

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

IN THE MATTER OF THE)	
APPLICATION OF CROWNED)	
RIDGE WIND, LLC FOR A)	OPPOSITION TO
PERMIT OF A WIND ENERGY)	INTERVENERS
FACILITY IN GRANT)	REQUEST TO POSTPONE
AND CODINGTON COUNTIES)	CONSIDERATION OF WAIVER

EL-19-003

**OPPOSITION
OF
CROWNED RIDGE WIND, LLC**

1. On December 16, 2019, Interveners filed a request to postpone Crowned Ridge Wind, LLC’s (“CRW”) request for a limited and temporary waiver (“Waiver”) pertaining to Condition No. 2 of the South Dakota Public Utilities Commission (“Commission”) Final Decision and Order Granting Permit to Construct Facility, issued July 26, 2019 in the above-captioned matter (“Final Order”), so that CRW may install the low noise trailing edge (“LNTE”) attachments on each wind turbine blade when weather conditions permit. Specifically, Interveners request that the Commission postpone the waiver request until the January 7, 2020 scheduled Commission meeting to provide Interveners time to review and comment on the waiver request.¹

¹ Interveners also assert that the CRW Emergency Action Plan submitted on December 12, 2019 must be approved by the Commission. Interveners are incorrect. Condition No. 26 of the Final Order only requires that it be filed and posted on the Commission’s website: “Upon completion of construction, a Project operation emergency response plan shall be provided to Commission staff to make available to the general public on the Commission’s website.”

Interveners also claim that the Commission’s December 13, 2019 agenda does not provide the required 10-day notice of a hearing for it to consider the Waiver on December 20, 2019. Interveners, however, have not pointed to any legal requirement that Commission consideration of the Waiver requires a hearing, as there is none. The Commission has the discretion to rule on such a request without a hearing on the matter, and, therefore, Commission the 10-day prior notice of a hearing is inapplicable to CRW’s Waiver.

2. CRW opposes Interveners request to postpone Commission consideration of the waiver request to the Commission's January 7, 2020. As shown in the Affidavits of Jay Haley and Joshua Tran, and the tables attached to the Waiver, CRW will operate the wind project to ensure it meets the Commission imposed sound thresholds set forth in Condition No. 26 of the Final Order. Therefore, Interveners are not prejudiced by the Commission's consideration of the Waiver on December 20, 2019, as the project will continue to operate in compliance with the Commission's sound thresholds. Further, Interveners claim they need more time to assess the impacts and technical issues associated with the Waiver is without merit. On the first, as shown in the record and in the tables to the Waiver, Interveners sound impacts below the sound thresholds for non-participants. On the technical issues, Interveners never presented a technical witness in the case, and have no known technical consultants on retainer or technical expertise themselves. Thus, Interveners claim that it needs time to review the technical aspects of the Waiver is merely a tactic to delay the commercial operations of the project, and, therefore, should be rejected.
3. Further, if CRW does not proceed to commercial operations on or before December 31, 2019, it will be subject to a \$75,000.00 a day penalty under the power purchase agreement with Northern States Power Company. Thus, Interveners request to postpone should not be granted, as it could jeopardize CRW's ability to achieve commercial operations, which would have a real and material financial impact on CRW.
4. In the event, however, the Commission grants Interveners' request, which it should not, CRW commits to not operate the 6 wind turbines that need to be curtailed to ensure compliance with the Commission imposed sound thresholds. CRW will only operate the

wind turbines with LNTE and wind turbines that need not be curtailed to ensure compliance with the Commission imposed sound thresholds.

5. Accordingly, for the reasons set forth herein, CRW opposes Intervener's request to postpone the consideration of the Waiver to the Commission's January 7, 2020 meeting. However, if the Commission grants Intervener's request, CRW commits it will only operate on or before December 31, 2019 those wind turbines with LNTE and wind turbines that need not be curtailed to ensure compliance with the Commission imposed sound thresholds.

December 17, 2019

/s/ Miles Schumacher

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