. It's
24 ridiculous that we're at this point and this would have
25 never came up unless we asked for a photograph. And they

1 have fully admitted from everybody that there was going
2 to be a glued on attachment.

3 CHAIRMAN HANSON: Your five minutes -- your six
4 minutes are up.

5 Thank you.

6 Hello. You made the trip.

7 MS. CHRISTENSON: I did. I told Karen Cremer,
8 this is now our commute. Once a week.

9 CHAIRMAN HANSON: Welcome. Please state your
10 name, and we'll start your time.

11 MS. CHRISTENSON: Okay. Amber Christenson.

12 So I had some notes prepared so I'm going to
13 have to fumble through them to keep them down to five
14 minutes. Some of the most important things are I did a
15 Data Request to Crowned Ridge Wind and asked them some
16 very pertinent questions that apply to the attachments,
17 and I get no answer. They say too broad. I don't
18 consider any question too broad for such an important
19 thing that's going to affect us for 25 years.

20 For one example, in their answer to Data
21 Request 210 to Intervenors Crowned Ridge says, "The
22 question's not relevant." I find it very relevant. The
23 question: "Please provide the requisition, purchase
24 order, allocation request for the attachments for the
25 blade for the project." How is that not relevant?

1 If someone forgot to order or allocate
2 attachments until the end of September, I find that
3 relevant, don't you, since Crowned Ridge admits in a Data
4 Request that they knew when they applied on January 30
5 they were going to need low noise trailing edge blades.

6 The following question asked when they were
7 shipped. The answer: "Starting the week of
8 September 27." That is a failure. That's very late in
9 the game. At the time the blades were about to be
10 mounted on the nacelles no one noticed, oops, we forgot
11 the LNTE attachments?

12 Not until the middle of December did someone
13 notice. Does that make anyone else in the room kind of
14 question and go hmm?

15 This is Crowned Ridge's failure. This is not
16 the PUC's failure. This is not the failure of the people
17 who live in and near the Crowned Ridge Project. Crowned
18 Ridge owns this failure.

19 They brought a lot of backup. Excuse me. It
20 doesn't matter how many people are here. They failed.
21 They failed in that they were going to construct 130
22 turbines. They went down to 87, and only 8 are in
23 compliance. 8.

24 We're not close to being in compliance here. We
25 are so far out of compliance. If the number was

1 reversed, if they only had 8 left, yeah, maybe. Maybe we
2 could talk waiver. But we are 8 out of 87. Not close.

3 So during our evidentiary hearing we came up
4 with an order; right? We relied on those conditions as a
5 contract. I consider it a contract. I'm a party to that
6 contract. I'm a citizen of South Dakota, and I do not
7 agree to a waiver of my contract.

8 Low noise trailing edge blades reduce noise 2 to
9 3 dBA. I got that from another docket, information.
10 That's a big deal to me. We were promised to have our
11 noise reduced 2 to 3 dBA. Yes, there is an adder. That
12 adder is mine too. That's a cushion.

13 In Falmouth, Massachusetts they were supposed to
14 have 107 dBA noise from their turbine. During their
15 evidentiary proceedings they find that those turbines
16 gave out 110. Manufacturers aren't perfect. Turbines
17 aren't perfect. That's why we have an adder. We
18 shouldn't have to count on that as a cushion. We
19 shouldn't have to come back and do a complaint process
20 for that. We were promised low noise trailing edge
21 blades.

22 We worked really hard on that docket. Not just
23 you guys. You guys worked incredibly hard. I give you
24 that. But we did too. And we're lay people.

25 Again, this is not my burden. This belongs to

1 Crowned Ridge. I'm sorry that I don't feel bad about
2 their \$75,000-a-day fine, if that's what it is. They
3 entered into contracts with you, with me, and with Xcel.
4 They're not meeting their contract. That should not be
5 my burden. It shouldn't be your burden.

6 8 out of 87 turbines are in compliance. And
7 that's if we go with them being 2.3s instead of 2.7s,
8 which I still don't agree with and the building permits
9 don't agree with, but I won't go there.

10 Remember when we dropped turbines on Exhibit A55
11 during the evidentiary hearing and Al Robish's noise went
12 up 20 to 25 miles away? Or that whole difference. This
13 all makes a difference. It's a ripple effect.

14 I have a neighbor and friend here today. His
15 name is Wayne. He doesn't even have a receptor number.
16 He's never been studied. He lives in the project. He
17 lives in the municipality of Waverly. It's a
18 municipality. It's not incorporated. They each should
19 have a receptor. He's having problems. He's reported
20 them to Mr. Riniker. And I don't know if you let them
21 speak during this process or not, but he will speak to
22 you in the open about that and kind of explain that. But
23 I think it's a big deal. He doesn't have a receptor
24 number, and he's being affected.

25 What else can I talk to you about? Okay. Well,

1 I'd like you to deny the waiver. That comes as no
2 surprise.

3 Okay. Thank you very much.

4 CHAIRMAN HANSON: Thank you.

5 Next up.

6 MR. ROBISH: Good morning. This is Alan Robish,
7 Strandburg, South Dakota.

8 CHAIRMAN HANSON: Good morning, Mr. Robish.

9 MR. ROBISH: Hi.

10 Crowned Ridge was granted a permit for 2.3
11 megawatts with low trailing edge blades. They've
12 installed them on larger turbines, but they didn't use
13 the low trailing edge blades on most of them.

14 The last meeting -- it costs more to buy the 2.7
15 generators than -- and then tried to scale them down to a
16 2.3. To me it looks like maybe the Applicant is trying
17 to evade paying the proper taxes to the county, the
18 state, and federal agencies. I don't know what the
19 purpose that they would buy bigger turbines, bigger
20 generators, and bring them down when they have to pay
21 more.

22 Okay. Crowned Ridge has their own experts and
23 attorneys twisting the facts because the pictures don't
24 lie. The coverup is always worse than the crime, I
25 believe.

1 Look at all the time and money that has and is
2 being spent trying to make Crowned Ridge comply with the
3 permits and agreements they were given to construct the
4 project. To my knowledge, I do not remember where or
5 when Crowned Ridge has addressed the counties with these
6 problems.

7 There are two lawsuits going on now. They are
8 conflict of interest and a problem with the permitting
9 process, you know. I think we need an evidentiary
10 hearing with all the parties under oath. Crowned Ridge
11 would be able to produce all the supporting documents for
12 the generators that were purchased.

13 Crowned Ridge has to construct the project
14 complying to their permits. Turbines have to be the 2.3
15 as permitted so the 2.7s need to be removed and replaced
16 with 2.3 generators with the proper blades permitted. I
17 still think it's Crowned Ridge's failure to comply with
18 the permits is why we are all here at this time and
19 place.

20 I also cannot believe how all the people are
21 watching and listening how this process is being handled.
22 I think this waiver should be denied. It is not deserved
23 because the permitting process has been abused over and
24 over. And they should get in compliance with their
25 permit, not award them for -- reward them for not doing

1 what they're supposed to do.

2 I understand that the Staff maybe had contacted
3 the county and say it's okay. We filed a lawsuit against
4 the county which involves the State's Attorney Mark
5 Reedstrom. That's going to be heard on the 24th.
6 Miles Schumacher sat next to me at the
7 deposition for the conflict of interest lawsuit. So we
8 know all this stuff is going on. They need to be put in
9 compliance. I don't think they should get a waiver to
10 start these because the blades they're putting on they
11 want a waiver for, they put them on a generator that
12 wasn't permitted.

13 I guess that's about all I have to say. Thank
14 you for the opportunity.

15 CHAIRMAN HANSON: Thank you, Mr. Robish. I'm
16 debating whether to give the Applicant --

17 COMMISSIONER FIEGEN: Staff.

18 CHAIRMAN HANSON: Oh, yes. Thank you. Give the
19 Applicant an opportunity to respond, but I don't know if
20 that's necessary.

21 I will turn to Staff and ask for Staff's wise
22 counsel on this. Ms. Edwards.

23 MS. EDWARDS: Thank you. This is Kristen
24 Edwards for Staff, and I'll just point out that, as you
25 know, David Hessler is on the phone. He's our sound

1 expert. And also the PUC liaison officer, Brian Riniker,
2 is in the room today. And Mr. Robish just mentioned a
3 complaint that he's working through -- or I'm sorry.
4 That Wayne is working through with Mr. Riniker. Right?
5 And we're aware of that, and he's been working with
6 Ms. Gregg on that as well.

7 Mr. Schumacher mentioned modeling, and I am
8 assuming that was a misstatement. It's testing. And so
9 I just want to point that out that it would be actual
10 on-the-ground testing, not sound modeling. And he's
11 nodding his head yes so we're in agreement on that.

12 Another thing I would like to mention is our
13 recommendation is also contingent on postconstruction
14 testing once the LNTE blades are installed.

15 Other than that, we will stick by our memo and
16 stand by for questions.

17 CHAIRMAN HANSON: Thank you for those
18 clarifications, Ms. Edwards. Appreciate that.

19 I'll turn to -- I'm not going to give the
20 Applicant an opportunity to speak again because we've had
21 so much at this juncture, and if something needs to come
22 out, the Commissioners can ask questions on it.

23 I'm going to ask just a couple basically house
24 cleaning questions. I say that, and then I think of
25 several questions I want to ask.

1 Mr. Schumacher, it appears that in your
2 presentation you agree to some items that were not
3 included in your January 3 response. Is that correct?

4 MR. SCHUMACHER: It is, Mr. Chairman.

5 CHAIRMAN HANSON: And would you iterate those
6 for us again, please.

7 MR. SCHUMACHER: Yes. Primarily they were to
8 conduct additional on-the-ground testing. Both through
9 the period during which the LNTE blades are being
10 installed wind curtailment will be employed. And also we
11 have agreed to adopt Staff's recommendation that there be
12 additional on-the-ground testing after completion of the
13 installation of low noise trailing edge attachments.

14 CHAIRMAN HANSON: And excuse me. You mentioned
15 the new GE software to make the -- to reduce --

16 MR. SCHUMACHER: Yes. And I'll defer to
17 Mr. Murphy on that question.

18 CHAIRMAN HANSON: To reduce the sound. Would
19 you tell us a little more about that, please.

20 MR. MURPHY: Thank you, Commissioners. This is
21 Brian Murphy on behalf of Crowned Ridge.

22 The GE new software, which is called an enhanced
23 power curve operation software, was recently developed in
24 December of last year by GE and presented to us as an
25 option that we could use in our turbines to lower sound.

1 As you'll see in Attachment 4 to our response,
2 they explain at the end of that response the technical
3 aspects of it. If you're interested in the technical
4 aspects, we have subject matter experts here that can
5 discuss it with you.

6 CHAIRMAN HANSON: One second, Mr. Murphy. You
7 said December I thought you said of last year.

8 MR. MURPHY: Yeah. 2019.

9 CHAIRMAN HANSON: So just a month ago you
10 were --

11 MR. MURPHY: Correct.

12 CHAIRMAN HANSON: Sometimes when people refer to
13 last year they're thinking of '18. So I just wanted to
14 clarify that.

15 So you learned of this new software just last
16 month?

17 MR. MURPHY: We learned that it was under
18 development, and GE had been working with us on the
19 development. We were aware of this ability for it to
20 reduce sound in December of 2019. And it was at that
21 time that we were in discussions with GE on how to deploy
22 it. So we thought it was worth mentioning to the
23 Commission.

24 As Mr. Schumacher said, this is not a static
25 process for us. As you're seeing with regard to the

1 2.3/2.7 issue, even though the nameplate is 2.3, GE is
 2 constantly innovating and constantly trying to provide a
 3 better product, and this was one of those results where
 4 the software used the same output, lower sound.

5 CHAIRMAN HANSON: Okay. Primarily sound is --
 6 well, the effect on receptors is one of the main things
 7 I'm looking at. However, I am curious about the \$75,000
 8 fine. Just from the standpoint of that's the reason you
 9 gave saying it was due to the weather. That, of course,
 10 is an excuse, but it's not a reason.

11 When I look at that -- and everybody knows it
 12 gets cold in South Dakota and actually it's been mild,
 13 the weather that we've had. Oftentimes we have some
 14 horrible storms even in October and certainly in early
 15 November so due to the weather is not a -- it's like the
 16 dog ate the homework for me.

17 I'm looking at the liquidated damages, and I
 18 believe I heard testimony from the Applicant stating that
 19 the -- at a minimum that the fine would affect
 20 South Dakota ratepayers. We have a letter from Mr. Steve
 21 Kolbeck, principal manager of Xcel Energy, stating that
 22 any liquidated damages collected under the PPA would be
 23 recorded to FERC Account 555 and the South Dakota portion
 24 would be credited back to South Dakota ratepayers through
 25 the fuel clause.

1 So we know that it's not -- the \$75,000 fine, if
 2 it -- well, since we're past December 31, will not affect
 3 South Dakota ratepayers. Do you agree with that?

4 MR. MURPHY: Just to give context to my
 5 statement, my statement was based on my experience as a
 6 rate attorney, not in this jurisdictions but overall
 7 that -- how would NSP view that, liquidate damages, and
 8 given it was under a PPA that's been approved by
 9 Minnesota Commission, North Dakota Commission, that there
 10 would be rate making implications.

11 I cannot speak to how NSP handles their rates
 12 with the South Dakota Commission or either one of those
 13 commissions. It was a high level general statement
 14 backing up my belief that NSP at the appropriate time
 15 would invoke that provision, given that there are policy
 16 implications.

17 CHAIRMAN HANSON: So do you agree or disagree
 18 with Mr. Kolbeck's statement?

19 MR. MURPHY: At a very high level I don't
 20 disagree with it, but I will caveat it saying I have not
 21 looked at how they keep their FERC accounts or how those
 22 are handled by this Commission, the Minnesota Commission,
 23 or the North Dakota Commission.

24 CHAIRMAN HANSON: What efforts did you make to
 25 look at alternatives for blade attachment when you

1 realized that time was running out -- weather was running
 2 out?

3 MR. MURPHY: So to, again, kind of lay the
 4 context, the deliveries of the blades and attachments
 5 were separate. They were done in late September and
 6 early October. The attachments to eight blades and
 7 turbines on those blades occurred.

8 At that time, as I said at the December 20
 9 meeting, there should have been communication up the
 10 communication chain in my company and to me that it was
 11 not possible to attach all the LNTE attachments to all
 12 the blades. That did not occur, and I was, I thought,
 13 very candid and frank that that did not occur.

14 When it did occur was on December 11, and when I
 15 learned about that we immediately made the filing. I'm
 16 not saying that's an excuse. I'm not saying that the
 17 Commission rightfully should not be concerned about that.
 18 But I'm saying the series of events -- those are the
 19 series of events.

20 Were the -- to your point, we have looked at our
 21 subcontractors, which are GE and 3M. 3M manufactures the
 22 attachments in Colorado. GE manufactures the blades,
 23 some here in South Dakota, as we have explained, and in
 24 other places. Those did not come together in time to
 25 deliver them to the site as one attached blade. And I

1 think that's also clear.

2 With that said, you know, in hindsight would I
 3 have liked to have had this communication earlier?
 4 Absolutely. Would I have liked to have a filing before
 5 this Commission in October? Definitely. This is not
 6 something I take lightly. And it wasn't something I took
 7 lightly when I learned about it.

8 CHAIRMAN HANSON: Speaking for myself, the
 9 timing issue may not be relevant in your mind, but it's
 10 something that anyone -- it's like I'm going to go on
 11 vacation and I need a new set of tires and I call them up
 12 the day before I'm going to leave and say, hey, I need to
 13 put on some tires and they say, well, we can put them on
 14 next week for you.

15 You folks aren't new to this. You've done this
 16 before many times. So that burden shouldn't be placed on
 17 the Commission, and it shouldn't be placed on the
 18 Intervenors. Speaking very frankly, I'm concerned that
 19 that continues to come up as a reason for us to provide a
 20 waiver.

21 What alternatives for blade attachments have
 22 been pursued?

23 MR. MURPHY: I think it's fair to say that the
 24 new GE software can be viewed as an alternative to the
 25 attachments because it gives essentially the same dBA

1 reduction as the attachments.

2 When it was presented to us and given the
3 situation that we are in, there was a logical nexus
4 between the implementation of the GE software, which
5 provides that 1.5 dBA reduction, and the LNTE blade
6 attachments. So I would say the enhanced power curve
7 operation and software is an alternative that we did
8 pursue.

9 CHAIRMAN HANSON: So this is just a software.
10 It's not another attachment, different type of blade, for
11 instance? It's the same blade, just different software?

12 MR. MURPHY: Correct.

13 CHAIRMAN HANSON: Did you pursue any other
14 locations to apply the leading edge?

15 MR. MURPHY: To the best of my knowledge, no.
16 Again, I go back to we had two subcontractors who were
17 manufacturing in two separate areas, and when they
18 delivered it they delivered it separately. Again, to
19 your point, if the light bulb had gone off with the
20 contractors to communicate up this communication chain --
21 this what I would say communication food chain in our
22 company or the site, I would not be sitting here today.

23 So I understand the question, but there wasn't a
24 problem-solving exercise in September or August.

25 CHAIRMAN HANSON: Have you looked at any since

1 that? Has there been any problem-solving exercises,
2 green light session, or anything of that nature since
3 that time?

4 MR. MURPHY: Absolutely. And I'm happy to bring
5 Joshua Tran up to talk about the lessons that we've
6 learned and what we're implementing and how we are
7 handling this differently if you would like.

8 CHAIRMAN HANSON: Can he also answer questions
9 regarding Application of the leading edge, things of that
10 nature?

11 MR. MURPHY: Yes. Correct. He can.

12 CHAIRMAN HANSON: Thank you.

13 State your name, please.

14 MR. TRAN: Good morning. Josh Tran, NextEra
15 Energy.

16 CHAIRMAN HANSON: Did you hear the question on
17 the green light considerations, problem-solving sessions
18 to try to figure out what to do if, for instance, well,
19 the waiver was declined?

20 MR. TRAN: Yes, sir. So some of the mitigation
21 efforts that we've put into place, in addition to the new
22 software that GE has offered, is the curtailment package
23 that we had sent back to you with the Staff. So
24 curtailing the six turbines -- or the four turbines now
25 down to 6 meters per second to mitigate the noise.

1 CHAIRMAN HANSON: You say the four now?

2 MR. TRAN: Yes. It's four turbines to 6 meters
3 per second.

4 CHAIRMAN HANSON: I still have six down in my
5 notes.

6 MR. TRAN: Previously we had submitted the six
7 turbines for nine meters per second.

8 CHAIRMAN HANSON: All right. Thank you.

9 MR. TRAN: In addition, we are working with our
10 integrated supply chain and our turbine manufacturer to
11 ensure that going forward we get the low noise trailing
12 edges applied prior to arrival on-site.

13 CHAIRMAN HANSON: That's it?

14 Is it best to attach the blade while it's on the
15 ground or while it's in the -- I'm not certain how long
16 these are or whatever, and obviously if you use gravity
17 putting them on, that's better.

18 MR. TRAN: Clearly better, safer, more efficient
19 to do it on the ground and in an enclosed manufacturing
20 facility.

21 CHAIRMAN HANSON: I read that you need 50 degree
22 weather or above in order to apply these. Is that
23 correct?

24 MR. TRAN: You need an environmental temperature
25 and surface temperature greater than 50 degrees

1 Fahrenheit.

2 CHAIRMAN HANSON: And for how long? What length
3 of period?

4 MR. TRAN: For the Application period. So
5 typically you're putting the panels on in three to four
6 days while in the air. On the ground it can be done much
7 quicker.

8 CHAIRMAN HANSON: Does it take a period of time
9 to cure?

10 MR. TRAN: So there's two adhesives when you're
11 installing them. They come in sections about 2 foot
12 long. So you've got about 54 feet of edge that's covered
13 by these LNTEs. Typically they're 2 feet long, and to
14 apply them you have to -- in the air I'll go with,
15 because that's the case we're working with right now,
16 secure the turbine, lock it out, pack it out, get a man
17 basket in place to the applied area of the blade, clean
18 the surface area, put an adhesive on, and then there's a
19 bonding section of the 2 foot panel as well that you
20 apply. You clamp that on for two hours or so.

21 As that's sealed -- and then while that's being
22 placed you put a sealant on as well. And you do it in
23 sections so it takes three to four days to get a full
24 turbine done.

25 CHAIRMAN HANSON: All right. Thank you. I'll

1 have some additional questions, but I'm going to allow
 2 the fellow Commissioners to ask some questions, Josh.
 3 Thank you.
 4 Yes. Commissioner Nelson.
 5 COMMISSIONER NELSON: I've got a couple. And,
 6 Mr. Tran, I think you're probably the guy.
 7 Let's start with your last comment. The request
 8 for the waiver is for a waiver to, I believe, early
 9 summer. If we're to do a little bit of mental
 10 calculation, I think you've got probably 79 of these
 11 turbines to do. Three to four days to do those. I'm
 12 assuming you probably can't do it when it's rainy. I'm
 13 assuming you probably can't do it when the wind is high.
 14 Is early summer realistic?
 15 MR. TRAN: So calculating, we need about
 16 10 weeks with four men. Four teams of three to four men
 17 on each crew. Looking through the recent history,
 18 weather patterns, we won't start to do it until mid-April
 19 is when we get the temperatures in range to where we need
 20 them. Depending on the weather, yeah, that could
 21 certainly push out a little bit.
 22 We could offer getting additional crews to try
 23 to make up for that. But, obviously, you want to do this
 24 safely and you want the panels to be secured to the blade
 25 and you want to do that in the right conditions.

1 COMMISSIONER NELSON: Thank you.
 2 We talked about the four turbines curtailed at
 3 anything over 6 meters per second. Does curtailment mean
 4 completely stopping those turbines or just slowing them
 5 down to that 6 meters per second level?
 6 MR. TRAN: Thank you, sir. That's a great
 7 question.
 8 Curtailment can mean slowing it down. In this
 9 scenario what we've offered is shutting them down
 10 completely above 6 meters per second.
 11 COMMISSIONER NELSON: Okay. And the last
 12 question, from the Intervenors there was some discussion
 13 about are these panels really going to stay affixed for
 14 30 years? What happens if one comes off?
 15 And so my question is if one of these two foot
 16 panels comes off, does that so imbalance the operation
 17 that it will automatically shut down, or is the generator
 18 impervious to that? Help me understand what happens if
 19 one comes off.
 20 MR. TRAN: I don't believe that if one came off
 21 that it would imbalance the turbine enough to fault it or
 22 shut it down. But what we do do is our operations team
 23 routinely inspects every turbine before each climb and
 24 through a regular basis.
 25 And one of the things that we've started

1 implementing over the last couple of years is we're even
 2 checking the blades with drones postconstruction and then
 3 on a regular basis after that.
 4 COMMISSIONER NELSON: And so from that response,
 5 I take it, if one of these came off, the turbine would
 6 continue operating until whatever point enough of them
 7 came off that it would imbalance the turbine and you'd
 8 have to fix it? Is that correct?
 9 MR. TRAN: I don't have that information
 10 available to me at this point. And I can't answer that
 11 clearly, but I would assume that it would take a number
 12 of the units to fall off.
 13 COMMISSIONER NELSON: Certainly.
 14 MR. MURPHY: If I can help, this is Brian Murphy
 15 from Crowned Ridge. Because I asked the same questions,
 16 and I recall Mr. Tran, that you said that our operations
 17 would see any wobbling or major imbalance that would
 18 require it to be shut down? Is that correct?
 19 MR. TRAN: I mean, the turbine has sensitive
 20 software that would shut it down on faults. But for a
 21 five pound panel coming off a 127 meter rotor, I don't
 22 think that would -- if it kept going, I don't know which
 23 point that would be if it kept going.
 24 COMMISSIONER NELSON: Thank you. I think that's
 25 all the questions I've got for you.

1 I've got one question for Staff. First of all,
 2 I want to say to Staff I greatly appreciate your lengthy
 3 memo. Obviously, there was a great amount of work and
 4 thought put into the memo and to your recommendations.
 5 The question I've got is on point number 5 of
 6 your recommendations -- and I appreciate your clarifying
 7 with Mr. Schumacher that we are not referring to
 8 modeling, but we are, in fact, referring to testing.
 9 So my question is your recommendation does not
 10 address what locations would be used as testing
 11 receptors, how many locations would be used as testing
 12 receptors. What is your anticipation there?
 13 MR. KEARNEY: Should the Commission -- thank you
 14 for the question. This is Darren Kearney for Staff.
 15 Should the Commission require that, we would
 16 envision that the company would make a proposal to the
 17 Commission for approval and develop the test protocol,
 18 once the independent consultant is picked for the testing
 19 pursuant to the Condition 26.
 20 So that's kind of why we didn't make any
 21 specific recommendations in there. One, to afford
 22 flexibility for whoever the consultant is that's going to
 23 be doing the noise study to provide some recommendations
 24 and then Staff can work with them to make a proposal to
 25 the Commission for approval prior to implementing the

1 test protocol.

2 COMMISSIONER NELSON: Well, then that does take
3 me back to the Applicant.

4 The Applicant, I understand, is amenable to this
5 particular condition. Are you still amenable, given the
6 explanation we have just heard?

7 MR. MURPHY: Brian Murphy for Crowned Ridge.

8 Yes. And that's how I envisioned it as well,
9 the way it was explained by Staff.

10 COMMISSIONER NELSON: Thank you. Mr. Chairman,
11 no further questions.

12 CHAIRMAN HANSON: Thank you.

13 Commissioner Fiegen.

14 COMMISSIONER FIEGEN: I have three questions,
15 two for the Applicant and one for Mr. Hessler. So I'm
16 going to start with Mr. Hessler.

17 You've heard the testimony today. You've
18 evaluated this sound information. You hear Intervenors
19 talking about a different sound model. It is my
20 understanding that you are our sound expert for our Staff
21 and you're advocating for the .5 ground. I just want to
22 confirm that information.

23 MR. HESSLER: Yes. That's correct. I think .5
24 is the right coefficient to use year-round, whether it's
25 summer or winter.

1 COMMISSIONER FIEGEN: Okay.

2 MR. HESSLER: Because ground absorption is a
3 matter of how porous the ground is, and the greater the
4 porosity the more absorption. And one of the most
5 absorptive surfaces is fresh fallen snow. That's usually
6 at the top of the list of the most absorptive surfaces.
7 So it's really a fair coefficient to use for all times.

8 COMMISSIONER FIEGEN: Thank you.

9 My next two questions are for the Applicant.
10 One is the 2.7 and 2.3. So okay.

11 So, as you know, the Commission was quite -- or
12 I was certainly concerned at the December 30 Commission
13 meeting because all of a sudden I feel like I was getting
14 conflicting information on the 2.3 and the 2.7. And then
15 I kind of heard at that meeting from the Applicant that
16 the 2 point whatever megawatts is all the same machine
17 and it's just a software. And then I read a letter from
18 GE that states it's a little bit more than the software.
19 And now I have an Intervenor that comes up and says, oh,
20 but they're using the 2.7.

21 It is my understanding you're using the 2.3.
22 And I just want to make sure that's clarified before I
23 vote today.

24 MR. TRAN: That is absolutely correct. We are
25 using 2.3 megawatt nameplate turbines for Crowned Ridge.

1 COMMISSIONER FIEGEN: Okay. And then my very
2 last question, and this really came up today when my
3 fellow Commissioners were talking about the Application
4 of applying this L whatever it is. NTE. See. NTE. And
5 how you're applying it. And so I think as a Commissioner
6 since I've been here in 2011 our biggest -- our number
7 one concern is safety.

8 And so when I hear you this afternoon -- or this
9 morning. Sorry. Not this afternoon, Commissioner --
10 Chairman. I feel like we're out of balance, and I feel
11 like the Applicant is weighing financial over safety.

12 MR. TRAN: Thank you for that point of clarity
13 because I wanted to speak to this earlier on as well.

14 We've done over 500 of these installations with
15 our contractor, General Electric, for the LNTes. We
16 don't have -- I have not heard personally any of these
17 failing or falling off. Certainly we would like to do
18 those in a controlled manufacturing facility, but we've
19 done over 200 of these installations in the air as well.

20 In addition to another panel that was added on
21 for a different purpose, a vortex generator that's on the
22 root of the base. And we've done over 300 of those just
23 in one site alone in the air. So this is not an uncommon
24 practice. As these advancements in technology came out,
25 we've gone and retrofitted existing sites and existing

1 turbines with these types of panels.

2 So safety and quality of -- security of the
3 adhesives, it's been tried and true over several years.

4 COMMISSIONER FIEGEN: So can we just talk about
5 the 16 people approximately that you're going to put up
6 in the air this summer. Sounds like four groups up to
7 four people, 16 people that you're going to put up in the
8 air. Those are the safety concerns also I have is those
9 people.

10 MR. TRAN: We certainly do as well. So that
11 being said, we go through processes where the experienced
12 technicians are utilized. We lock up the turbine. We
13 secure it. We do it in the environmental conditions that
14 are necessary to do it safely. And this is not anything
15 new to us or to the industry. This type of work is done
16 routinely.

17 COMMISSIONER FIEGEN: So I'm just -- and where
18 is your liaison person, your liaison, your -- that we've
19 hired? Could you come up?

20 Thank you for being here today.

21 If you remember right when you were hired and
22 you came in front of the Commission we talked about the
23 public liaison. And our Staff started this I believe in
24 Crocker. Am I right? Crocker. And it was something
25 that the three Commissioners certainly agreed to and were

1 very supportive.

2 So I just want to reiterate sometimes our
3 intervenors haven't called you. Make sure all of our
4 intervenors and our landowners have your phone number.
5 And I'm not saying that's not your fault. Just
6 re-ensure.

7 And then the safety of these 16 people that go
8 up, I mean, I also -- this Commissioner just wants to
9 make sure that you keep them all safe -- you're not going
10 to keep them safe, but you certainly monitor that. But
11 keep on monitoring that area. I just --

12 I think all three Commissioners have a little
13 concern about this project and how it has been
14 implemented. And even in the evidentiary hearing was
15 tough. And your role, we're giving you a major role to
16 be kind of the face of the Public Utilities Commission.
17 So I just wanted to bring you up here and thank you for
18 what you've done. And I know people haven't always
19 called you. And just continue to be accessible.

20 MR. RINIKER: Thank you for that.

21 CHAIRMAN HANSON: Did you have a question?

22 I have a question for Staff. Ms. Edwards, if
23 the Commission were to deny the waiver, would we still be
24 in a position to require the Applicant to fulfill all of
25 those oral and written promises that they have made?

1 MS. EDWARDS: Thank you for the question.

2 To clarify, that is to mean if the waiver is
3 denied, will the company still agree to do testing once
4 they are -- the LNTE blades are installed?

5 CHAIRMAN HANSON: Correct. Well, if we deny the
6 waiver to install them, are they -- are we still in a
7 position to require them -- and I'm going to ask this of
8 Ms. Cremer as well.

9 Are we in a position to require them to comply
10 with the items that they've agreed to because they've
11 agreed to them in order to get the waiver? Or are we in
12 a position to wait on their benevolence?

13 MS. EDWARDS: So if the request was denied, they
14 wouldn't operate the turbines so most of that stuff
15 wouldn't come into play until they installed the LNTE and
16 began to operate. There is a condition requiring
17 postconstruction sound monitoring upon request anyway.
18 So I think it would happen regardless.

19 And I'm wondering whether Mr. Riniker -- not
20 Mr. Riniker. Forgive me. Mr. Murphy both Brians --
21 agree to it.

22 CHAIRMAN HANSON: All right. I'm also curious
23 about the new GE that they informed us of. Would they be
24 inclined to have to?

25 Are we going to lose -- I'm looking at benefit

1 of granting the waiver for the receptors -- I hate
2 calling them receptors. The folks that are going to be
3 affected by this.

4 Is there a potential for losing benefits to them
5 if we were to decline the waiver?

6 MS. EDWARDS: That software wasn't a part of the
7 permit so they're not required to have it by permit. I
8 don't know if it's already been installed.

9 CHAIRMAN HANSON: Ms. Cremer, do you have any
10 thoughts on that? I will ask the Applicant too. Or is
11 this a legal discussion we should have outside?

12 MS. CREMER: No. I just needed to find a
13 working mic.

14 I would agree with everything Ms. Edwards has
15 said up to this point. I don't disagree with her
16 assessment on it not being a part of the permit at this
17 point or at any point.

18 CHAIRMAN HANSON: Thank you. Mr. Murphy,
19 there's been a lot of promises made during the process,
20 and certainly some of them have -- if we wait until
21 summer to install the leading edges, they're not going to
22 be applicable. However, some are. And is the Applicant
23 inclined to provide those regardless of whether the
24 waiver is permitted?

25 MR. MURPHY: Brian Murphy for Crowned Ridge.

1 Commissioner Hanson, first, thank you for the question.

2 The installation of the software from GE is not
3 conditioned on granting the waiver. We are going to do
4 that, and it's been installed. So the benefit of this
5 1.5 dBA is going to occur.

6 So let's assume we were not here today,
7 everything had been installed. That software would be
8 used, and the sound benefits would be -- associated with
9 that software would occur.

10 And I'm trying to parse out, and it may take a
11 little bit of a discussion to where you're at. Part of
12 me thinks maybe the question is could I grant the waiver
13 in a different fashion. So, in other words, your
14 contractor, GE, is saying you get a 1.5 dBA reduction.
15 We're committed to do that through this software.

16 That gets you essentially the same as the
17 attachments. And if the Commission was inclined to say
18 we direct you to use that software as you've committed
19 and less inclined to push the attachments in a certain
20 period of time or back off the attachments, that would be
21 something we would certainly be amenable to.

22 So I'm saying that because I'm trying to
23 understand kind of the nuances of granting or denying the
24 waiver in a different fashion, if that's where you're
25 going. If not, I apologize for interpreting it in a

1 manner that was not intended.

2 CHAIRMAN HANSON: No. That's fine. I
3 appreciate the answer.

4 I've read so much on this. How is it that the
5 capacity factor we were told was -- I'm still having
6 trouble understanding. Why was testimony given from the
7 Applicant that there were, in fact, 2.7 megawatt and now
8 again we're told, no, they're all 2.3?

9 I know that software governs it, but is it or is
10 it not possible that these are -- why is it that there
11 were nameplates saying 2.7 and now we're told, no,
12 they're all 2.3?

13 MR. MURPHY: Understand. I'll ask Mr. Tran to
14 come back up because he is the technical expert on this.

15 I'll just for context -- in our Application in
16 6.1 we explained that we were buying a GE 2 megawatt
17 model series. That explanation didn't go into it could
18 be 2.3, 2.5, 2.7 based on the software.

19 Now what Mr. Tran can explain is the
20 interactions with GE and how that series is anchored in a
21 nameplate, which we also explained our nameplate would
22 always be 2.3.

23 So throughout the testimony and the Application
24 we've been consistent. But, to your point, to understand
25 this series model, Mr. Tran can explain the technical

1 aspects and how we anchor -- added the nameplate of 2.3.

2 CHAIRMAN HANSON: So it's not just software on
3 the nameplate; correct?

4 MR. TRAN: No, sir. It's not just the software.

5 CHAIRMAN HANSON: It's not like I've got a 6
6 cylinder car and I put in different software and I've got
7 an 8 cylinder.

8 MR. TRAN: Correct. More like a telso
9 [phonetic], I guess, right, where you can upgrade it.

10 So what governs the 2.3 nameplate is a number of
11 things starting with our generator interconnect agreement
12 commitment in the way the turbine operates.

13 CHAIRMAN HANSON: Okay. I understand all of
14 that.

15 MR. TRAN: Okay.

16 CHAIRMAN HANSON: I think the fly on the wall
17 understands that.

18 But your last name statement was, no, these are
19 2.3. So it takes what to just change that? And don't
20 tell me that you've got to check with MISO or OMS.

21 What do you physically have to do with that
22 turbine, that nacelle, generator, in order to change it?

23 MR. TRAN: You have to ensure that all your
24 components are 2.7 compatible in that series. On this
25 site only 10 turbines have the configuration qualities

1 necessary to achieve a 2.7 megawatt just from a turbine
2 level, disregarding all the previous studies that would
3 have to also go into that, including the foundational and
4 mechanical load analysis.

5 CHAIRMAN HANSON: Thank you. That's all I need.
6 Unless you're absolutely compelled to say more.

7 MR. TRAN: No, sir.

8 CHAIRMAN HANSON: Your attorney always says
9 don't talk any more than you have to; right? I didn't
10 see him reach over and grab you.

11 Thank you. I have a question -- maybe just a
12 statement -- to the Intervenors, Ms. Christenson and
13 Ms. Mogen. I guess I might have a question for you. But
14 you certainly did not let the grass grow under your tires
15 on this.

16 When we started out I said we don't know what we
17 don't know, and I didn't realize how much we did not
18 know. And you folks have done an incredible job on the
19 amount of work that you did. I was especially impressed
20 reading Ms. Mogen's -- not to back off of Ms. Christenson
21 or Alan's -- Robish's statements.

22 Do you understand -- and I'm going to ask that
23 she be allowed to come up here.

24 Ms. Christenson, I just want to make sure you
25 understand the process that the Commission is in here.

1 I, frankly, have waffled from left to right going maybe
2 that's proper of either supporting or opposing this
3 request. As I have gone through all of the turbulence of
4 all of the information that we've received, the pendulum
5 for me swings back and forth.

6 Do you understand that we have -- and I know you
7 understand portions of this. We have a request for a
8 waiver before us, and that's what we need to rule on.
9 You have filed six complaints. And while some of those
10 may be applied and considered as we go through the waiver
11 process, those are really complaints against the permit.
12 It's an entirely different situation where you are asking
13 us to deny the entire permit as opposed to deal with just
14 the waiver.

15 And so that sphere has to be carried to a
16 different discussion, a different process than what we
17 have here right now. So if you are intending to proceed
18 with that information and those complaints to reject the
19 permit, then we have to go through that particular
20 complaint process that is outlined in our rules in the
21 state statute.

22 So we're dealing with two different things here.
23 A lot of the information that you've provided to us is
24 not information that applies to the waiver itself. And
25 while it's been intriguing and interesting and in some

1 cases compelling, it has to be through an evidentiary
2 hearing in order to take the permit.
3 It's like saying you have a complaint against
4 someone; therefore, they should be fired just because you
5 have the complaint. No. They need to be able to keep
6 their job until it's determined whether or not the
7 complaint is valid.

8 So that's where we are. Do you understand? Do
9 you understand?

10 MS. CHRISTENSON: Yes.

11 CHAIRMAN HANSON: Okay.

12 MS. CHRISTENSON: However, some of those things
13 do matter.

14 CHAIRMAN HANSON: Absolutely.

15 MS. CHRISTENSON: The 2.7 model turbine, I have
16 no idea how that's going to affect me, whether they have
17 low noise trailing edge blades or not.

18 Staff in their memo -- and we had already found
19 that too. The nameplate is what capacity factor it can
20 generate. So these can do a 2.7 megawatt, according to
21 the generator. I know we have an electrician over here.
22 And that matters to me.

23 I've already experienced a physiological effect
24 from these turbines. I don't know if it's because of
25 blades. I don't know if it's because it's a 2.7. But

1 also -- sorry. I got off track.

2 Also that statute says the nameplate is also
3 determined by the Secretary, which is the Department of
4 Revenue, not just by whatever they decide they want to
5 put as a label on the inside of their turbine. The
6 placard on the turbine model says 2.7-116, and I think
7 that is relevant to this.

8 CHAIRMAN HANSON: Okay. Thank you very much.

9 MS. CHRISTENSON: I do understand your point,
10 though, yes. Evidentiary hearing, I'm all for that. We
11 need to find out what we have going on in that project
12 because at this point we don't know.

13 Thank you.

14 CHAIRMAN HANSON: Thank you very much,
15 Ms. Christenson.

16 Are there any further questions by the
17 Commission?

18 If not, is there a motion on EL19-003?

19 Commissioner Nelson, do you have a motion?

20 COMMISSIONER NELSON: I do. In EL19-003 I move
21 that the Commission grant the limited and temporary
22 waiver with the following parameters: First, that the
23 waiver expires on August 1. Secondly, that monthly
24 progress reports are filed with the Commission, beginning
25 April 1. Third, that the curtailment be of 16 turbines

1 as is indicated by using a .3 ground attenuation and that
2 curtailment occur at 6 meters per second. And, fourth,
3 that the testing protocol outlined in Staff's memo and as
4 verbally described today would, in fact, be part of this
5 waiver.

6 CHAIRMAN HANSON: I'll let you speak to your
7 motion. Go ahead.

8 COMMISSIONER NELSON: Thank you. And I fully
9 acknowledge there's some things in here that folks
10 probably weren't expecting, and we can certainly have a
11 discussion on that.

12 So let me start by reiterating what Commissioner
13 Hanson was talking about earlier. There are other issues
14 that have been raised here that are in complaint dockets,
15 and we're not resolving those today. Again, a week ago
16 before I knew there were complaint dockets, I thought we
17 were going to have to wrestle with some of that, but now
18 that we've got complaint dockets, that's going to be
19 handled separately. And Staff was absolutely correct
20 that those are going to be a different issue.

21 If there is one thing that everybody in this
22 room and listening I think agrees to, that's the fact the
23 company screwed up. There's no denying that. They've
24 been very forthright in that. So, as I do when I screw
25 up, I try to step back and figure out where do we go from

1 here?

2 And I think in doing that and in this particular
3 case I'm looking at what is, in fact, the purpose of the
4 LNTE attachments or blades? And the purpose is to reduce
5 the noise level so that the project, the turbines, can
6 comply with the noise level maximums. That's the
7 purpose.

8 And so I asked myself, with this waiver will
9 that purpose still be accomplished? And I come up with
10 the answer of yes. It will be.

11 How will that occur? Well, first of all, we're
12 going to have some significant curtailment. Now the
13 company was talking about curtailing four turbines, and
14 that's based on a .5 attenuation. I'm talking about
15 16 turbines based on .3. So let me talk about that .3.

16 Here is what I have heard. The .5 is an annual
17 average. Okay. I understand average. Average means
18 that as you compute that, there are some values that are
19 higher and some values that are lower. Obviously during
20 different times of the year you're going to have values
21 that are higher and values that are lower.

22 Wintertime is a time when the value is going to
23 be lower, by necessity. Now I heard Mr. Hessler talk
24 about the fact that fresh fallen snow is one of those
25 things that can absorb noise. Absolutely agree. But

1 most of the snow that we get, fresh snow, is coming down
2 and going sideways at 30 miles per hour and gets packed
3 into pretty hard snowbanks that people can walk across.

4 That's not the kind of fresh fallen snow that's going to
5 absorb noise.

6 I mean, I've lived in this state for 55 years.
7 I understand this. There's different types of snow and
8 different effects. So I am not convinced the .5 is
9 right. And so, hence, the .3 that was postured a week
10 ago is what I am including in this motion.

11 And then lastly -- and, frankly, this isn't
12 something I was even inclined to include, but since Staff
13 has included it and the company has agreed to it is this
14 testing. The fact that if we've all guessed wrong on the
15 modeling, we're going to test it and make sure that it's
16 still okay. And then we're going to test it again
17 afterwards to make sure it's still okay.

18 So that brings me back to the big picture. With
19 these protections, all of which are driven to make sure
20 that the sound levels do not exceed the allowable levels,
21 I think we've given the same protections to the folks in
22 the area as the LNTE blades themselves.

23 Now, again, the blades should have been on
24 there. No question. The blades are going to get on
25 there. And as I have thought about this -- I mean, I'm a

1 farmer. I do stuff outside. I build stuff. I know how
2 easy it is to build something when it's on the ground in
3 front of me with no obstructions. Pretty easy. I can't
4 imagine how many more times -- more difficult and
5 expensive this is going to be for this company doing this
6 up in the air. Unbelievable to me.

7 So, you know, there was some contention by some
8 of the Intervenors that the company never intended to put
9 these on. Well, if their thought was, yeah, we're just
10 going to wait and put them on up in the air if we get
11 caught, I don't buy that.

12 And so long explanation, Mr. Chairman, but
13 that's the reasoning behind my motion.

14 CHAIRMAN HANSON: Thank you.

15 Commissioner Fiegen.

16 COMMISSIONER FIEGEN: Thank you. I have a lot
17 to talk about just in general, but I just want to go to
18 the amendment right now.

19 There's two pieces of the amendment that I don't
20 support. One of them is the -- and I appreciate the
21 amendment, Commissioner Nelson. And you and I don't get
22 to debate.

23 COMMISSIONER NELSON: If I could just point out,
24 there's no amendment. This is a main motion.

25 COMMISSIONER FIEGEN: Oh, it's a main motion.

1 Okay. So then I'm going to talk a lot more. Sorry about
2 that. Because I want to amend. That's it. That's what
3 the deal is.

4 There's two pieces of your main motion that I'm
5 going to wrestle with today during our discussion. And
6 right now I'm just going to discuss it so I can see where
7 the three Commissioners are going. And I appreciate it,
8 and I love -- I don't necessarily like to debate my
9 Commissioners in front of everybody. I wish I could do
10 this behind closed doors, but I don't get to. So that's
11 okay.

12 So, first of all, the August 1 deadline. I
13 believe differently because of South Dakota weather. And
14 we have had a rough two years. And I just can't predict
15 the weather. So I would rather see that September 1.
16 You heard me today that my concern is safety of those
17 16 people putting these up. And so I don't want any
18 pressure on them in case the weather has an issue. So
19 that's one concern.

20 Also you certainly heard my question of
21 Mr. Hessler today on the .5 because I was wrestling with
22 that just like you. And I just had to ensure that the .5
23 in the Staff's recommendation -- I just needed to feel
24 that was proper. I do think that is proper. I do think
25 the four curtailments of those four turbines is proper.

1 I don't think -- although I guess if we went 16,
2 I can't -- oh. No. No. So I don't support the 16. I
3 just thought it was really interesting. Now I'm just
4 going to talk. And I may offer an amendment later.

5 This has not been an easy wind permit. The
6 evidentiary hearing had many missteps. And your three
7 Commissioners and I'm sure our Staff and our advisors
8 worked a lot at night. And we would have to leave the
9 evidentiary hearing and study all the new information
10 that was given to us.

11 And, as you know, the three Commissioners
12 continue to ask Crowned Ridge can you get this done on
13 time? We just don't see it. We don't feel it. We feel
14 like this is done in such a rush, that -- are we going to
15 have issues? And I guess maybe the three Commissioners'
16 instinct was right.

17 We have issues of the right hand not knowing
18 what the left hand is doing. And I'm sorry, Mr. Murphy,
19 but that's inexcusable. I know Patty, our executive
20 director, works extremely hard with the Public Utilities
21 Commission staff, our Consumer Protection Division, your
22 Commissioners to make sure all three hands are working
23 together. And that takes a lot of work on Patty
24 Van Gerpen's behalf. She works during vacation. She
25 works at nights. We could get ahold of her at midnight

1 to make sure everybody's communicating. And I just feel
2 like it has been very inappropriate.

3 And I agree with Commissioner Hanson about the
4 public. Thank you, public, for bringing it to our
5 attention of the things that have been issues. And I
6 appreciate that. There has certainly been some wins on
7 behalf of the public. For example, the curtailment of
8 about 20 miles an hour, that 9 meters down to 6, which is
9 13 miles an hour. That's a win. The win of the 1.5 to
10 really push Crowned Ridge to continue to look at their
11 sound and how it impacts that area.

12 Let me tell you when I drive to Fargo the next
13 couple of years and I look to my right and I look to my
14 left when I come back to visit my son up there I'm going
15 to continue to look at, wow, a permit that was extremely
16 hard to do. The evidentiary hearing was tough. The
17 public liaison probably has more work with this permit
18 than he has ever had. And Intervenors continue to have
19 to look at things.

20 Now sometimes it's allegations, and we find out
21 that maybe there was some misinformation. But I
22 certainly appreciate the public and their effort.

23 So that's my comments. And after I hear
24 Commissioner Hanson, I may make an amendment to the main
25 motion.

1 CHAIRMAN HANSON: I think you'll probably make
2 your amendment -- motion, rather. Besides being arduous,
3 this has been frustrating from a standpoint of having
4 this brought to us and shouldering all of the challenges
5 that we've had to go through in a very compressed time
6 line.

7 Staff has done an incredible job. I know how
8 many hours I've gone to bed at 2 o'clock in the morning
9 trying to keep up with all of this, and I assume that
10 staff has been doing the same thing from the information
11 that I have been able to read and chat with them on.

12 I'm very concerned with a number of things here
13 going forward and in dealing with this -- with this
14 request for a waiver. One of them is communication.
15 Regardless of whether the waiver is approved or not, I
16 just -- I see a very, very poor communication between the
17 Applicant and the Intervenors and those folks that are
18 affected.

19 And it appears that there's some challenges with
20 the -- with communication with staff as well, with the
21 PUC, because, you know, we don't know what questions to
22 ask necessarily, even though we've been down this road
23 before and you folks have been down this road before. We
24 need to be kept abreast of all of these things rather
25 than having it fall on us at the 11th hour and saying

1 here's a challenge.

2 I know you had to have known that there could be
3 some challenges here before you communicated it with us.
4 And our folks can't be out there as engineers trying to
5 figure out what's going on and -- or what's not going on.
6 And so I really place the communication -- I want the
7 Intervenors to be able to contact, through their liaison,
8 their concerns rather than having them brought forward.

9 I really -- I don't mean to imply that
10 Intervenors are in any way at fault here. Because, you
11 know, they're living their lives. They're trying to do
12 their jobs, trying to get through everything. And it's
13 not up to them to be trying to -- going over everything
14 like they've been doing. I'm just amazed at the amount
15 of information that they were able to put together in
16 that short period of time for us.

17 But I'm very concerned about communication --
18 the lack of communication in the past and what type of
19 communication we're going to have going forward.

20 The Intervenors have introduced legitimate
21 concerns, and they've been dealt with to an extent by the
22 Applicant. I agree with their passion. They're going to
23 be affected by this project for the rest of their lives.

24 And so we have to take that into consideration up front.
25 That's got to be our number one concern.

1 And at the beginning when I said we don't know
2 what we don't know, I was thinking there was only a
3 little bit more we needed to know and once we got those
4 two or three answers we'd be in good shape. And all the
5 sudden we have what, 500 pages of information and
6 addendums and on and on and on to that. We've learned a
7 great deal during this process, and this is probably
8 going to affect future Applicants when they come before
9 us.

10 But there's a trust factor. And Commissioner
11 Fiegen alluded to that as well. One of the challenges I
12 have with the trust factor here is that we heard
13 conflicting testimony. Well, it wasn't just conflicting
14 between the Intervenor and the Applicant; it was the
15 Applicant's own testimony that was conflicting. You
16 know, we received this information. This is the way it
17 is. No. And then later on, no, it's actually like this.
18 And then written information to us, no, it's actually
19 like this. And that deals directly with my confidence in
20 the Applicant.

21 You guys have been down -- you folks have been
22 down this road before many times. And, gosh, I would
23 expect you folks to just know it, just to understand --
24 and not have to, well, we've got to go back and check
25 this because our previous testimony wasn't accurate here.

1 That really debilitates my ability to have confidence,
2 and it erodes my trust in, okay, we give you this waiver.
3 When does the next shoe drop?

4 So I -- and having the excuse of the weather, I
5 mean, that just blows me away that that would be the
6 excuse. You know, things should be ordered long before
7 that, and I struggle with that a lot.

8 The no problem solving. When I'm in charge of
9 something of this nature I want green light right now. I
10 want everybody in the room. I want to figure out what we
11 can do. What are the different avenues that we can
12 approach and what's the best one and which other ones
13 should we be doing at the very same time. And to not
14 have any solving process until recently speaks to my
15 confidence and trust as well.

16 And I don't know that I can support the waiver
17 at this time unless there's some more compelling
18 discussion from my fellow Commissioners at this time.
19 I'm prepared not to support the waiver. So let's hear
20 what your motions are to amend.

21 COMMISSIONER FIEGEN: My first Amendment is to
22 strike the word "August 1, 2020," out of the main motion
23 and insert "September 15, 2020," to have the attachments
24 completed.

25 CHAIRMAN HANSON: Do you wish to speak to your

1 motion?

2 COMMISSIONER FIEGEN: Thank you. I just think
3 it gives a little bit more flexibility to those 16 -- who
4 knows how many people you're going to have on the crew.
5 But just gives more flexibility to the crew. Might
6 provide a little bit more safety.

7 As you know, the Commission is not happy, at
8 least this Commissioner, and you can hear it from the
9 other two too. We're not happy with the Applicants and
10 how this process has proceeded. And in South Dakota
11 we're South Dakota nice to a certain extent. But in a
12 safety issue I just think it gives us more flexibility
13 there and provides safety to the people that have to go
14 up instead of being pushed by Crowned Ridge to complete
15 that.

16 So that's my amendment to the main motion.

17 CHAIRMAN HANSON: Commissioner Nelson.

18 COMMISSIONER NELSON: I'm going to support your
19 amendment. I was wrestling as to what the appropriate
20 date was. The company said they could do it by early
21 summer and so, hence, the August.

22 But here's the deal: If 16 of their turbines
23 are curtailed, you know, they're going to have an
24 incentive to get it done irregardless of what date we put
25 in here. So I'll certainly support you.

1 CHAIRMAN HANSON: Well, it doesn't matter
2 whether I support you or not.

3 COMMISSIONER FIEGEN: I know.

4 CHAIRMAN HANSON: So I can't can your motion in
5 order to can the deal. So no problem.

6 Any further discussion on the motion?

7 COMMISSIONER FIEGEN: That's my first Amendment.

8 CHAIRMAN HANSON: All those in favor of the
9 motion to amend signify by saying aye; those opposed,
10 nay.

11 Commissioner Nelson.

12 COMMISSIONER NELSON: Aye.

13 CHAIRMAN HANSON: Commissioner Fiegen.

14 COMMISSIONER FIEGEN: Fiegen votes aye.

15 CHAIRMAN HANSON: Hanson votes aye.

16 The motion carries.

17 Do you have another one?

18 COMMISSIONER FIEGEN: Oh, yeah. The second
19 amendment would be to delete .3, add .5, and go back to
20 the Staff's memo on the four turbines being curtailed
21 versus 16.

22 Are you going to let me speak? Don't let him
23 speak before me.

24 CHAIRMAN HANSON: If I said no, would -- go
25 ahead, please.

1 COMMISSIONER FIEGEN: You know, I wrestled with
2 this, and I wrestled with Commissioner Nelson. And I
3 may -- I know I may not win this amendment, and that's
4 why I decided to separate them just so I could speak on
5 it.

6 I do believe, when I look at it, the four
7 turbines that are curtailed are the proper ones. When I
8 hear Mr. Hessler I hear the .5 is accurate, according to
9 his belief and his model. So that's why I've made the
10 amendment, although I may not prevail.

11 CHAIRMAN HANSON: I agree with the original
12 motion as it was written.

13 Commissioner Nelson.

14 COMMISSIONER NELSON: Yeah. I don't think I can
15 add anything further than what I said in my initial
16 comments. I mean, .5's an average so that means there's
17 got to be times of the year that it's less than .5. And
18 when you've got snow in the wintertime that's coming down
19 and going 30 miles an hour sideways into hard packed
20 snowbanks, which is pretty typical in northeast
21 South Dakota, I've got to believe that it's something
22 less than .5. And .3 is what was postulated.

23 Thank you.

24 CHAIRMAN HANSON: And the 16 versus the --

25 COMMISSIONER NELSON: Yeah. The 16 came out of

1 the modeling that showed that's what needed to be
 2 curtailed in order to meet the sound thresholds when
 3 you're using a .3 attenuation.
 4 CHAIRMAN HANSON: Any further discussion on the
 5 motion?
 6 Hearing none, Commissioner Nelson.
 7 COMMISSIONER NELSON: Nay.
 8 CHAIRMAN HANSON: Commissioner Fiegen.
 9 COMMISSIONER FIEGEN: Commissioner Fiegen votes
 10 aye.
 11 CHAIRMAN HANSON: Hanson votes no. Motion
 12 failed.
 13 Do you have another one? That is das a salas
 14 [phonetic].
 15 Commissioner Nelson, did your motion include all
 16 of those I'll call them gives from the Applicant in their
 17 response of January 3? These items (indicating). They
 18 were part of the response on January 3.
 19 (Discussion off the record.)
 20 COMMISSIONER NELSON: My assumption would be
 21 that it would include those wherever they don't conflict
 22 with what the motion is that's been made. And certainly
 23 it's with the assumption they're going to use the new
 24 software that is further reducing it in the noise.
 25 CHAIRMAN HANSON: Great.

1 So is there any further discussion on the main
 2 motion as amended?
 3 Hearing none -- well, I've said what I want to
 4 say, but I really think at this juncture we need to -- we
 5 need to move forward without the waiver.
 6 Commissioner Nelson.
 7 COMMISSIONER NELSON: Aye.
 8 CHAIRMAN HANSON: Commissioner Fiegen.
 9 COMMISSIONER FIEGEN: Fiegen votes aye.
 10 CHAIRMAN HANSON: Hanson votes no. The motion
 11 carries. And that concludes the discussion on 19-003.
 12 (The proceeding is concluded at 12:03 p.m.)
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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 7th day of
 11 January, 2020, and that the attached is a true and
 12 correct transcription of the proceedings so taken.
 13 Dated at Onida, South Dakota this 20th 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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