



January 27, 2022

RE: **Written Testimony on SB 325**

Dear Chairwoman McGinn and Members of the Committee,

EDP Renewables North America (EDPR NA) appreciates the opportunity to provide testimony to the Senate Committee on Local Government regarding SB 325. EDPR NA stands respectfully in opposition of this bill.

EDPR NA, its affiliates, and its subsidiaries develop, construct, own, and operate wind farms and solar parks throughout North America. Headquartered in Houston, Texas, with 58 wind farms, 9 solar parks, and 7 regional offices across North America, EDPR NA has developed more than 8,800 megawatts (MW) and operates more than 8,200 MW of onshore utility-scale renewable energy projects. EDPR NA has more than 950 employees, including a substantial number in Kansas.

EDPR NA owns and operates the 201 MW Meridian Way Wind Farm in Cloud County (selling the electricity to both Evergy and Empire District/Liberty Utilities through power purchase agreements), the 199 MW Waverly Wind Farm in Coffey County (selling the electricity to Evergy through a power purchase agreement), and the 199 MW Prairie Queen Wind Farm in Allen County (selling the electricity to Evergy through a power purchase agreement). EDPR NA has other projects in development throughout the state, including potential expansions of existing wind farms.

EDPR NA's capital investment in Kansas is over \$1 billion. Kansas county governments have received over \$5 million in cumulative payments from EDPR NA; landowners in EDPR NA wind farms in Kansas have been paid more than \$15 million. Over 800 construction jobs and over 70 permanent jobs have been supported and created, respectively, by EDPR NA wind farms in Kansas.

EDPR NA maintains its Kansas development pipeline from our Overland Park Regional Office. EDPR values its presence in Kansas and its relationships with landowners, community leaders, state officials, and power customers, and we look forward to maintaining a strong presence in the state.

SB 325 would effectively kill a job-creating industry in Kansas that has invested billions in rural parts of the state. The provisions of the bill absurdly encroach upon the core premise of home rule and the rights of county and local governments and communities to dictate land use requirements. The language ignores the reality that many counties in Kansas are unzoned and do not possess formal permitting processes. In counties where zoning and permitting procedures exist, conditional and special use permit processes allow for the continued use of most of the involved real property for purposes of agriculture (in the case of wind energy, where, on average, less than two percent of the surface of the property is occupied by wind farm infrastructure); a required rezoning to industrial would compromise this routine practice. Further, the bill establishes an unconscionable process for the challenge of a rezoning that otherwise would have been duly approved by the regulatory body at the local level; the mere fact that the Legislature would consider this in the context of any economic development should generate grave concern within the investment community – and those concerns would not be limited to renewable energy.

In addition, SB 325, as drafted, creates discriminatory provisions with respect to the recording of land-related instruments for wind and solar resources that do not apply to other forms of real estate related transactions, including oil and gas leases. In practice, it is impossible for a third party to apply for a building or conditional use permit unless that third party has a



contractual right to do so – evidenced by the recorded land-related instrument granting that authority, which this language effectively prohibits, resulting in an impossible scenario.

Renewable energy developers require sufficient time to perform studies, market projects and electricity, and conduct routine due diligence. Certain aspects of the development process (including timelines for interconnection study processes) are largely out of the control of the developer. Developers communicate these realities with landowners, and the agreements negotiated, executed, and understood by the developer and the landowner contemplate these realities. Legislative interference in this process is wholly unnecessary.

EDPR NA, along with the rest of the renewable energy industry, has willingly and graciously worked with the Kansas Legislature and the Governor's Office for the better part of 20 years to inform legislators and the governor, address concerns of legislators and constituents, enable responsible and effective policy, and better the lives and opportunities of Kansans across the state. We gladly will continue to work with legislators and the governor to address concerns and improve processes wherever possible; however, no business can handle or thrive in an environment where legislation of a crippling nature is actively entertained by legislators from session to session, with no logical reason, and no opportunity to provide input during a fact-finding process.

The benefits rural communities have realized because of renewable energy development across the state are readily apparent. SB 325 would undermine the business-friendly stability that a pro-development state like Kansas promotes, and it sends a warning signal to potential investors that the state might arbitrarily and unjustifiably alter regulatory and permitting regimes every legislative session. For these reasons, EDPR respectfully opposes SB 325.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rorik F. Peterson".

Rorik F. Peterson, Director of Development
EDP Renewables North America