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## STAFF MEMORANDUM SUPPORTING SETTLEMENT STIPULATION

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**TO:** COMMISSIONERS AND ADVISORS

**FROM:** AMANDA REISS, JON THURBER, AND DARREN KEARNEY

**RE:** DOCKET EL25-029 – IN THE MATTER OF THE APPLICATION BY PHILIP WIND PARTNERS, LLC, FOR ENERGY FACILITY PERMITS OF A WIND ENERGY FACILITY AND A 230 KV TRANSMISSION FACILITY IN HAAKON COUNTY, SOUTH DAKOTA FOR THE PHILIP WIND PROJECT

**DATE:** FEBRUARY 10, 2026

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Commission Staff (Staff) submits this Memorandum in support of the Settlement Stipulation (Stipulation) in the above-captioned matter.

### **BACKGROUND**

On August 15, 2025, Philip Wind Partners, LLC (Philip Wind), filed an application for energy facility permits to construct The Philip Wind Project (Project), a wind energy facility, and a 230 kV Transmission facility, located on approximately 68,300 acres of land in Haakon County, South Dakota. The total installed capacity of the Project would not exceed 333 megawatts nameplate capacity. The proposed Project includes up to 87 wind turbines, a 34.5 kV electrical collection and supervisory control and data acquisition systems, a 230 kV collector substation, an approximately 5.5-mile long 230 kV generator transmission tie line, an operations and maintenance facility, up to three aircraft detection lighting system towers, access roads, and up to three meteorological towers. The Project will also include temporary construction areas, crane paths, public road improvements, three general construction laydown yards, staging areas, and a concrete batch plant, as needed. The Project will also be supported by a short (less than 1 mile) extension of an existing 230 kV line owned by Basin Electric Power Company that will be separately permitted. In addition, the Western Area Power Administration (WAPA) will construct the 230 kV Philip North Switchyard and two tie-ins to interconnect the Project into WAPA's existing Oahe to New Underwood 230 kV transmission line. The Project, at the time of filing this application, has not executed a purchase power agreement. Philip Wind estimates the total cost of the Project to be \$750 million.

On August 20, 2025, the Commission issued a Notice of Application; Order for and Notice of Public Input Meeting; Notice of Opportunity to Apply for Party Status. On August 21, 2025, the Commission electronically transmitted notice of the filing and the intervention deadline of October 14, 2025, to interested individuals and entities on the Commission's PUC Weekly Filing electronic listserv. On October 2, 2025, the Commission held a public input meeting for the Project in Philip,

South Dakota. No applications for Party Status were received by the Commission. On December 4, 2025, the Commission issued an Order Establishing Procedural Schedule and Consolidating Dockets for Evidentiary Hearing.

On January 30, 2026, Staff and Philip Wind filed a Settlement Stipulation along with a Joint Motion for Approval of Settlement Stipulation.

### **STAFF'S ANALYSIS AND SETTLEMENT RESOLUTIONS**

Staff reviewed the contents of the Application as it relates to the Energy Facility Siting statutes, SDCL Chapter 49-41B, and Energy Facility Siting Rules, ARSD Chapter 20:10:22. Staff then identified information required by statute or rule that was either missing from the Application or unclear within the Application and requested Philip Wind to provide or clarify that information. Staff also reviewed and considered the comments made at the public input meeting and those submitted in writing to the Commission.

Staff consulted with multiple State Agencies to assist Staff with our review. Game, Fish, and Parks reviewed the potential impacts to wildlife and associated habitats. The State Historic Preservation Office reviewed the project to ensure historic properties are taken into consideration. The Department of Agriculture & Natural Resources consulted with Staff regarding the concern that wind turbine blades are shedding microplastics and bisphenol A ("BPA"). These agencies were familiar with the Project due to the federal Environmental Assessment that was prepared for the Project and the associated Finding of No Significant Impact by WAPA.

For approval, Philip Wind must show that:

- (1) The facility will comply with all applicable laws and rules;
- (2) The facility will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area;
- (3) The facility will not substantially impair the health, safety or welfare of the inhabitants; and
- (4) The facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of governing bodies of affected local units of government.

Philip Wind and Staff (jointly the Parties) positions were discussed thoroughly at several settlement discussions. As a result, some Party positions were modified and others were accepted where consensus was found. The Parties have resolved all issues subject to this proceeding. Ultimately, the Parties agreed to 55 conditions on the construction, operation, or maintenance of the facility.

The Parties used the permit conditions from the Deuel Harvest Wind Energy South, LLC, permit, another project owned by an affiliate of Invenergy LLC, as a starting point. Then the Parties modified the conditions based on the specific facts and evidence associated with this docket. In the following sections, Staff provides a summary of the Project's non-participant impacts and conditions unique to this Project. Further, Staff will be available to discuss all stipulated permit conditions at the February 12 commission meeting.

## PROJECT NON-PARTICIPANT IMPACTS

For this Project, only three non-participating residences are within ¼ of a mile from a proposed turbine location. The table below provides the sound and shadow flicker information, depending on the turbine model selected, as provided in the Application for each of the three residences:

Receptor	Nearest Turbine	Distance to Nearest Turbine (ft)	Predicted Shadow Flicker (Hours per Year)	Predicted Noise Level (dBA)
R-005	35	3,340	16:39 – 18:17	44-45
R-007	34	3,254	26:23 – 28:43	43-44
R-022	4	3,363	11:19 – 13:46	40-41

Two non-participating residences, R-005 and R-007, were expected to receive sound and/or shadow flicker impacts near the limits previously established for other wind projects. The Commission received a comment in opposition to the Project from Mr. Heath Morrison, owner of residence R-007. In response to Staff data request 2-4, Philip Wind also indicated that they received a recommendation from Haakon County to implement measures to minimize the impacts to the Morrison residence. Depending on the turbine model selected, there may be between 4 and 35 alternate turbine locations in the Project layout filed with the Commission. With this flexibility, Staff explored the possibility of eliminating turbine locations near these residences or treating turbine locations near these residences as alternates to reduce Project impacts.

Residence R-005 has six turbines within 1.25 miles of the residence, and residence R-007 has six turbines within 1.5 miles of the residence. The table below provides the distance in feet each proposed turbine location is from residences R-005 and R-007:

	Distance (ft)					
	Turbine 20	Turbine 26	Turbine 34	Turbine 35	Turbine 36	Turbine 104
R-005	5,760	5,884	3,494	3,340	4,397	6,063
R-007	6,695	4,417	3,254	5,443	7,364	4,874

If turbine locations 34 and 35 were not used, the closest turbine from residences R-005 and R-007 would be 4,397 ft. and 4,417 ft., respectively. In addition, the predicted sound and shadow flicker impacts would be reduced as shown below:

Receptor	Predicted Noise Level as Filed (dBA)	Predicted Noise Level without Turbines 34 & 35 (dBA)	Predicted Shadow Flicker as Filed (Hours per Year)	Predicted Shadow Flicker without Turbines 34 & 35 (Hours per Year)
R-005	44-45	41-42	16:39 – 18:17	7:29 – 8:20
R-007	43-44	41-42	26:23 – 28:43	12:16 – 13:40

To further minimize the impacts to receptors R-005 and R-007, the Applicant agreed to eliminate Turbine 34 from the layout, and treat Turbine 35 as an alternate, as reflected in Condition 54 below:

Applicant shall not construct a turbine on Site No. 34. If the Applicant decides to construct a turbine on Site No. 35, Applicant shall file an affidavit with the Commission setting forth why alternative sites cannot be used and the use of Site No. 35 shall be considered a material change, following the process for review of a material change as outlined in Paragraphs 23 and 24.

If a material change filing is made to construct a turbine at Site No. 35, Staff will not support using Site No. 35 as a buildable location unless Philip Wind exhausts all other available options.

### **AIRCRAFT DETECTION LIGHTING SYSTEM (ADLS)**

Wind projects constructed in 2017 and later are required to have an ADLS by either permit and/or law. Over the past few years, Staff has been made aware from residents near wind energy facilities that ADLS systems are not meeting the expectations of the community.. The surrounding community expects that the turbine lights should be off during much of the night, unless aircraft is in the area. Most often, Staff hears from residents that the red lights are blinking around the clock. Based on Staff's experience with the ADLS show cause proceeding involving Crowned Ridge Wind, LLC, troubleshooting an ADLS can take time after installation, the radar system can be triggered by false positive events, and there may be legitimate reasons why the warning lights are activated to maintain a safe airspace. To increase the transparency of the ADLS operations moving forward, Staff proposed, and Applicant agreed to, a condition implementing a reporting requirement so that all stakeholders can track the status and effectiveness of the system, as reflected in Condition 39:

Applicant shall utilize an Aircraft Detection Lighting System (ADLS), if approved by the Federal Aviation Administration and the Federal Communications Commission. Applicant shall take all reasonable steps to ensure the ADLS is operational prior to commercial operation. *Applicant shall file quarterly reports on ADLS operations for the first two years of Project operation. The report shall include: 1) identification of ADLS outages that occurred during the quarter, the cause of the outage, and repair time or timeline, and 2) a daily log of ADLS activity for the quarter that includes sunset time, sunrise time, total night hours, lights "on" hours, lights "on" percent of total night hours, hours lights "on" due to aircraft detected, lights "on" hours due to ADLS system check, and time ADLS system check occurred.*

Staff recommends the Commission adopt this reporting requirement as a Condition to the Permit.

### **TRANSMISSION LINE ROUTE UPDATE**

Philip Wind filed their proposed transmission line route in the Project Layout Mapbook in Figure A-2. Commission Staff inquired about the routing process through discovery as the route appears to

cut across landowner properties rather than following property boundaries. In response to Staff data request 1-21, Philip Wind stated that they received a landowner request to move the route to the property boundary since the Application was filed. As a result, Philip Wind developed a revised transmission line route that follows section lines and the edges of actively cultivated farm fields, affects fewer landowners, and shortens the overall distance by approximately  $\frac{1}{2}$  mile. The Applicant provided the revised route to Staff on January 16, 2026, as a supplement to data request 2-7, and filed it with the Commission on February 9, 2026. Staff supports the modified route.

### **RECOMMENDATION**

Staff recommends the Commission grant the Joint Motion for Approval of Settlement Stipulation and adopt the Stipulation without modification.