

Senate Assessment and Taxation

Testimony in Opposition to SB 257

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Good morning Mr. Chairman and committee members. I appreciate the opportunity to express NextEra Energy Resources' (NEER) opposition to limiting the lifetime property tax exemption to ten years and especially the retroactive nature of this amendment.

As the bill is written, the property tax would be instituted in arrears on the first wind farm built in Kansas, our Gray County farm which began operation in 2001. "Ten taxable years immediately following the taxable year in which the property is first used to produce and generate electricity" would indicate that NEER would be required to pay property taxes starting in tax year 2012. Is this the intention?

Power Purchase Agreements (PPA)'s entered into between utilities and wind companies and approved by the Kansas Corporation Commission, are written for twenty years or more. Instituting a property tax at this point impacts these contractual agreements, some of which have been in place for over a decade. These contracts set the price for the power for the length of the contract. Adding property taxes in the midst of a long-term contract is very troublesome.

It is also important to note that the wind industry is unique in paying Payment in Lieu of Taxes (PILOT). No other energy sector businesses provide PILOT's to their local governments. NEER has invested hundreds of millions of dollars in this state based on a promise of abated taxes and payment of a PILOT. Not only does this bill backtrack on that promise, but it would also make us pay taxes retroactively with no credit given for the PILOTs we have been paying for over a decade.

This type of retroactive change is not good business and certainly doesn't present the kind of certainty that businesses thrive on. Simply put, we relied on your commitment to a lifetime property tax exemption to invest and build a business that has proven to be good for the state of Kansas as well as NEER and now you want to back out of your commitment.

Should the committee choose to proceed down the path of altering the current property tax exemption on renewable energy, we request that at a minimum, you remove the retroactive language of this bill and grandfather projects currently in development or with a PPA. Additionally, we ask that you consider an amendment to 79-5a01(b) to add renewable energy entities to the list of entities not defined as a public utility. This would provide for consistency in Kansas statutes. Thank you for your consideration.