

Casey A. Furey
100 West Broadway, Suite 250
P.O. Box 2798
Bismarck, ND 58502-2798
701.223.6585
cfurey@crowleyfleck.com

December 22, 2017

Via Hand Delivery

Mr. Darrell Nitschke
Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

**RE: Wind Decommissioning Plan
Case No. PU-10-101
Our File No. 035218-000023**

Dear Mr. Nitschke:

Enclosed for filing in the above-referenced case is a revised decommissioning plan with attached cost estimate and proposed financial assurance.

Please call should you have any questions.

Sincerely,

CROWLEY FLECK PLLP



Casey A. Furey

CAF:bw
Enc.

FPL ENERGY OLIVER WIND I, LLC

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**FPL Energy Oliver Wind I, LLC
Oliver Wind I Energy Center – Oliver**

Case No. PU-10-101

DECOMMISSIONING PLAN

Pursuant to N.D. Admin. Code ch. 69-09-09, FPL Energy Oliver Wind I, LLC provides this decommissioning plan for the 50.6 MW Oliver Wind I Energy Center in Oliver County, North Dakota (“Oliver Wind I”).

Oliver Wind I is comprised of 22 Siemens 2.3 MW wind turbine generators, which became operational in December 2006. This decommissioning plan is filed pursuant to the Commission’s rulemaking in PU-17-023, and is filed to update the existing decommissioning plan (Docket No. 1) in the above-referenced matter. The decommissioning plan is premised on the proper treatment of the asset retirement obligation, pursuant to generally accepted accounting principles or “GAAP,” associated with Oliver Wind I.

N.D. Admin. Code § 69-09-09-01(6)(a) - Anticipated Facility Life.

Oliver Wind I turbines have an anticipated useful life of at least thirty-five (35) years. Upgrades based on new technology may allow the wind facility to produce efficiently and successfully well beyond this period of time. Within twelve (12) months after the facility or turbine reaches the end of its useful life,¹ decommissioning shall begin and will be completed within twenty-four (24) months after the facility or turbine reaches the end of its useful life.

N.D. Admin. Code § 69-09-09-01(6)(b) - Decommissioning Cost Estimate.

In accordance with GAAP, FPL Energy Oliver Wind I, LLC will assess, maintain, and recognize its asset retirement obligation, which includes decommissioning and restoration. The asset retirement obligation does not assume the recoupment of the salvage value associated with Oliver Wind I’s components. The total cost of decommissioning and restoration at the end of the asset’s life is estimated to be approximately \$2,970,00.00. The per turbine cost for decommissioning and restoration is approximately \$135,000.00. Pursuant to N.D. Admin. Code. § 69-09-09-06, the decommissioning cost estimate has been prepared by a licensed North Dakota professional engineer. Further details are provided in Exhibit A attached hereto and incorporated by reference.

¹ Under N.D. Admin. Code § 69-09-09-03, there is a presumption that a facility is at the end of its useful life “if its annual capacity factor is less than ten percent for two consecutive years.” This presumption may be rebutted by providing to the Commission for approval a plan for returning the facility or turbine to service.

N.D. Admin. Code § 69-09-09-01(6)(c) - Decommissioning Cost Estimate Method.

See attached Exhibit A.

N.D. Admin. Code § 69-09-09-01(6)(d) - Decommissioning Activities.

Decommissioning of turbines and towers includes dismantling of turbine components and transporting offsite. The costs and activities for the removal of the tower and wind turbine components, the meteorological tower, access roads, and the collection system have been evaluated, as follows:

Tower and Wind Turbine Components. The turbines are Siemens 2.3 MW (22 turbines) on steel towers. Activities have been estimated for dismantling the turbines, the tower sections and wind turbine blades. Removal of the tower wiring and transformer is also included. All components would be removed from the property.

Tower and Transformer Foundations. Tower and transformer foundations, conduits and connections will be removed to a depth of three (3) feet below existing grade. The foundation sites will be graded to match surrounding contours and be restored to conditions that will support surrounding vegetation.

Tower Access Roads. Aggregate base roads will be scarified, loaded, and removed from site to an appropriate location. Remaining subgrade will be decompacted and graded into the adjacent soils to the approximate original topography. This area will be covered with topsoil from the site and vegetation re-established.

Collection System. The collection system terminations near the transformer will be removed to a depth of three (3) feet below existing ground line. The underground collection system cabling is presumed to be left in place at its current depth of at least 48 inches below grade to the top of the lines.

Disturbed areas would be restored and reclaimed to the approximate original topography. Topsoil will be spread over the disturbed area at a depth similar to that in existence prior to the disturbance. The disturbed areas would be graded, top-soiled, and reseeded according to National Resource Conservation Service guidelines, unless the Commission approves otherwise.

N.D. Admin. Code § 69-09-09-01(6)(e) - Effects on Present and Future Natural Resource Development.

Business operations at Oliver Wind I will focus on harnessing wind resources during the project's useful life until which time the site will be restored pursuant to the Commission's rules through the decommissioning process. Oliver Wind I is not anticipated to materially impact present or future natural resource development during operations or decommissioning.

N.D. Admin. Code § 69-09-09-01(6)(f) – Detailed Plan of Financial Assurance.

FPL Energy Oliver Wind I, LLC is a wholly-owned, indirect subsidiary of NextEra Energy, Inc. (“NextEra Energy”), a leading clean energy company with consolidated revenues of approximately \$16.2 billion, and more than 45,900 megawatts of generating capacity as of year-end 2016. NextEra Energy’s principal subsidiaries are Florida Power & Light Company and NextEra Energy Resources, LLC (“NextEra Energy Resources”). Together with its affiliated entities, NextEra Energy is the largest generator of wind and solar energy in North America. Within the State of North Dakota, NextEra Energy Resources currently owns and operates 14 existing wind generation resources and is continuing to invest in and develop clean generating facilities in the State. Another key subsidiary of NextEra Energy is NextEra Energy Capital Holdings, Inc. (“NEECH”), which provides funding for NextEra Energy Resources subsidiaries.

In order to ensure sufficient decommissioning of Oliver Wind I, and consistent with N.D. Admin. Code § 69-09-09-08, NEECH has executed the attached parent guarantee in Exhibit B to cover the full estimated amount of decommissioning costs of \$2,970,00.00. This guarantee provides that it will remain in effect for five years after the end of the useful life of the project, to ensure that there is sufficient financial assurance in place until decommissioning is completed.

This parent guarantee meets the requirements of N.D. Admin. Code § 69-09-09-08(5) because:

- (a) NEECH has been in continuous business operation for at least five years; and
- (b) NEECH has current credit ratings of NEECH has current credit ratings of Baa1 from Moody’s, A- from Standard & Poor’s, and A- from Fitch.

Consistent with N.D. Admin. Code § 69-09-09-08(7), the total amount of the parent guarantee does not exceed 25 percent of NEECH’s and FPL Energy Oliver Wind I, LLC’s combined tangible net worth in the United States. As of March 31, 2017, NEECH had over \$5.8 billion of net available liquidity, and thus the amount of the parent guarantee for the Oliver Wind I decommissioning estimate does not exceed 25 percent of this amount.



November 28, 2017

North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

Regarding: *Decommissioning Estimate – FPL Energy Oliver Wind I*

North Dakota Public Service Commission,

Per the request of FPL Energy Oliver Wind I, LLC, the team of DEMCO Inc. and AE2S is pleased to submit the following *Decommissioning Cost Estimate* for the existing *FPL Energy Oliver Wind I Facility* located in Oliver County, North Dakota. The estimate is based on information gathered from DEMCO's historical data from the past 28 years of experience in the demolition and decommissioning industry, and AE2S's experience in engineering and environmental services throughout North Dakota over the last 25 years. Our team believes that the estimate is a conservative budgetary cost to complete this work.

Background: DEMCO Inc.

DEMCO, Inc. is a twenty eight year old, privately held, nationally recognized decontamination & decommissioning firm that specializes in environmental remediation, deconstruction and salvage for the US Government and commercial sector. DEMCO's management team is comprised of individuals with a total of over 200 years' worth of experience in environmental remediation and deconstruction services. To date, the total dollar volume of projects that DEMCO has safely and successfully performed is in excess of \$850 million. DEMCO has successfully performed over 600 remediation and deconstruction projects, including numerous fossil power plants, nuclear power plants, wind farms, and other industrial facilities.

Background: AE2S

AE2S offers a total solution by providing master planning, capital improvement planning, study and report, design, bidding administration, surveying, mapping, general civil engineering, structural engineering, electrical engineering, and site development. With over 25 years of experience in the North Dakota area, AE2S is familiar with the environment, work force, and rules/regulations involved with working in the state. With eighteen locations located within the Midwest, AE2S has a vast pool of resources and equipment that are relative to the area.

The Team:

DEMCO and AE2S partnered to help prepare a decommissioning cost estimate for the FPL Energy Oliver Wind I Facility. DEMCO has experience in decommissioning wind farms throughout the country, while AE2S has experience regarding North Dakota's specific conditions, regulatory requirements, work force, hazards, etc. With DEMCO's national decommissioning experience, and AE2S's experience in engineering and environmental services specifically in the state of North Dakota, our team is confident that our estimates are reasonable and all encompassing.

EXHIBIT A



The Process:

DEMCO and AE2S worked hand in hand to prepare the attached estimate. During an initial planning phase, personnel from both parties conversed, shared notes, and had discussions about past experience, historical data, and other similar projects. Responsibilities were then assigned, and each company set out to obtain additional data and resources to assist in preparing the final document. Next, a draft version of the estimate was distributed and each team member reviewed and made notes. The final decommissioning estimate was created through a collaborative process which included discussion and agreement from all parties.

Methodology:

The cost estimate was developed on a per turbine basis. DEMCO has historical data for the man power, equipment, schedule, and respective costs for each phase of wind turbine decommissioning. Each phase of decommissioning was discussed during the estimate development process. AE2S provided input on how the timing, equipment, and man power could be specifically impacted by performing this work in the state of North Dakota.

DEMCO's data originated from the decommissioning of turbines at wind farm sites with similar scopes of work. During the development of the cost estimate, DEMCO and AE2S compared labor, equipment, and material costs and made adjustments to reflect the regional rates in the North Dakota area. Additionally DEMCO/AE2S are familiar with existing site conditions and how the varying terrain would affect the cost.

Please see the attached *Exhibit A*, providing a detailed cost breakdown of the work required which is presented in current 2017 dollars. This breakdown shows the costs for each phase of work required to safely decommission the turbines. The decommissioning cost estimate is reasonable and it is our conclusion that the costs include the scope of work and project management needed to properly decommission the FPL Energy Oliver Wind I Facility.

Sincerely,

DEMCO, Inc.:

Handwritten signature of Patrick J. Callahan in blue ink.

Patrick J. Callahan
President

AE2S, Inc.:

A circular professional engineer seal for Jay Klevay, Registered Professional Engineer, PE 4685, State of North Dakota. The seal includes the text "JAY B. KLEVAY REGISTERED PROFESSIONAL PE 4685 NORTH DAKOTA ENGINEER". A blue signature is written over the seal, and the date "Dec 01, 2017" is stamped in the center.

Jay Klevay
Senior Project Manager



EXHIBIT A



FPL Energy Oliver Wind I, LLC Decommissioning Cost Estimate - FPL Energy Oliver Wind I Oliver County, ND

FPL ENERGY OLIVER WIND I - OLIVER COUNTY

FACILITY INFORMATION:

Facility Location:	Oliver County, ND
Facility Size:	50.6 MW
Technology:	Siemens 2.3
Number of Turbines:	22

TURBINE COST BREAKDOWN

For (1) Siemens 2.3 Wind Turbine & Associated Equipment

Removal Activity	Percentage of Cost (%)	Cost
Removal of Oil/Grease	4%	\$5,400.00
Nacelle & Hub Removals	35%	\$47,250.00
Tower Removal	15%	\$20,250.00
Down Tower Equipment Removal	3%	\$4,050.00
Removal of Underground Cables (24")	6%	\$8,100.00
Foundation Removals (3' Below Grade)	25%	\$33,750.00
Removal of Contaminated Soil	1%	\$1,350.00
Backfill, Topsoil, Seed	10%	\$13,500.00
Removal of Communication Tower	1%	\$1,350.00
Cost Per 1 Turbine		\$135,000.00

TOTAL DECOMMISSIONING COST - COMPLETE FACILITY

Cost Per Turbine	Number of Turbines	Total Cost
\$135,000.00	22	\$2,970,000.00

GUARANTY

THIS GUARANTY (this "**Guaranty**"), dated as of December 19, 2017 (the "**Effective Date**"), is made by NEXTERA ENERGY CAPITAL HOLDINGS, INC. ("**Guarantor**"), in favor of the NORTH DAKOTA PUBLIC SERVICE COMMISSION ("**Commission**").

RECITALS:

- A. WHEREAS, Guarantor's indirect, wholly-owned subsidiary FPL ENERGY OLIVER WIND I, LLC ("**Obligor**") constructed the Oliver Wind I Project (the "**Project**") in Oliver County, North Dakota which consists of one or more wind turbines and tower equipment;
- B. WHEREAS, Obligor is required to provide to Commission financial assurance supporting decommissioning obligations of Obligor pursuant to Section 69-09-09-08 of the North Dakota Administrative Code (the "**Statute**");
- C. WHEREAS, Guarantor will directly or indirectly benefit from the Project; and
- D. WHEREAS, Guarantor wishes to issue this Guaranty to Commission to satisfy the terms of the Statute.

NOW THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor hereby agrees for the benefit of Commission as follows:

* * *

1. **GUARANTY**. Subject to the terms and provisions hereof, Guarantor hereby absolutely and irrevocably guarantees the timely payment when due of all obligations owing by Obligor to Commission under the Statute on or after the Effective Date (the "**Obligations**"). This Guaranty shall constitute a guarantee of payment and not of collection. The liability of Guarantor under this Guaranty shall be subject to the following limitations:

- (a) Notwithstanding anything herein to the contrary, the maximum aggregate obligation and liability of Guarantor under this Guaranty, and the maximum recovery from Guarantor under this Guaranty, shall in no event exceed Two Million Nine Hundred Seventy Thousand U.S. Dollars (U.S. \$2,970,000) (the "**Maximum Recovery Amount**").
- (b) The obligation and liability of Guarantor under this Guaranty is specifically limited to payments due and owing, as well as costs of collection and enforcement of this Guaranty (including attorney's fees) to the extent reasonably and actually incurred by the Commission (subject in all instances, to the limitations imposed by the Maximum Recovery Amount as specified in Section 1(a) above). In no event, however, shall Guarantor be liable for or obligated to pay any consequential, indirect, incidental, lost profit, special, exemplary, punitive, equitable or tort damages.

2. **DEMANDS AND PAYMENT**.

- (a) If Obligor fails to pay any Obligation to Commission when such Obligation is due and owing (an "**Overdue Obligation**"), Commission may present a written demand to Guarantor calling for

Guarantor's payment of such Overdue Obligation pursuant to this Guaranty (a "Payment Demand").

- (b) Guarantor's obligation hereunder to pay any particular Overdue Obligation(s) to Commission is conditioned upon Guarantor's receipt of a Payment Demand from Commission satisfying the following requirements: (i) such Payment Demand must identify the specific Overdue Obligation(s) covered by such demand and the specific date(s) upon which such Overdue Obligation(s) became due and owing; (ii) such Payment Demand must be delivered to Guarantor in accordance with Section 9 below; and (iii) the specific Overdue Obligation(s) addressed by such Payment Demand must remain due and unpaid at the time of such delivery to Guarantor.
- (c) After issuing a Payment Demand in accordance with the requirements specified in Section 2(b) above, Commission shall not be required to issue any further notices or make any further demands with respect to the Overdue Obligation(s) specified in that Payment Demand, and Guarantor shall be required to make payment with respect to the Overdue Obligation(s) specified in that Payment Demand within five (5) Business Days after Guarantor receives such demand. As used herein, the term "Business Day" shall mean all weekdays (*i.e.*, Monday through Friday) other than any weekdays during which commercial banks or financial institutions are authorized to be closed to the public in the State of Florida, the State of North Dakota or the State of New York.

3. **REPRESENTATIONS AND WARRANTIES.** Guarantor represents and warrants that:

- (a) it is a corporation duly organized and validly existing under the laws of the State of Florida and has the corporate power and authority to execute, deliver and carry out the terms and provisions of the Guaranty;
- (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guaranty; and
- (c) this Guaranty constitutes a valid and legally binding agreement of Guarantor, enforceable against Guarantor in accordance with the terms hereof, except as the enforceability thereof may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

4. **RESERVATION OF CERTAIN DEFENSES.** Without limiting Guarantor's own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which Obligor is or may be entitled, except for defenses (if any) based upon the bankruptcy, insolvency, dissolution or liquidation of Obligor.

5. **AMENDMENT OF GUARANTY.** No term or provision of this Guaranty shall be amended, modified, altered, waived or supplemented except in a writing signed by Guarantor and Commission.

6. **WAIVERS AND CONSENTS.** Subject to and in accordance with the terms and provisions of this Guaranty:

- (a) Except as required in Section 2 above, Guarantor hereby waives (i) notice of acceptance of this Guaranty; (ii) presentment and demand concerning the liabilities of Guarantor; and (iii) any right to require that any action or proceeding be brought against Obligor or any other person, or to

require that Commission seek enforcement of any performance against Obligor or any other person, prior to any action against Guarantor under the terms hereof.

- (b) No delay by Commission in the exercise of (or failure by Commission to exercise) any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from its obligations hereunder (with the understanding, however, that the foregoing shall not be deemed to constitute a waiver by Guarantor of any rights or defenses which Guarantor may at any time have pursuant to or in connection with any applicable statutes of limitation).
- (c) Without notice to or the consent of Guarantor, and without impairing or releasing Guarantor's obligations under this Guaranty, Commission may: (i) change the manner, place or terms for payment of all or any of the Obligations (including renewals, extensions or other alterations of the Obligations); (ii) release any person (other than Obligor or Guarantor) from liability for payment of all or any of the Obligations; or (iii) receive, substitute, surrender, exchange or release any collateral or other security for any or all of the Obligations.

7. **REINSTATEMENT.** Guarantor agrees that this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if all or any part of any payment made hereunder is at any time avoided or rescinded or must otherwise be restored or repaid by Commission as a result of the bankruptcy or insolvency of Obligor, all as though such payments had not been made.

8. **TERMINATION.** Unless terminated earlier, this Guaranty and the Guarantor's obligations hereunder will terminate automatically and immediately at 11:59:59 Eastern Prevailing Time December 31, 2049; *provided, however*, that no such termination shall affect Guarantor's liability with respect to any Obligation incurred prior to the time the termination is effective, which Obligation shall remain subject to this Guaranty.

9. **NOTICE.** Any Payment Demand, notice, request, instruction, correspondence or other document to be given hereunder (herein collectively called "**Notice**") by Commission to Guarantor, or by Guarantor to Commission, as applicable, shall be in writing and may be delivered either by (i) U.S. certified mail with postage prepaid and return receipt requested, or (ii) recognized nationwide courier service with delivery receipt requested, in either case to be delivered to the following address (or to such other U.S. address as may be specified via Notice provided by Guarantor or Commission, as applicable, to the other in accordance with the requirements of this *Section 9*):

<i>TO GUARANTOR: *</i>	<i>TO COUNTERPARTY:</i>
NEXTERA ENERGY CAPITAL HOLDINGS, INC. 700 Universe Blvd. Juno Beach, Florida 33408 <i>Attn:</i> Treasurer	North Dakota Public Service Commission 600 East Boulevard Avenue Bismarck, North Dakota 58505 <i>Attn:</i> Darrell Nitschke
<i>[Tel: (561) 694-6204 -- for use in connection with courier deliveries]</i>	<i>[Tel: (701) 328-4098 -- for use in connection with courier deliveries]</i>

* *(NOTE: Copies of any Notices to Guarantor under this Guaranty shall also be sent via facsimile to ATTN: Contracts Group, Legal, Fax No. (561) 625-7504 and ATTN: Credit Department, Fax No. (561) 625-7642. However, such facsimile transmissions shall not be deemed effective for delivery purposes under this Guaranty.)*

Any Notice given in accordance with this Section 9 will (i) if delivered during the recipient's normal business hours on any given Business Day, be deemed received by the designated recipient on such date, and (ii) if not delivered during the recipient's normal business hours on any given Business Day, be deemed received by the designated recipient at the start of the recipient's normal business hours on the next Business Day after such delivery.

10. MISCELLANEOUS.

- (a) This Guaranty shall in all respects be governed by, and construed in accordance with, the law of the State of New York, without regard to principles of conflicts of laws thereunder (other than Sections 5-1401 and 5-1402 of the New York General Obligations Law).
- (b) This Guaranty shall be binding upon Guarantor and its successors and permitted assigns and inure to the benefit of and be enforceable by Commission and its successors and permitted assigns. Guarantor may not assign this Guaranty in part or in whole without the prior written consent of Commission. Commission may not assign its rights or benefits under this Guaranty in part or in whole without the prior written consent of Guarantor.
- (c) This Guaranty embodies the entire agreement and understanding between Guarantor and Commission and supersedes all prior agreements and understandings relating to the subject matter hereof.
- (d) The headings in this Guaranty are for purposes of reference only, and shall not affect the meaning hereof. Words importing the singular number hereunder shall include the plural number and vice versa, and any pronouns used herein shall be deemed to cover all genders. The term "person" as used herein means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated association, or government (or any agency or political subdivision thereof).
- (e) Wherever possible, any provision in this Guaranty which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any one jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- (f) Commission (by its acceptance of this Guaranty) and Guarantor each hereby irrevocably: (i) consents and submits to the exclusive jurisdiction of the United States District Court for the District of North Dakota for the purposes of any suit, action or other proceeding arising out of this Guaranty or the subject matter hereof or any of the transactions contemplated hereby brought by Commission, Guarantor or their respective successors or assigns; and (ii) waives (to the fullest extent permitted by applicable law) and agrees not to assert any claim that it is not personally subject to the jurisdiction of the above-named court, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Guaranty or the subject matter hereof may not be enforced in or by such court.

(g) COUNTERPARTY (BY ITS ACCEPTANCE OF THIS GUARANTY) AND GUARANTOR EACH HEREBY IRREVOCABLY, INTENTIONALLY AND VOLUNTARILY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON RELATING HERETO OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY.

* * *

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty on December 19, 2017, but it is effective as of the Effective Date.

NEXTERA ENERGY CAPITAL HOLDINGS, INC.

By: 

Name: Amanda M. Finnis
Assistant Treasurer

Title: _____

