

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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| IN THE MATTER OF THE |) | |
| APPLICATION OF CROWNED |) | |
| RIDGE WIND, LLC FOR A |) | RESPONSE TO OPPOSITION |
| PERMIT OF A WIND ENERGY |) | |
| FACILITY IN GRANT |) | |
| AND CODINGTON COUNTIES |) | |
| | | EL-19-003 |

**RESPONSE
OF
CROWNED RIDGE WIND, LLC**

1. On June 29, 2020, Intervenor Amber Christenson filed an opposition to Crowned Ridge Wind, LLC’s (“Crowned Ridge”) decision to cease curtailments of 16 wind turbines as of June 30, 2020 after the installation of low noise trailing edge (“LNTE”) attachments on 23 wind turbines. According to Ms. Christenson, the curtailments should continue until LTNEs are installed on all wind turbines. Ms. Christenson’s opposition, however, is without merit and should be rejected.
2. On December 13, 2019, Crowned Ridge requested approval of a Limited and Temporary Waiver (“Waiver”), in which Crowned Ridge committed “it will curtail wind turbines 21, 29, 37, 44, 48, and 95 at wind speeds above 9 meters per second prior to the installation of LNTE on those wind turbine blades needed to ensure compliance with the sound requirements set forth the Final Order.” Waiver at 2. The Waiver identified the “wind turbines that require LNTE to ensure compliance with sound thresholds in the Final Order are 21, 29, 33, 37, 41, 44, 46, 48, 50, 61, 63, 64, 66, and 95.” *Id.* n.2.
3. On January 9, 2020, the Commission granted the Waiver subject to a condition that Crowned Ridge use a 0.3 ground attenuation factor to determine the number of wind

turbines to be curtailed, which the record showed increased the number from 9 to 16 wind turbines.¹ The Commission directed Crowned Ridge to use a 0.3 ground attenuation factor, because it desired the sound modelling to include an additional conservative assumption to account for the curtailments occurring in the Winter season, which includes hard-packed snow ground conditions. The Commission's conditions did not modify the foundational purpose of the Waiver, which was to curtail wind turbines until the requisite number of LNTEs were installed to provide the sound dampening needed to comply with the Commission's sound thresholds. As of June 30, 2020, Crowned Ridge had completed the installation of LNTEs on the 23 wind turbines needed to comply with the Commission's sound thresholds, and, therefore, ceased the curtailments of the 16 wind turbines. Further, it is now Summer, not Winter. Accordingly, there is no basis to continue the use a 0.3 ground attenuation factor as an additional conservative modeling assumption, particularly when the remaining LNTE attachments will be installed on or about September 1, 2020, well before the next Winter season.

4. Consistent with the Commission's conservative approach with regard to curtailments, the Commission ordered that a sound study be performed. That sound study was performed and demonstrated that Crowned Ridge was in compliance with the Commission's sound thresholds.² Crowned Ridge has also completed an additional sound modeling analysis, the results of which are set forth in Attachment A. Specifically, Attachment A, Table A-4 shows Crowned Ridge is currently in compliance with the Commission's sound thresholds using the 0.5 attenuation ground factor that was used during the proceeding as the basis for

¹ The following 16 wind turbines were curtailed: 20, 21, 29, 33, 37, 39, 46, 48, 50, 52, 62, 73, 75, 95, 109, and 114.

² The sound study was filed on May 15, 2020. Staff's review of the sound study was filed on May 28, 2020.

the Crowned Ridge sound modelling to ensure compliance with the Commission's sound thresholds.³

5. Therefore, Ms. Christenson's opposition is without merit, and, furthermore, if adopted, would serve as an unauthorized punitive financial penalty, as curtailments are no longer needed to comply with the Commission's sound thresholds. Contrary to Ms. Christenson's inferences, there is no language in the Commission's Order imposing a financial penalty because the LTNE attachments were not installed nor any finding of a violation. Pursuant to SDLC 49-41B-34, a civil penalty can only be imposed after a finding of a violation and the penalty for the violation is limited to \$10,000 per day. As explained, the Commission Order made no finding of a violation. Also, the curtailments in question result in a financial revenue loss far in excess of \$10,000 per day, and, thus, adoption of Ms. Christenson's interpretation of the Order would not only run contrary to the plain language of the Order that was not premised on a violation, it would impose a financial sanction far in excess of the statutory limit for such a penalty. Such an interpretation, therefore, should be rejected.
6. Accordingly, consistent with the Order granting of the Waiver, the Commission should reject Ms. Christenson's opposition, and find that Crowned Ridge has properly ceased the curtailments of the 16 wind turbines.

³ In Attachment A are two new sound modeling study results, and a total of four tables: A-1 through A-4. The study results are presented in the manner that is consistent with past filings. The study results in Table A-4 show that using the as-built Crowned Ridge wind project and a 0.5 ground attenuation factor with LNTes on 23 turbines Crowned Ridge is in compliance with the Commission's sound thresholds of 25 feet from a residence. For informational purposes, the results of sound at the boundary in Codington County and at the structure itself are shown in Tables A-2 and A-3. Crowned Ridge also provides, for informational purposes, results of sound modeling of the as-built Crowned Ridge wind project using a 0.3 ground attenuation factor with LNTes on 23 turbines, which indicates some receptors are above the Commission's sound thresholds (Tables A-2 through A-4).

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/s/ Miles Schumacher

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