



Gary Hanson, Chairman
Chris Nelson, Vice Chairman
Kristie Fiegen, Commissioner

South Dakota

PUBLIC UTILITIES COMMISSION

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January 2, 2020

Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

RE: EL19-003 In the Matter of the Application by Crowned Ridge Wind, LLC for a Permit of a Wind Energy Facility in Grant and Codington Counties

Ms. Van Gerpen,

On December 30, 2019, Intervenor Kristi Mogen filed with the Public Utilities Commission (Commission) six complaints and a number of accompanying attachments with the Commission regarding the above-captioned matter. The Complaints first came to Commission Staff's (Staff) attention on December 30, 2019, during the discussion of Crowned Ridge Wind, LLC's (CRW) December 13, 2019 Request for a Limited and Temporary Waiver of Condition 2 of the Permit (Waiver Request), requiring the use of low noise trailing edge attachments on each wind turbine. At this meeting, Intervenor Kristi Mogen and Amber Christenson (Intervenors) made a number of allegations regarding potential Permit violations and proceeded to file six complaints in the docket.

At the direction of the Commission, Staff is investigating the specific items identified by Commissioner Nelson that would impact the accuracy of the Applicant's support for the Waiver Request. Staff is finalizing this analysis and intends to file a memorandum explaining Staff's determination based on current evidence and provide a recommendation prior to the January 7, 2020, Commission Meeting.

The allegations made in the Complaints are concerning and should be investigated. However, all findings and recommendations made by Staff regarding permit compliance should be subject to rebuttal by both the Intervenors and Applicant and the parties should be afforded an evidentiary proceeding. Staff recommends the Complaints be treated as consumer complaints pursuant to Permit Condition 3 and ARSD Chapter 20:10:01, specifically ARSD 20:10:01:07.01 through 20:10:01:11.01, inclusive. Utilizing the consumer complaint process will give all parties adequate notice of the complaints and a fair opportunity to present information and be heard by the Commission. Staff believes such treatment is essential to ensure no violation of due process rights occur as a Permit violation could result in a civil penalty, a Permit suspension or a Permit revocation under SDCL 49-41B-33 and SDCL 49-41B-34. At this time, it appears to Staff that the alleged violations would more than likely fall in the civil penalty category than the Permit suspension and revocation categories.

Thank you for your time and attention to this matter. Please feel free to contact me should you have any questions or concerns.

Sincerely,

Amanda M. Reiss

Amanda Reiss
Staff Attorney
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