

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

IN THE MATTER OF THE)	
STAFF’S PETITION FOR)	
A SHOW CAUSE ORDER)	STIPULATED
REGARDING)	SETTLEMENT
CROWNED RIDGE WIND, LLC)	

EL-20-002

It is hereby stipulated and agreed by and between Crowned Ridge Wind, LLC (“Crowned Ridge”) and the Staff of the South Dakota Public Utilities Commission (“Staff”) (individually referred to herein as a “Party” and jointly the “Parties”) that the following Settlement Stipulation (“Stipulation”) should be adopted by the South Dakota Public Utilities Commission (“Commission”) in the above-captioned matter.

INTRODUCTION

On January 10, 2020, the Crowned Ridge Wind Project entered commercial operation. On January 9, 2020, Crowned Ridge filed an application with the Federal Aviation Administration (“FAA”) for the installation and operation of an aircraft detection lighting system (“ADLS”). On March 10, 2020, Crowned Ridge received FAA approval of the ADLS. While Crowned Ridge is working to install and operate the ADLS by May 20, 2020, it may take until June 30, 2020, to install, test, and fully operate the ADLS.

On January 13, 2020, Staff filed a Petition requesting the Commission issue an order for Crowned Ridge to show cause why it was not in violation of SDCL 49-41B-25.2 and Condition No. 2 of the Final Order issued in Docket No. EL19-003. On January 21, 2020, the Commission granted a joint request to give the Parties additional time to discuss a possible resolution of Staff’s concerns. On March 17, 2020, the Commission required Crowned Ridge to come forward and show cause as to why Crowned Ridge should not be found to be in violation of state law and Condition 2 of the Final Order. The open issues regarding the ADLS are hereinafter referred to as “the ADLS Issues.”

PURPOSE

This Stipulation has been prepared and executed by the Parties for the sole purpose of resolving the ADLS Issues in Docket No. EL20-002. In consideration of the mutual promises hereinafter set forth, the Parties agree as follows:

1. Upon execution of this Stipulation, the Parties shall file this Stipulation with the Commission together with a joint motion requesting that the Commission issue an order approving this Stipulation in its entirety without condition or modification.

2. This Stipulation includes all terms and conditions of the settlement and is submitted with the condition that, in the event the Commission imposes any material changes or conditions to this Stipulation which are unacceptable to either Party in its sole discretion, this Stipulation may, at the option of either Party, be withdrawn and shall not constitute any part of the record in this proceeding or any other proceeding nor be used for any other purpose.
3. This Stipulation shall become binding upon execution by the Parties and approval by the Commission, provided however, that if this Stipulation does not become effective in accordance with Paragraph 2 above, it shall be null and void. This Stipulation is intended to relate only to the specific matter referred to herein; no Party waives any claim or right, which it may otherwise have, with respect to any matter not expressly provided for herein. No Party or a representative thereof shall directly or indirectly refer to this Stipulation as precedent in any other current or future proceeding before the Commission.
4. The terms and conditions contained in this Stipulation shall inure to the benefit of and be binding upon the respective successors, affiliates, owners, stockholders, partners, parents, subsidiaries, directors, officers, agents, employees, representatives, attorneys, and assigns of the Parties. In addition, the terms and conditions of this Stipulation, including all facts leading up to the signing of this Stipulation, shall bind the Parties, including consultants, contractors, and retained professionals.
5. This Stipulation constitutes the entire agreement between the Parties regarding the ADLS Issues and shall be deemed to supersede any other understanding or agreement(s), whether written, oral, express, or implied, relating to the ADLS Issues. This Stipulation may not be amended, modified, or supplemented, and waivers or consents to departures from the terms and conditions of this Stipulation may not be given without the written consent thereto executed by all Parties.
6. Nothing in this Stipulation shall be considered as an admission of any wrongdoing, violation, omission, or fault on the part of either of the Parties with respect to the ADLS Issues.
7. This Stipulation shall be interpreted and construed in accordance with the laws of the State of South Dakota. Either Party raising a dispute under this Stipulation shall first provide the other Party with written notice of the dispute. If the Parties are unable to resolve the dispute within 30 calendar days or other period as the parties may agree upon by mutual agreement, the Party raising the dispute may file a letter with the Commission, and the Commission shall, after a hearing, issue an order resolving the dispute.
8. This Stipulation may be executed by electronic mail or facsimile and in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

TERMS AND CONDITIONS OF THE SETTLEMENT STIPULATION

- A. Crowned Ridge agrees to deposit into the permanent school fund a check for \$170,000 within 14 business days following the approval of the Stipulation by the Commission.
- B. If the ADLS is not operational at the Crowned Ridge Wind Project by May 20, 2020, Crowned Ridge further agrees to deposit a second check in the permanent school fund, the sum of which will be calculated by \$2,000 times the number of calendar days that have elapsed after May 20, 2020 until the ADLS is operational. The second check, if required, shall be deposited within 14 business days following the date the ADLS is operational.
- C. If the ADLS is not operational by June 30, 2020 and Crowned Ridge believes that the ADLS is not operational for reasons outside the control of Crowned Ridge, such as delays due to the coronavirus (COVID-19), Crowned Ridge shall file an affidavit with the Commission setting forth the reasons the ADLS is not operational. Crowned Ridge and Staff shall meet to discuss the reasons set forth in the affidavit within 10 business days following the Crowned Ridge filing. Within 10 business days after the meeting, Staff shall file a letter with the Commission stating: (1) whether it agrees or disagrees with Crowned Ridge that the delay beyond June 30, 2020 was outside of the control of Crowned Ridge, and, if Staff agrees, (2) the period of time that should be exempt from the \$2,000 per day calculation for the second check set forth in Paragraph B, above. Crowned Ridge shall have 10 business days to file a letter with the Commission agreeing with or disputing Staff's letter, in whole or part. After Crowned Ridge's letter is filed, Staff will schedule the matter for Commission decision at the next regularly scheduled Commission meeting.
- D. Crowned Ridge agrees to file monthly reports with the Commission, starting on May 1, 2020, setting forth the status of its construction, testing, and operation of the ADLS. The final report shall be filed on the first day of the month after the ADLS is operational.

Dated this 25 day of March 2020.

Crowned Ridge Wind, LLC

By: 

Its: Vice President

Public Utilities Commission Staff

By: /s/ Amanda M. Reiss 3/26/2020

Its: Staff Attorney