February 8, 2023
Senate Bill 68
Disposition: Opponent
ORAL In-Person Testimony

Testimony of Matt Pawlowski
Executive Director of NextEra Energy Resources, LLC

Regarding Senate Bill No. 68

Before the Kansas Senate Utilities Committee

Chairman Olson and Committee Members,

Thank you for allowing me to appear before you today to discuss Senate Bill No. 68. My name is Matt Pawlowski and I am Executive Director of NextEra Energy Resources LLC, a subsidiary of NextEra Energy, Inc. NextEra Energy Inc is a parent company of NextEra Energy Transmission LLC ("NEET"). NEET is the parent company of NextEra Energy Transmission Southwest LLC ("NEET Southwest"), a certified public utility in Kansas that is developing the Wolf Creek to Blackberry Transmission Project ("WCB Project") in Coffey, Anderson, Allen, Bourbon, and Crawford Counties.

Senate Bill 68 proposes to introduce a right-of-first-refusal ("ROFR") for incumbent utilities that would extinguish competition and prohibit companies like NEET from participating in future electric transmission projects in Kansas. I am here to testify regarding the benefits of competition, which are exemplified by the competitive bidding process utilized to assign the WCB Project to NEET.

1. NextEra's 22 Year History in Kansas

NEET is a subsidiary of NextEra Energy, Inc. ("NextEra Energy"), which has been doing business in Kansas for over 22 years.

NextEra Energy's presence in Kansas began with renewable energy projects developed by NextEra Energy's subsidiary (and NEET's affiliate), NextEra Energy Resources ("NEER"). NEER is the largest generator of wind and solar energy in the world. NEER has ten operating wind farms in Kansas, the first of which went into operation in 2001. These projects have a combined capacity of about 1,700 MW and represent $2 billion of capital investment in the State. NEER provides $9.3 million in annual lease payments to Kansas landowners and $5.9 million in annual Kansas property taxes.

NEET was formed by NextEra Energy in 2007 to apply NextEra Energy's experience and resources in developing, owning, and operating transmission facilities to projects across the U.S. and Canada. NEET serves as a holding company for NextEra Energy's regulated transmission

utilities outside the state of Florida and is the immediate parent company of NEET Southwest. NEET, through its subsidiary GridLiance High Plains LLC, jointly owns operating transmission assets in Winfield, Kansas with the City of Winfield.

NEET Southwest is currently developing the WCB Project, an approximately 92-mile, single-circuit 345 kV transmission line between the existing Wolf Creek Substation, owned by Evergy Kansas Central, Inc. in Coffey County, Kansas, to the existing Blackberry Substation, owned by Associated Electric Cooperative, Inc. in Jasper County, Missouri. The WCB Project was awarded to NEET Southwest by the Southwest Power Pool ("SPP") through a robust competitive bidding process. The Kansas Corporation Commission also reviewed and approved the WCB Project after giving careful consideration to the state-specific benefits of the Project and the qualifications of NEET Southwest to construct and operate the Project.

2. The Need for Transmission

Electric transmission provides market efficiency, grid reliability, and energy resiliency. The WCB Project is a good example of the benefits of electric transmission buildout. SPP identified the WCB Project as needed to address historic and projected congestion in southeast Kansas, which have resulted in market inefficiencies and reliability issues.[1] Specifically, SPP identified the following congestion issues experienced in this area: "The area has been the site of historic and projected congestion on the [extra-high voltage ("EHV")] system and has had unresolved transmission limits identified in multiple studies."[2] SPP explained that the WCB Project "resolves declining transient stability margins at the Wolf Creek nuclear plant by adding a fourth 345 kV outlet that is expected to increase system resiliency and reduce system operation risks."[3]

The issues that resulted in SPP's recommendation to construct the WCB Project are not unique to southeast Kansas. In fact, multiple studies show that, over the next three decades, transmission capacity in the United States must increase three to five times more than our current transmission capacity to maintain acceptable levels of market efficiency, reliability and resiliency[4]. To reduce the economic impact of such transmission expansion, it is critical that the transmission be built efficiently and economically. In organized markets such as SPP, one the best ways to accomplish this is through competition.

3. The Need and Benefits of Competition

The strength of NEET has been built through the crucible of competition. NEET leverages its operational excellence, vast project management experience, innovation, and economic efficiency

[1] SPP 2019 Integrated Transmission Planning Assessment Report, § 4.1.1, available at https://www.spp.org/documents/60937/2019%20itp%20report_v1.0.pdf

[2] *Id*.

[3] *Id*. at ,§ 7.1.1.

[4] Eric Larson *et al., Net-Zero America: Potential Pathways, Infrastructure, and Impacts,* PRINCETON UNIV. 108 (October 29, 2021), https://netzeroamerica.princeton.edu/the-report

to win competitively-bid projects, which benefit the communities and regions in which those projects are built.

Senate Bill 68 would all but eliminate competitive transmission development and thereby deprive consumers of the cost containment, innovation, and schedule guarantees that competition provides. NEET joined the U.S. Department of Justice ("DOJ") and Federal Trade Commission ("FTC") as well as many state utility commissions, consumer groups and other commenters focused on protecting consumers in the FERC Notice of Proposed Rulemaking to oppose the implementation of a Federal ROFR, a proposal similar to the ROFR proposed in Senate Bill 68. As the DOJ and FTC pointed out in their comments, "With a ROFR, consumers will lose the many benefits that competition can bring, including lower rates, improved service, and increased innovation, leading to a more efficient, reliable, resilient grid". [5]

In the absence of competition—as would be the case if Senate Bill 68 is enacted—all transmission projects would be directly assigned to incumbent utilities and the benefits that competition in organized markets has introduced, such as schedule guarantees, innovative technological solutions, and cost caps, would likely not exist. Schedule guarantees and cost caps have become ubiquitous in competitive bids, shifting risk from consumers to developers. Directly assigned transmission projects are not subject to cost caps or schedule guarantees, meaning that the developers can pass their cost overruns through to consumers, subject only to prudence challenges, which are rare and difficult to win.

NEET Southwest's winning bid for the WCB Project features:

- An in-service date that is one year earlier than the in-service date required by SPP's Request for Proposals, subject to penalties for each month of delay
- An overall project cost that is 40% less than SPP's cost estimate for the Project.
- Robust cost containment guarantees that shift cost overrun risks from consumers to transmission companies.[6]

The cost savings obtained through SPP's competitive bid process for the WCB Project are in line with national data on competitive bidding for electric transmission line projects. In a

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[5] *See, e.g.,* Comments of the New Jersey Board of Public Utilities at 29, Docket No. RM21-17-000 (filed Aug. 17, 2022) (the "NJBPU Comments"); Initial Comments of the California Public Utilities Commission at 2-3, Docket No. RM21-17-000 (filed Aug. 17, 2022) (the "CPUC Comments"); Initial Comments of the New York State Public Service Commission and New York State Energy Research and Development Authority at 16, Docket No. RM21-17-000 (filed Aug. 17, 2022) (the "NYPSC/NYSERDA Comments"); Initial Comments of the National Association of State Utility Consumer Advocates at 8, Docket No. RM21-17-000 (filed Aug. 17, 2022); Initial Comments of the Clean Energy Buyers Association at 5, Docket No. RM21-17-000 (filed Aug. 17, 2022).

[6] NextEra Energy. "NOPR Reply Comments." FERC Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection. Docket No. RM21-17-000.

national study, leading economists at the Brattle Group found that cost savings from the competitive process for electric transmission lines range from 15 to 67%[7]. Competition has driven developers to offer cost caps, becoming a standard in competitive solicitations. To illustrate, all winning bids in the last 6 solicitations have offered some form of cost cap.[8] Competition does not only bring cost benefits, but also accelerates transmission development where developers compete on the basis of in-service date guarantees.[9]

4. Conclusion

I urge the Committee Members to vote against Senate Bill 68 so that Kansas can continue to enjoy the benefits of a pro-business environment where competition for qualifying high voltage electric transmission lines delivers real savings to the residents of Kansas.

[7] Cost Savings Offered by Competition in Electric Transmission, p. 1, Brattle Group (April 2019) *available at* https://www.brattle.com/wp-content/uploads/2021/05/16726_cost_savings_offered_by_competition_in_electric_transmission.pdf

[8] NextEra Energy. "NOPR Reply Comments." FERC Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection. Docket No. RM21-17-000.

[9] John Morris. "Reply Affidavit." FERC Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection. Docket No. RM21-17-000. NextEra Energy Comments.