

House Committee on Taxation

Testimony in Opposition to HB 2396

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Mr. Chairman and committee members: Thank you for the opportunity to express NextEra Energy Resources' (NEER) opposition to limiting the lifetime property tax exemption for renewable energy to ten years. NEER built the first wind farm in Kansas which has been operational since 2001. All three of our wind farms are located in Gray County.

NextEra Energy has several billion dollars to invest this year in development across the country. Over the past five years, NEER investments in energy in the U.S. have been so significant that this Fortune 100 company is a top ten investor across all sectors. This is private money used to grow jobs in Kansas and other states. Finding the best environment in which to invest is critical to NEER as it would be for any company.

The current property tax exemption was instituted in the late 1990's. The wind industry has grown up in Kansas enjoying this exemption. Wind developers have gone the extra step and are unique in making Payment in Lieu of Taxes (PILOT) payments. No other energy sector businesses pay PILOT donation payments to the local governments. When a property tax is instituted on renewable energy resources, the PILOT payments to the counties will cease to exist per the contractual agreements with the host counties.

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. The contract was constructed based on the tax policy at the time of the writing. Changing it after the fact is a disincentive for future growth of this industry because the wind developers will not be able to recover the cost of the additional taxes. These taxes cannot be passed onto ratepayers or to the wholesale buyers of the generated electricity.

Therefore, the timing of implementation of a property tax on renewable resources is very critical. Should the committee choose to proceed down this path, we request that at a minimum, you would grandfather projects currently in development or with a PPA by changing the date of December 31, 2014 to December 31, 2016 (p. 5, line 10). 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.

This proposed property tax change is not good business and certainly doesn't present the kind of certainty that helps businesses thrive. 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. Typically the Legislature creates positive tax policy to encourage the growth of an industry rather than tax policy that discourages capital investment and job growth.