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IN THE MATTER OF THE APPLICATION
OF CROWNED RIDGE ENERGY STORAGE
I, LLC FOR A PERMIT FOR AN ENERGY
CONVERSION FACILITY,

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I. STANDARD OF REVIEW

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whole or in part to promote certain interests, as well as “any interested person.” SDCL § 49-41B-17 (effective through June 30, 2019). The current statute is more restrictive—it omits the reference to nonprofit organizations and now requires that a person have a *direct* interest. Although the statute does not further define a direct interest, the Commission’s regulations provide for intervention by a person who “will be bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner and distinguished from an interest common to the public or to the taxpayers in general.” ARSD 20:10:01:15.05. Thus, the statute allows intervention by (1) persons who reside in the siting area, or (2) directly interested persons. Because the statute is stated disjunctively by using *or*, directly interested persons by definition are separate from residents of the siting area.

Commission Staff previously advocated in Docket HP 24-001 that under SDCL § 49-41B-17, a person who resides within two miles of the proposed facility presumptively has a direct interest sufficient to intervene. Commission Staff takes the same position in this docket without discussing persons who reside in the siting area. Under SDCL 49-41B-5.1, CRES provided notice of the application to four landowners within one-half mile of the siting area. Of those landowners, only the Lindgrens sought party status, which was previously granted. Nothing in statute or regulation would support an argument that the siting area extends more than two miles from the proposed battery energy storage system. Additionally, persons who reside more than two miles from the proposed facility site are not likely to have an interest in the outcome of the docket that is, in the words of ARSD 20:10:01:15.05, peculiar to them as distinguished from an interest common to the public. Thus, a two-mile limit is appropriate for evaluating party status.

II. RESPONSES TO APPLICATIONS FOR PARTY STATUS

As applied to the individual applications for party status, there is one applicant who resides within two miles of the proposed facility other than the Lindgrens, namely Bob Welder, who resides one mile from the proposed site. CRES does not object to Mr. Welder being granted party status.

The other two landowners mentioned by Staff are Paul Johnson and Bridget Johnson, whose applications state that they own land within three miles of the proposed facility, but Staff states that the Johnsons' land is only 1.88 miles from the proposed facility. Regardless, the Johnsons live in Watertown, approximately 20 miles away, and not within the area where the project is sited. Neither application discloses what use the Johnsons make of the land they own closer to the facility. Accepting Staff's determination that the land is 1.88 miles from the proposed facility, not three miles, the Johnsons' applications nevertheless do not establish that their land ownership within two miles creates a peculiar interest as distinguished from an interest common to the public that may be affected by the project. Rather, the applications both state generally that the Johnsons want to maintain the natural environment for future generations and that there are too many wind farms now. Neither states a concern peculiar to the Johnsons' land. The stated concerns are common to the public and not peculiar to the Johnsons as non-resident landowners. The Johnsons' applications therefore fail to meet the statutory standard requiring a direct interest. Therefore, CRES opposes granting the Johnsons' applications for party status.

The remaining 23 individual applications are outside the presumptive two-mile limit and, as such, the applicants neither reside within the project siting area nor are directly interested. The applications also state general concerns, like fire, EMS training, or unspecified environmental hazards. One states: "I am against the project as a whole." These general

statements are not detailed enough to allow the Commission to find a peculiar interest not common to the public. CRES similarly opposes these individuals' applications for party status.

Two of these 23 applications mention sound. However, both are outside the presumptive two-mile limit for a direct interest, and nothing in the application provides a basis for the Commission to conclude that the proposed facility could result in sound impacts on landowners residing more than two miles from the facility. Specifically, Emily Mack resides 2.3 miles from the proposed facility and Diane Redlin lives 4.5 miles away. Thus, Ms. Mack and Ms. Redlin live outside the presumptive two-mile limit and have failed to show an interest that is peculiar to them and not common to the public. CRES opposes Ms. Mack and Ms. Redlin's applications for party status.

Finally, East River, SDREA, and Basin Electric are persons under SDCL § 49-41B-2(11), which defines *person* to include limited liability companies, cooperatives, public service companies, and "any other public or private entity, however organized." As persons, they must be directly interested, meaning that their interest is peculiar to them and not common to the public. Basin Electric states that it has a direct interest based on its contractual and financial relationships with its Class A Members that will be affected by the Commission's decision. This asserted interest is peculiar and not common to the public. The same is true for SDREA, which claims a direct interest based on the precedential effect of decisions in this docket affecting its members, including whether a battery storage system is considered a generator or a load. While SDREA is acting on behalf of its member cooperatives, that is its purpose and its interest is peculiar and not common to the public. In other words, the fact that an entity acts on behalf of its members does not preclude it from having a direct interest in the docket. East River states that it purchases power from Basin Electric and sells it wholesale to Codington Clark Electric

Cooperative; “[t]he proposed project is in the service territory of [Codington Clark] and would affect East River’s pecuniary interests.” Again, this asserted interest is peculiar and not common to the public. Given Basin Electric’s representation that it will work cooperatively with East River and Codington Clark to avoid duplication and promote efficiency in handling the docket, granting them party status should not cause undue delay and their applications do not appear to be intended for that purpose.

III. CONCLUSION

In sum, CRES does not oppose the applications of Bob Welder, East River, Basin Electric, and SDREA. CRES opposes the other applications because they have insufficiently shown a direct interest in this proceeding that is peculiar and not common to the public as required by SDCL § 49-41B-7.

Dated this 23rd day of July, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of July, 2026, a true and correct copy of the foregoing Applicant's Response to Party Status Application was served via e-mail upon the following:

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