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March 9, 2017

Via Hand Delivery

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

**RE: Public Service Commission
Public Utilities
Rulemaking
Case No. PU-16-775
and
Public Service Commission
Public Utilities - Wind Decommissioning
Rulemaking
Case No. PU-17-023
Our File No. 035218-000023**

Dear Mr. Nitschke:

NextEra Energy Resources, LLC respectfully submits the enclosed post-hearing comments for filing in the above-referenced matters. Enclose are an original and ten copies.

Please call should you have any questions.

Sincerely,

CROWLEY FLECK PLLP

Casey A. Furey

CAF:rw
Enc.

cc: John Schuh (via email)
Jerry R. Lein (via email)
Sara Cardwell (via email)

32 PU-17-23 Filed 03/09/2017 Pages: 4
Comments of proposed rules
NextEra Energy Resources, LLC
Casey Furey, Crowley Fleck, PLLP

32 PU-16-775 Filed 03/09/2017 Pages: 4
Comments of proposed rules
NextEra Energy Resources, LLC
Casey Furey, Crowley Fleck, PLLP

Comments of NextEra Energy Resources, LLC
North Dakota Public Service Commission
Case Nos. PU-16-775 and PU-17-023

The following comments are filed in response to questions NextEra Energy Resources, LLC (NextEra) received from the Commission during the February 27, 2017 hearings in the above-referenced matters.

Question 1: How are projects financed and how do financial assurances fit in with project financing?

Answer: Similar to other energy and infrastructure projects, developing and constructing wind facilities requires significant upfront capital in the range of hundreds of millions of dollars. Wind developers and owners typically finance a large portion of development and construction costs. Depending on the company's capital structure and approach, a developer or owner may pursue financing their project either before or after the project is operational.

The percentage of capital costs the financing will cover and how the financing is repaid will depend on the developer, the project, and the lenders or investors. For example, project financings are typically structured so that lenders or investors are repaid from project revenues, including purchase power agreement revenues. Generally, financing terms range from 10 to 20 years. In addition to incentives existing by virtue of owning a wind facility, repayment obligations and rights granted to investors and lenders require wind facility owners to maximize the facility's output.

Financial assurances such as the decommissioning bonds, letters of credit or guaranties impose additional costs on a project, so it is important to narrowly tailor the financial assurance requirements to meet the Commission's public interest goals while minimizing unnecessary costs imposed on wind facilities and, ultimately, North Dakota electric customers.

Question 2: What are the specific concerns with an "A" credit rating requirement? Why is it unworkable?

Answer: While many wind facility developers and owners have investment-grade issuer and issue credit ratings, to our knowledge, the highest rating among large industry participants in North Dakota is an "A". We are not aware of any major market participants with an issuer or issue credit rating of "A". We understand that past Commission practice may have been to consider an "A-" rating the same as an "A" rating, but the two ratings are not equivalent. Further, different rating agencies use different rating scales and terminology. It is very important for the Commission to use precise language and to give meaning to the language used in the rules so that businesses operating in the state can understand and comply with regulatory requirements.

Question 3: Is an investment grade bond a better option, and why? Does it provide protections?

Answer: First, an "A" rating is one of several possible investment-grade ratings (rating scale included below). Entities or debt issuances with investment-grade credit ratings, whether at the top or bottom of the range, are considered low risk. Permitting an entity with an investment-grade issuer or issue credit rating, without specifying a specific rating at the high end of the investment-grade range, is adequate to satisfy the

Commission's concerns without imposing unnecessary costs on wind facility owners. Requiring wind facility owners that have an investment-grade rating other than "A" to use means of financial assurance other than a parent or self–guaranty will increase the cost for those owners without providing a meaningful benefit.

According to Standard & Poor's Corporation, "the term 'investment-grade' historically referred to bonds and other debt securities that bank regulators and market participants viewed as suitable investments for financial institutions. Now the term is broadly used to describe issuers and issues with relatively high levels of creditworthiness and credit quality."[1] Investment-grade credit ratings indicate a low risk of default and an ability to meet debt payment obligations. Standard & Poor's Corporation and Moody's Investors Service definitions of the term investment-grade are wider than just an "A" rating. Both rating agencies consider any rating higher than "BBB-", for Standard & Poor's Corporation, or "Baa3", for Moody's Investors Service, investment-grade. Revising the proposed rule to allow an entity with an investment-grade rating to provide a guaranty supports the Commission's mandate to protect the public interest. In the event a company or its guarantor did not maintain an investment-grade credit rating, or comply with other requirements to provide a parent guaranty or self-guaranty, the wind facility owner would be required to utilize an alternative form of financial assurance specified in the proposed rules.

Second, it is important to note that different types of credit ratings exist. The proposed regulation would require an entity to have "a current rating of 'A' or higher for its most recent bond issuance as issued by Moody's Investors Service, Standard and Poor's Corporation, or an equivalent rating by any other nationally recognized statistical rating organization." Senior unsecured bond issuances are not the only ratings available. Credit rating agencies also provide issuer ratings, which indicate a company's overall credit risk. The proposed regulation should be revised to include issuer ratings, as not all entities issue rated bonds.

[1] Guide to Credit Rating Essentials, accessed March 6, 2017, http://www.spratings.com/documents/20184/760102/SPRS_Understanding-Ratings_GRE.pdf/298e606f-ce5b-4ece-9076-66810cd9b6aa.

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<tr><th></th><th>S&P/Fitch</th><th>Moody’s</th></tr>
<tr><td rowspan="10">Investment Grade</td><td>AAA</td><td>Aaa</td></tr>
<tr><td>AA+</td><td>Aa1</td></tr>
<tr><td>AA</td><td>Aa2</td></tr>
<tr><td>AA-</td><td>Aa3</td></tr>
<tr><td>A+</td><td>A1</td></tr>
<tr><td>A</td><td>A2</td></tr>
<tr><td>A-</td><td>A3</td></tr>
<tr><td>BBB+</td><td>Baa1</td></tr>
<tr><td>BBB</td><td>Baa2</td></tr>
<tr><td>BBB-</td><td>Baa3</td></tr>
<tr><td rowspan="7">Non-Investment Grade</td><td>BB+</td><td>Ba1</td></tr>
<tr><td>BB</td><td>Ba2</td></tr>
<tr><td>BB-</td><td>Ba3</td></tr>
<tr><td>B+</td><td>B1</td></tr>
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<tr><td>B-</td><td>B3</td></tr>
<tr><td>CCC and Below</td><td>Caa and Below</td></tr>
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Question 4: Please comment on the possibility of wind generating facility owners maintaining minimal energy output to avoid decommissioning a wind facility.

Answer: There is no financial benefit to maintain a minimal level of energy output from a wind facility to avoid decommissioning a wind facility. Many operational costs are fixed and will not significantly decrease with changes in generation. If an owner tries to operate at or below 10% to avoid decommissioning, that owner will likely lose money and not receive any benefit from delaying decommissioning. The contractual agreements and economics of wind facilities incentivize owners to maximize generation.

Additional Comments: NextEra respectfully requests the Commission retain the ability to account or credit for bonds that are required at a local level to support decommissioning obligations. NextEra has operating wind facilities in counties that require a decommissioning bond to receive county approval for required permits. Requiring wind developers to secure a bond at both the county and state level doubles the cost of providing financial assurance without providing any public benefit; doubling the financial security requirements is effectively just a tax on wind facilities. We encourage the Commission to allow financial security that is required by a county to back decommissioning costs to count towards the Commission’s requirement or be considered in Commission decommissioning bond approval.