

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the Application of NextEra
Energy Transmission Southwest, LLC for a
Certificate of Public Convenience and Necessity
to Transact the Business of a Public Utility in the
State of Kansas.

22-NETE-419-COC
Docket No. 22-___-COC

**APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO
CONSTRUCT TRANSMISSION FACILITIES IN THE STATE OF KANSAS**

NextEra Energy Transmission Southwest, LLC (“NEET Southwest” or “Applicant”), by its undersigned counsel, hereby applies, pursuant to K.S.A. 66-131, for a Certificate of Convenience and Necessity (“CCN”), pursuant to K.S.A. 66-131, to transact business as a transmission-only public utility in Kansas and to construct, own, operate, and maintain bulk electric transmission facilities located in the State of Kansas. In support of this Application, NEET Southwest states as follows:

I. BACKGROUND

1. NEET Southwest is a Delaware limited liability company formed in 2014 and qualified to do business in Kansas. NEET Southwest was created to construct, own, and operate transmission assets in the Southwest Power Pool, Inc. (“SPP”) region. NEET Southwest was selected through SPP’s competitive Transmission Owner Solicitation Process (“TOSP”) as the Designated Transmission Owner for the Wolf Creek-Blackberry 345 kV Transmission Project (the “Project” or “Wolf Creek-Blackberry Project”), which will be constructed as an approximately 94-mile, single-circuit 345 kV transmission line between the existing Wolf Creek Substation, owned by Evergy Kansas Central, Inc. (“Evergy”) in Coffey County, Kansas, to the existing Blackberry Substation, owned by Associated Electric Cooperative, Inc. (“AECI”) in Jasper County, Missouri.

The Project is expected to span five counties in Kansas (Coffey, Anderson, Allen, Bourbon, and Crawford counties) and two counties in Missouri (Barton and Jasper counties).

2. NEET Southwest is a direct, wholly-owned subsidiary of NextEra Energy Transmission, LLC (“NEET”), which, in turn is an indirect, wholly-owned subsidiary of NextEra Energy, Inc. (“NextEra Energy”). NEET serves as the holding company for NextEra Energy’s regulated transmission utilities across North America outside the State of Florida. NEET provides electric transmission solutions through competitive solicitations and partnerships with public power, and NEET develops, finances, constructs, operates, and maintains transmission assets across the continent. The NEET portfolio includes regulated transmission subsidiaries with operating assets in Kansas, Missouri, Oklahoma, Texas, Indiana, New Hampshire, New York, Nevada, and California. NEET expanded its portfolio of operating transmission subsidiaries in 2021 with its acquisition of the entities owned by GridLiance Holdco LP, including GridLiance High Plains LLC (“GridLiance HP”), which jointly owns transmission assets in Winfield, Kansas with the City of Winfield and in Nixa, Missouri with the City of Nixa, and which owns transmission assets¹ in the Oklahoma Panhandle that serve Tri-County Electric Cooperative.² NEET subsidiaries also have a project under construction in Ontario, Canada, as well as awarded projects in permitting in California and New York and numerous other projects in earlier stages of development throughout the U.S. As discussed in greater detail below, NEET Southwest is the

¹ The Missouri Public Service Commission (“MPSC”) recently approved a proposal by GridLiance HP to transfer its ownership interests in the City of Nixa assets to the Missouri Joint Municipal Electric Utility Commission. Order Approving Application to Transfer Assets and Granting Waiver, File No. EM-2022-0156 (Feb. 9, 2022).

² The Commission approved NEET’s acquisition of GridLiance HP in Docket No. 21-GLPE-160-ACQ in February 2021. *In the Matter of the Joint Application of GridLiance High Plains LLC, GridLiance GP, LLC, and GridLiance Holdco, LP (“GridLiance”), NextEra Energy Transmission Investments, LLC, and NextEra Energy Transmission, LLC (“NextEra Entities”) for approval of the Acquisition of GridLiance by the NextEra Entities*, Docket No. 21-GLPE-160-ACQ (Feb. 2, 2021) (“GridLiance HP Acquisition Order”).

first non-incumbent transmission provider to win a Federal Energy Regulatory Commission (“FERC”) Order No. 1000³ Project in SPP.

3. NextEra Energy is a proven, experienced owner of electric utilities across North America, with a long-standing commitment to the State of Kansas primarily through its competitive energy subsidiary NextEra Energy Resources, LLC (“NEER”). A Fortune 200 company, NextEra Energy is the world’s largest electric utility by market capitalization, with revenues in calendar year 2021 of approximately \$17 billion and approximately 15,000 employees as of December 31, 2021. NextEra Energy subsidiaries currently have approximately 11,800 circuit miles of transmission lines and 1,000 substations located in every regional transmission organization (“RTO”) and North American Electric Reliability Corporation (“NERC”) region in the United States. As a NextEra Energy subsidiary, NEET Southwest possesses significant operational, technical, and financial expertise, as discussed in greater detail in the testimony filed contemporaneously with this Application.

4. Through this Application and the testimony in support filed concurrently herewith, NEET Southwest requests a Commission Order granting a CCN to NEET Southwest to construct, own, operate, and maintain approximately 85 miles of transmission facilities in Kansas. NEET Southwest also intends to request siting authority for the Project pursuant to the Kansas Electric Transmission Line Siting Act, K.S.A. 66-1,177 *et seq.*, at a later date after NEET Southwest has conducted its public outreach process. The timing of the siting application relative to this CCN application is discussed further below.

³ See *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 Fed. Reg. 49,842 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 31,323 at P 545 and Appendix C (2011).

5. In addition to undersigned counsel, pleadings, notices, orders, and other correspondence concerning this Joint Application should be addressed to:

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II. SPP'S 2019 INTEGRATED TRANSMISSION PLAN AND COMPETITIVE BID PROCESS

6. SPP identified the Project as needed through its 2019 Integrated Transmission Planning (“ITP”) process, as a project that was required to address multiple needs, and in particular, an economic project designed to increase the transmission capability and relieve transmission congestion from western Kansas east to SPP load centers. SPP approved the Project as a Competitive Upgrade open to competitive bidding pursuant to the TOSP set forth in Attachment Y of the SPP Open Access Transmission Tariff (“SPP Tariff”). SPP issued its Requests for Proposals (“RFP”) for bidders on the Project on September 28, 2020, and bids were submitted by March 29, 2021. A total of seven bids were submitted to SPP by four bidding entities.

7. SPP’s competitive process is designed to select the right long-term project for the benefit of SPP’s customers. Under this process, an independent Industry Expert Panel (“IEP”) compares RFP responses and allocates points according to Engineering, Project Management, Operations, Rate Analysis (cost), and Financial Capabilities. Once selected, the qualified

developer creates the design and specific route for the project. Upon completion of its evaluation, and in accordance with the SPP Tariff, the IEP recommended NEET Southwest as the Designated Transmission Owner for the Project, the first time that a non-incumbent transmission entity has been selected under the SPP TOSP. SPP's Board of Directors accepted and approved the IEP's recommendation on October 26, 2021.

8. The Project is designed by NEET Southwest as an approximately 94-mile single-circuit 345 kV transmission line from the existing Wolf Creek Substation in Kansas to the existing Blackberry Substation in Missouri. Approximately 85 miles of the transmission line will traverse the State of Kansas, after which, it will enter the State of Missouri and run for approximately nine miles until it terminates at the Blackberry Substation in Jasper County, Missouri.

III. NEET SOUTHWEST'S PROJECT PROPOSAL

9. NEET Southwest's proposal for the Project offers several unique benefits including: (1) a preliminary, direct route between the Wolf Creek and Blackberry Substations, resulting in lower costs, while minimizing human and environmental impacts; (2) a cost-effective proposal, with a proposed cost of \$85.2 million in 2021 dollars, tens of millions less than SPP's estimated costs of \$142.6 million and subject to binding cost containment, thereby benefitting SPP customers; (3) a number of other robust cost-containment guarantees; and (4) an early in-service date of approximately January 1, 2025, one year earlier than projected by SPP, which will result in additional savings to customers.

10. In selecting NEET Southwest's bid for the Project, the IEP determined that NEET Southwest's proposal provided:

- A "very substantial savings to SPP customers with a net present value of the revenue requirements tens of millions of dollars lower than other proposals";
- "[D]esign and materials solutions not offered by other Respondents, including the use of the highest thermal-rated conductor of any of the proposals";

- A “strong procurement process and team that manages vendor relationships and leverages economies of scale to secure most favorable terms”;
- A proposed construction schedule that “included significant time float, enabling the Respondent to offer a guaranteed schedule for the Project”;
- “[W]ell-defined construction cost estimates from a detailed and structured review process used over many years and many projects”;
- “The proposal provides cost caps”, including binding caps on the Project’s construction costs and revenue requirement;
- “[R]elevant agreements showing the preparedness of the Respondent to take on the required operations and maintenance responsibilities”;
- “[S]pecific preventative and predictive maintenance plans specific to this project based on principles and examples of statistical process controls to determine appropriate frequency and the extent of future maintenance activities”; and
- Demonstrated “established switching coordination, planned outage and operating coordination experience and protocols with SPP-member utilities.”⁴

IV. NEET SOUTHWEST’S PRELIMINARY ROUTING CONSIDERATIONS AND TIMING OF APPLICATION FOR SITING AUTHORITY

11. NEET Southwest’s Project will traverse primarily pastures and farmland in Coffey, Anderson, Allen, Bourbon, and Crawford counties in Kansas, and Barton and Jasper counties in Missouri. The preliminary route map is included as Exhibit BW-2 and discussed in greater detail by Ms. Becky Walding and Mr. Daniel Mayers in their Direct Testimonies.

12. In developing its preliminary route for the Project, NEET Southwest sought to reduce the Project’s environmental impacts by: (1) minimizing impacts to forested wetland and known cultural and archeological resources; (2) minimizing or avoiding protected or sensitive species and habitat impacts; and (3) minimizing impacts to federal, state-owned, and tribal lands. Further, NEET Southwest sought to reduce impacts to existing infrastructure by optimizing

⁴ See Direct Testimony of Becky Walding at 25-26 and Exhibit BW-5 (IEP Report) .

clearances to existing structures, including bridges, culverts, oil and gas wells, transmission lines, and telecom towers.

13. NEET Southwest is currently undertaking its public outreach process with government agencies and potentially interested landowners along the preliminary route. NEET Southwest will utilize information obtained from this outreach process to further minimize potential environmental and landowner impacts from the Project. NEET Southwest plans to file an application with the Commission for siting authority pursuant to K.S.A. 66-1,177, *et seq.*, once this public outreach process is completed and NEET Southwest has developed its proposed route for the Commission's review and approval.

14. NEET Southwest plans to file for siting authority in Kansas approximately two to three months after filing this CCN application. Addressing the CCN and siting authority with overlapping schedules would allow the Commission and parties to efficiently address NEET Southwest's request for a CCN and the Project's line siting, allow the Project to meet its in-service goal, and allow earlier realization of Project benefits. Additionally, the standards applied to the CCN and siting applications involve certain redundancies. For example, both the CCN and the siting applications require the Commission to determine the "necessity for" the transmission project. Parallel schedules would allow the Commission and its Staff to address the "necessity for" the Project in a streamlined fashion, while also providing a forum for landowner issues in a distinct siting docket. Parallel schedules for the CCN and line siting process also would support NEET Southwest's proposed in-service date of January 1, 2025, which is one year earlier than SPP's requested in-service date of January 1, 2026, and will result in approximately \$14.5 million in present value production cost savings to SPP customers.

15. Because the Project goes through Missouri, NEET Southwest also anticipates filing an application for a CCN from the MPSC, in addition to obtaining other necessary federal, state, and local approvals and permits. NEET Southwest will file for MPSC approval at a later date. The additional regulatory approvals and permits required for the Project are discussed in greater detail in the Direct Testimony of Mr. Mayers.

V. TESTIMONY IN SUPPORT OF NEET SOUTHWEST'S CCN APPLICATION

16. Support for this filing before the Commission is provided through the testimony of the following witnesses:

(a) Direct Testimony and Exhibits of Becky Walding, Executive Director, Development, NEET Southwest: Ms. Walding provides an overview of NEET Southwest, its business objectives and projects, and its managerial, financial, and technical resources and capabilities. Ms. Walding also: addresses the benefit of the Project; supports a finding by the Commission that the Project serves the public interest; testifies that the Project is being built to serve a need identified by SPP; testifies to the reasonableness of Project cost and NEET Southwest's proposed cost containment measures; describes how the Project satisfies the Commission's applicable merger standards, including that the Project will provide significant benefits to customers, will have only a *de minimis* impact on Kansas customer rates, will not adversely affect the Commission's jurisdiction or utility shareholders, will maximize the use of Kansas energy resources, and will reduce economic waste.

(b) Direct Testimony and Exhibits of Daniel Mayers, Director of Transmission Engineering, NEER: Mr. Mayers describes NEET Southwest's qualifications to engineer and construct the Project, provides an overview of the engineering details of the Project

(including the Project's location, engineering design, construction cost, and construction schedule), and demonstrates that the Project will not adversely affect the environment.

(c) Direct Testimony of LaMargo Sweezer-Fischer, Senior Director, Transmission Operations, NEET: Ms. Sweezer-Fischer addresses NEET Southwest's managerial and technical capabilities to be certificated as a public utility providing only transmission services, as well as NEET Southwest's plan to operate and maintain the Project. Ms. Sweezer-Fischer also will describe NEET Southwest's ability to provide safe and reliable transmission service.

(d) Direct Testimony and Exhibits of Amanda Finnis, Executive Director, Business Management, NEET: Ms. Finnis addresses NEET Southwest's financial capabilities through its parent and affiliates NextEra Energy, NextEra Energy Capital Holdings, Inc. ("NEECH"), and NEET, and describes NEET Southwest's plan to finance the Project. Ms. Finnis also discusses the recovery of the Project's construction costs through rates approved by FERC, and the impact of the construction and operation of the Project on the finances and credit ratings of NEET Southwest and its parent and affiliates.

(e) Direct Testimony and Exhibits of Dr. David Loomis, Ph.D., President, Strategic Energy Resources, LLC: Dr. Loomis testifies that the Project will be beneficial on an overall basis to the state and local economies and communities.

The testimony and exhibits of these witnesses provide information in support of NEET Southwest's Application under K.S.A. 66-131 for a CCN to operate as a public utility in Kansas.

VI. KANSAS LEGAL STANDARDS FOR CCN APPROVAL

17. NEET Southwest will fall within the definition of a public utility, as set forth in K.S.A. 66-104, and therefore must obtain a CCN, as required by K.S.A. 66-131, before it can conduct the business of a public utility in Kansas. In this Application, NEET Southwest is

requesting the Commission to grant NEET Southwest a certificate to transact business as a transmission-only public utility in Kansas and to construct, own, operate, and maintain the Project.

18. Pursuant to K.S.A. 66-131, no person or entity seeking to construct electric transmission lines in Kansas may conduct business in the state until the person or entity has obtained a CCN from the Commission, which will be issued if the Commission determines that the public convenience and necessity will be promoted by authorization of the plan for the electric facilities envisioned in the application. In this context, the Kansas Supreme Court has clarified that “public convenience” means the convenience of the public as a whole, not the convenience of particular individuals. In addition, “public necessity” does not necessarily mean there must be a showing of absolute need; rather, as used, the word “necessity” means a public need without which the public is inconvenienced to the extent of being handicapped. *Central Kansas Power Co. v. State Corp. Comm’n*, 206 Kan. 670, 676 (1971).

19. The Kansas Supreme Court also has clarified that, in determining whether to grant a CCN, the term “public convenience and necessity” is a relative one, established by proof of the conditions existing in the territory to be served. *See Central Kansas Power Co.*, 206 Kan. at 676 (sustaining a KCC order enlarging the certificate of authority held by a generation and transmission electric cooperative); *Atchison, Topeka & Santa Fe Railway Co. v. Pub. Serv. Comm’n*, 130 Kan. 777, 781 (1930) (defining “public convenience and necessity” for the purpose of certificates granted by the KCC’s predecessor, the Kansas Public Service Commission). As demonstrated in this Application and the testimony filed herewith, NEET Southwest’s Application meets the standards applied in Kansas for certification under K.S.A. 66-131.

20. Historically, the Commission has required applicants seeking a CCN to demonstrate that they have the necessary technical, managerial, and financial resources to conduct

the business of a public utility.⁵ Additionally, in reviewing CCN applications, the Commission also examines the Merger Standards originally adopted in Docket Nos. 172,745-U and 174,155-U.⁶

21. The Merger Standards have been articulated as encompassing evaluation of the factors listed below. Some of these factors are not directly applicable to NEET Southwest's application, as the transmission facilities that NEET Southwest proposes to build will transmit energy and capacity at wholesale and be rate-regulated by FERC. Nevertheless, to the extent they are applicable, the Merger Standards are as follows:

- *The effect of the transaction on customers*
- *Whether the transaction maximizes the use of Kansas energy resources*
- *Whether the transaction will reduce the possibility of economic waste*
- *Whether the transaction will be beneficial to state and local economies and to communities served by the resulting public utility operations in the state*
- *The effect of the transaction on affected public utility shareholders*
- *The effect of the transaction on the environment*
- *What impact, if any, the transaction has on public safety*
- *Whether the transaction will preserve the jurisdiction of the KCC and the capacity of the KCC to effectively regulate and audit public utility operations in the state*

22. In addition to the foregoing factors, in Docket Nos. 07-ITCE-380-COC, 08-KMOE-028-COC, and 08-ITCE-936-COC *et al.*, the Commission modified and added on to the merger standards tests as follows:

- *Financial ability*
- *Technical operations ability*
- *Managerial ability*
- *Impact on transmission in other states*
- *The historical presence of the Applicant*

⁵ Docket No. 11-GBEE-624-COC, Order Approving Stipulation & Agreement and Granting Certificate at ¶ 55, (Dec. 7, 2011); *see also*, Docket Nos. 07-ITCE-380-COC, 08-KMOE-028-COC, and 08-ITCE-936-COC *et al.*

⁶ Consolidated Docket Nos. 172,745-U and 174,155-U, Order at pp. 34-35 (Nov. 4, 1991); *see also*, Docket No. 08-ITCE-936-COC *et al.*, Order at ¶ 52 (Dec. 18, 2008).

23. In this Application, and in the testimony provided in support, NEET Southwest demonstrates to the Commission how its Project satisfies these standards and the standard applied in Kansas for certification pursuant to K.S.A. 66-131.

VII. SERVICES TO BE PROVIDED BY NEET SOUTHWEST

24. Upon obtaining the appropriate certifications and authorizations from this Commission and other applicable government authorities to construct the Project, NEET Southwest will offer transmission service on the Project line through an open access transmission tariff (“OATT”) that will be filed with, and subject to the exclusive jurisdiction of, the FERC under the Federal Power Act and FERC’s regulations. The purchasing customers are expected to be principally wholesale buyers (utilities, wholesale suppliers, competitive retail suppliers, brokers, and marketers). As a provider of open access transmission services, NEET Southwest will be required to offer and to provide service to all eligible customers on a non-discriminatory basis.

25. The costs of the Project will be recovered via SPP’s region-wide cost allocation methodology, consistent with FERC-approved Attachment J of the SPP Tariff that requires regional funding on a load ratio share basis for all ITP upgrades operated above 300 kV. NEET Southwest’s costs of the Project will be recovered through NEET Southwest’s FERC-accepted formula rate and associated customer review and challenge protocols, and the prudence of NEET Southwest’s project expenditures and the applicability of NEET Southwest’s cost containment commitments to such expenditures will be subject to FERC oversight, consistent with FERC’s exclusive jurisdiction over transmission in interstate commerce under the Federal Power Act.

26. In order to carry out its business objectives and to be able to provide the proposed transmission services to the public, it is necessary for NEET Southwest to obtain a CCN to operate as a public utility in Kansas. NEET Southwest will own, control, operate, and manage, within the

State of Kansas, for public use, facilities for the transmission of electricity and therefore will qualify as a public utility under K.S.A 66-104.

VIII. BENEFITS OF THE PROJECT

27. The following considerations demonstrate that the public convenience and necessity fully support granting NEET Southwest a certificate as a public utility in Kansas. These considerations, as well as others, are discussed in detail in the direct testimony being submitted contemporaneously with this Application.

A. Need for the Project and Project Benefits

28. SPP determined that there was a need for the Project as part of its 2019 ITP to address “historic and projected congestion on the [extra-high-voltage (‘EHV’) transmission] system and...unresolved transmission limits identified in multiple studies...”⁷ In particular, SPP explained that “[c]ontinued integration of wind generation on the western side of the SPP system has contributed to diminishing transmission capacity cable of supporting bulk power transfers to the east. This has led to declining transient stability margins at the Wolf Creek nuclear plant.”⁸ SPP also identified a number of reliability issues in the area, including high outage rates on the Butler-Altoona 138 kV transmission line in southeast Kansas, real-time operation issues on the Neosho-Riverton 161 kV transmission line, and heavy congestion on the Wolf Creek 345/69 kV transformer.⁹

29. SPP therefore identified the Project as needed, stating that the:

major study driver for the new Wolf Creek-Blackberry 345 kV line is its ability to relieve congestion and divert bulk power transfers away from the Wolf Creek-Waverly-La Cygne 345 kV line, Wolf Creek 345/69 kV

⁷ Exhibit BW-3 (2019 ITP Assessment) at § 4.1.1.1.

⁸ *Id.*

⁹ *Id.*

transformer and downstream 69 kV lines, and allowing system bulk power transfers to continue to flow east to major SPP load centers.¹⁰

SPP continued that the Project “will help to levelize system [locational marginal prices (‘LMP’)], low generator LMPs in the west and high load LMPs in the east, and overall system congestion while providing market efficiencies and benefits to ratepayers and transmission customers.”¹¹ SPP also recognized the diversity and expandability of the Project, finding that the Project “provides additional flexibility for future expansion options, including further expansion into eastern load centers and the opportunity for future seams projects with neighboring regions.”¹²

30. In addition to these benefits to wholesale electric markets, construction of the Project will promote economic development and will provide positive benefits to local communities near the Project. NEET Southwest’s witness Dr. David Loomis testifies that construction of the Project and associated facilities will create approximately 998 full-time equivalent jobs in Kansas over an approximately two-year construction period and create approximately six permanent full-time equivalent jobs during operation and maintenance of the transmission facilities in the first ten years, with approximately 9.60 full-time equivalent jobs created in years 11-40.¹³ The Project also will generate tax revenues for state and local governments in Kansas. During operation of the Project, and after the end of any property tax abatements, state and local governments will receive millions of dollars through property, sales, earnings, and other taxes each year. Dr. Loomis explains these benefits in his Direct Testimony.

¹⁰ *Id.* at § 7.1.1.

¹¹ *Id.*

¹² *Id.*

¹³ *See* Loomis Direct Testimony at 7.

B. Environmental Considerations

31. As Mr. Mayers testifies, NEET Southwest has designed the proposed Project to minimize its effects on the environment and to mitigate any potential environmental impacts.¹⁴ In particular, NEET Southwest has designed its preliminary Project route to minimize impacts to wetlands and to protected areas such as state and federal forests, as well as to comply with Federal Aviation Administration regulatory requirements. NEET Southwest's preliminary Project design also minimizes the impacts on local communities, wildlife, cultural, and archaeological sites. Through its continued public outreach process, which it is currently undertaking with the public and with federal, state, and local government agencies, NEET Southwest expects to further minimize potential environmental impacts from the Project.

32. Mr. Mayers also testifies that NEET Southwest also expects that the Project will have minimal visual impacts on residents due to routing to minimize impacts on local communities and residences and to the selection of spun concrete monopole structures.¹⁵ A number of NEET subsidiaries utilize spun concrete monopoles in their EHV transmission facilities, and in these affiliates' experiences, many landowners typically prefer the use of such structures, as they have a reduced structure footprint, which generally results in fewer impacts to land and reduces interference with current land uses, *e.g.*, ranching and farming.

C. The Public Convenience and Necessity Will Be Served by Granting NEET Southwest's Requested CCN

33. For the reasons described above, the public convenience and necessity fully support granting a certificate to NEET Southwest to operate in Kansas as a public utility pursuant to K.S.A. 66-131, thereby enabling NEET Southwest to proceed with its plans to develop, and after obtaining

¹⁴ See Mayers Direct Testimony at 23-24.

¹⁵ *Id.* at 23.

additional necessary authorizations from the Commission, to construct, own, operate, and maintain the Project.

IX. FINANCIAL, TECHNICAL, AND MANAGERIAL RESOURCES

34. An applicant for a CCN in Kansas also must possess the necessary financial, managerial, technical, and other experience necessary to own and operate the transmission line. NEET Southwest has the financial, managerial, and technical capabilities to operate as a transmission-only public utility in Kansas. The management team of NEET Southwest, and its parent companies NEET and ultimately, NextEra Energy, includes executive, professional, and technical personnel who have managed, built, and financed transmission projects in both the renewable and traditional energy sectors and who have been involved in the development of energy policy at both state and national levels. NextEra Energy entities have financed billions of dollars of energy projects and managed the development of projects that produce or transmit thousands of megawatts of power.

35. For the reasons stated above, and those found in the supporting testimony filed contemporaneously with this application, NEET Southwest has sufficient financial, technical, and managerial capabilities to be granted a CCN as a transmission-only public utility in Kansas pursuant to K.S.A. 66-131.

X. EVALUATION OF COMMISSION STANDARDS

36. As noted above, the Commission evaluates the following issues regarding whether certification should be granted to an entity applying to build transmission in or through Kansas, and NEET Southwest's responses, where applicable, are as follows:

- The effect of the transaction on customers¹⁶: As Ms. Walding testifies, NEET Southwest will offer transmission service on the Project line through an OATT that will be filed with and subject to the jurisdiction of FERC. Customers that purchase transmission service from the Project are anticipated to be wholesale buyers (utilities, wholesale suppliers, competitive retail suppliers, brokers, and marketers). As a provider of open access transmission services, NEET Southwest is obligated to offer and provide service to all eligible customers on a non-discriminatory basis. Accordingly, NEET Southwest submits that customers will benefit from additional choices in transmission service through the Project and will have the added benefit of obtaining that service on a non-discriminatory basis. Further, NEET Southwest has agreed to a binding cost cap for the Project that will save customers tens of millions from SPP's originally estimated costs, and NEET Southwest has a proposed schedule guarantee that will place the Project in service a year ahead of SPP's identified in-service date with corresponding financial benefits from a shorter construction period. NEET Southwest also has proposed a robust set of other cost containment measures. With respect to retail customers in Kansas, Ms. Walding testifies that the Project will have a *de minimis* impact on the average Kansas retail customer bill, or only \$0.04 per month on an average residential customer's bill, assuming 1,000 kWh of demand.
- Whether the transaction maximizes the use of Kansas energy resources¹⁷: SPP has identified the Project as an economic project necessary to relieve transmission congestion and increase the transmission capability from western Kansas east to SPP load centers. As a result, the Project will maximize Kansas energy resources to the benefit of all SPP customers.
- Whether the transaction will reduce the possibility of economic waste¹⁸: In considering its preliminary route, NEET Southwest sought to reduce socioeconomic and landowner impacts from the Project by paralleling or co-locating with existing transmission lines, roads, and property lines, in addition to maximizing distances from residences and public facilities. NEET Southwest also sought to reduce environmental impacts and reduce impacts to existing infrastructure. Further, the Project reduces economic waste in that

¹⁶ See Walding Direct Testimony at 32.

¹⁷ See Walding Direct Testimony at 36-37.

¹⁸ See Walding Direct Testimony at 37-38.

NEET Southwest was the lowest bidder for the Project and will provide the substantial economic and other benefits identified by SPP. The Project therefore will reduce the possibility of economic waste.

- Whether the transaction will be beneficial to state and local economies and to communities served by the resulting public utility operations in the state¹⁹: As Dr. Loomis testifies, the Project will create additional job opportunities for local personnel during construction and operation of the Project, with attending increases in local earnings in the counties through which the line will traverse. The Project also will result in increased local property tax revenues in these counties. These factors demonstrate benefits to state and local economies.
- The effect of the transaction on affected public utility shareholders²⁰: NEET Southwest submits that this standard is not applicable to its application or the Project. However, to the extent applicable, as Ms. Walding testifies, NEET Southwest's requested CCN will not have any negative impact on public utility shareholders within Kansas and will have positive impacts on NextEra Energy's shareholders.
- The effect of the transaction on the environment²¹: As Mr. Mayers testifies, the Project is not expected to adversely impact the environment. Through its preliminary routing, NEET Southwest has sought to minimize forested wetland impacts to the maximum extent practicable, avoided or minimized impacts to protected and sensitive species and their habitats, and minimized impacts to known cultural and archeological resources. NEET Southwest is undertaking additional public outreach and engagement with federal, state, and local environmental agencies in order to further address and minimize potential environmental impacts from the Project.
- What impact, if any, the transaction has on public safety²²: As Mr. Mayers and Ms. Sweezer-Fischer testify, NEET Southwest and its affiliates emphasize safety in all aspects of transmission line engineering, design, construction, operations, and maintenance. Therefore, the Project will not adversely impact public safety.
- Whether the transaction will preserve the jurisdiction of the KCC and the capacity of the KCC to effectively regulate and audit public utility operations in the state²³: Ms. Walding testifies that, if the Commission grants NEET Southwest's request for a CCN, the Commission will retain ongoing

¹⁹ See Loomis Direct Testimony at 6-7.

²⁰ See Walding Direct Testimony at 38-39.

²¹ See Mayers Direct Testimony at 26.

²² See Sweezer-Fischer Direct Testimony at 12-13 and Mayers Direct Testimony at 26-27.

²³ See Walding Direct Testimony at 39.

jurisdiction over the CCN, including the ability to open an investigation at any time if a question arises as to whether the public interest is still being served. The Commission will have the ability to regulate NEET Southwest as a transmission-only public utility providing service in the State of Kansas. Therefore, granting NEET Southwest's requested CCN will not adversely affect the Commission's jurisdiction or capacity to effectively regulate and audit public utility operations in the state.

- Financial ability²⁴: As Ms. Finnis testifies, NEET Southwest intends to finance the Project through corporate parent funding, both equity and debt, received from NEECH, which holds direct or indirect ownership interests in and is a source of funding for NextEra's operating subsidiaries other than FPL. NEECH has committed to provide any required guaranties for the Project to NEET Southwest and NEECH has provided a letter of commitment of funding. Debt obligations associated with NEECH guaranties are in turn guaranteed by NextEra Energy. NEECH guaranties are in turn guaranteed by NextEra Energy. As of December 31, 2021, NEECH had approximately \$7.6 billion of net available liquidity, consisting primarily of bank revolving line of credit facilities and cash equivalents, less letters of credit issued under the credit facilities and commercial paper outstanding and notes payable. Furthermore, NEECH enjoys exceptional access to credit and to the capital markets to meet its capital requirements, in addition to substantial operating cash flows and maintains strong investment grade credit ratings. NEECH's standard approach is to utilize internally generated funds to contribute equity to the Project during the construction period and then obtain NEECH financing at or shortly after the project's commercial operation date. Accordingly, customers receive the benefit of a project constructed with strong equity support, without any of the costs and risks of project-level leverage. As a result, NEET Southwest possesses significant financial ability to construct, own, operate, and maintain the Project.
- Technical construction and operations ability²⁵: Ms. Walding, Ms. Sweezer-Fischer, and Mr. Mayers testify to the engineering and construction expertise that NEET Southwest will utilize in order to build the Project, through its NextEra Energy affiliates. In particular, Mr. Mayers testifies that NextEra Energy affiliates have decades of experience in the construction of transmission lines, substation facilities, and related infrastructure, as well as proven capabilities in engineering, procurement, constructing, and operating high-voltage transmission line projects in compliance with the design, reliability, and operation standards set by a variety of authorities in North America. NextEra Energy subsidiaries own approximately 11,800 circuit miles of high-voltage

²⁴ See Finnis Direct Testimony at 9.

²⁵ See Walding Direct Testimony at 40; Mayers Direct Testimony at 27; and Sweezer-Fischer Direct Testimony at 13-14.

transmission, approximately 77,400 miles of distribution lines, and over 1,000 substations across North America.

Additionally, Ms. Sweezer-Fischer testifies that, as a subsidiary of NextEra Energy, NEET Southwest is fully supported by the Operations teams behind FPL, NEER, and various NEET subsidiaries. NextEra Energy companies operate under a support services model, which enables the organization to apply a best practices philosophy, a highly skilled workforce, and economies of scale across all of its companies, including NEET Southwest. Through this model, NextEra Energy employs experienced operation and support service personnel assigned to the Project. This organization at NextEra Energy is called “Power Delivery” and is responsible for all assets which deliver electricity to customers. The Power Delivery group employs over 3,200 highly experienced operations and maintenance professionals with an industry-leading track record in safety and reliability. The NextEra Energy companies offer vast experience in building, operating, and maintaining transmission infrastructure throughout the U.S. and Canada and a proven ability to do so with industry-leading safety, reliability, and cost-effectiveness. Through support from these affiliates, NEET Southwest has the technical operations expertise necessary to own, operate, and maintain the Project.

- Managerial ability²⁶: Ms. Walding testifies that, as part of the NextEra Energy family of companies, NEET Southwest will draw upon a deep reservoir of talented and committed NextEra Energy personnel from across the enterprise and benefits from the experience of its parent companies and affiliates. NEET Southwest has assembled a highly experienced team comprised of internal and external resources and will apply these resources to its execution of the Project. NextEra Energy, through its various affiliates, has extensive experience developing, permitting, constructing, owning, operating, and maintaining transmission systems around the U.S. and Canada. Mr. Mayers testifies that, from 2003 to 2021, NextEra Energy completed 308 major capital projects, reflecting an aggregate investment of \$65.9 billion in generation and transmission assets. Of these major capital projects, 80 percent were completed on time or early, at an average of 14 days ahead of schedule, and these projects were completed at a collective \$1.1 billion below their initial budgets. NextEra Energy subsidiaries have built over 1,000 miles of 345 kV transmission lines in Kansas, Texas, and Oklahoma, and in the last five years, NextEra Energy subsidiaries have constructed 116 miles of 345 kV transmission lines in Kansas alone.
- Impact on transmission in other states²⁷: As Ms. Walding testifies, the Project will have a beneficial impact on transmission in other states. SPP identified the Project as needed through its 2019 ITP process, as an economic project

²⁶ See Walding Direct Testimony at 40 and Mayers Direct Testimony at 7.

²⁷ See Walding Direct Testimony at 40-41.

designed to relieve transmission congestion and increase the transmission capability from western Kansas east to SPP load centers, including in southwestern Missouri. In addition, the Project includes approximately nine miles of transmission in Missouri and will interconnect to the Blackberry Substation in Jasper County, Missouri.

- The historical presence of the Applicant in the State²⁸: NextEra Energy and its subsidiary companies are familiar to the Commission, with an established presence in Kansas. As a whole, NextEra Energy has invested over \$1.8 billion in Kansas to date. NEET Southwest's sister company, GridLiance HP, jointly owns 29 miles of transmission assets in Winfield, Kansas with the City of Winfield. The Commission recently evaluated NEET's and NextEra Energy's qualifications to own a transmission utility in Kansas in 2021 through the GridLiance acquisition proceeding in Docket No. 21-GLPE-160-ACQ. In addition, NEET Southwest's generation-owning affiliates own and operate nine wind generation facilities in Kansas and operate approximately 231 miles of transmission lines and multiple substations related to these assets. Within the last five years, NextEra Energy subsidiaries have built over 116 miles of 345 kV transmission facilities in the state.

XI. SITING APPLICATION AND WIRE STRINGING FILINGS

37. As discussed above, NEET Southwest intends to file a separate application under the Kansas Electric Transmission Line Siting Act, K.S.A. 66-1,177 *et seq.*, requesting approval of the Project's proposed location.

38. NEET Southwest will comply with the requirements of K.S.A. 66-183 to string and maintain its wires to avoid unreasonable injury or interference from or with the wires of other utilities. NEET Southwest expects to submit a wire stringing application pursuant to K.A.R. 82-12-1, *et seq.* after design of the facilities are complete for the Commission's review and approval.

XII. REQUEST FOR FINDING OF INAPPLICABILITY OR WAIVER OF CERTAIN STATUTES

39. Chapter 66 of the Kansas Code sets forth a number of statutes regulating electric utilities generally. Many of these statutes are written to regulate electric utilities that will be furnishing retail services to end-user customers and are not already exclusively regulated by

²⁸ See Walding Direct Testimony at 41-42 and Mayers Direct Testimony at 25.

FERC. Given that NEET Southwest’s requested Certificate will be a “transmission-line-only” certificate, several of these statutes are inapplicable to NEET Southwest’s operations in the State under the requested Certificate. The Commission has previously recognized these statutes are not applicable to transmission-only utilities like NEET Southwest because the rates and services provided by the utility are exclusively regulated by FERC, pursuant to the Federal Power Act. In keeping with the Commission’s previous findings, NEET Southwest requests the Commission for certain findings of inapplicability or waiver.

40. For clarity, NEET Southwest requests the Commission find that:

- (a) K.S.A. 66-101b-f, 66-117, 66-128, and 66-128a-128e are inapplicable unless NEET Southwest acts outside conduct that is covered by FERC jurisdiction under Section 201(b) of the Federal Power Act (16 U.S.C. § 824);
- (b) K.S.A. 66-128f to 66-128p are inapplicable to NEET Southwest as long as NEET Southwest remains a provider of transmission service only; and
- (c) K.S.A. 66-1402 and 66-1403 are waived as long as NEET Southwest does not act outside conduct that is covered by FERC jurisdiction under Section 201(b) of the Federal Power Act.

41. Making a determination that these statutes do not apply to NEET Southwest is consistent with the Commission’s Orders granting certificates to ITC Great Plains, LLC (“ITC”) and Grain Belt Express Clean Line LLC (“Grain Belt”).²⁹ NEET Southwest, like ITC and Grain Belt, will have no retail customers in the State of Kansas and will be devoted exclusively to serving the wholesale interstate bulk electricity system in the region that subject to FERC regulation under Section 201(b) of the Federal Power Act (16 U.S.C. § 824).

²⁹ See *Order Approving Stipulation & Agreement and Addressing Application of Statutes*, Docket No. 07-ITCE-380-COC (June 5, 2007) at ¶¶ 41-43 and *Order Approving Stipulation & Agreement and Granting Certificate*, Docket No. 11-GBEE-624-COC (December 7, 2011) at ¶ 22 and p. 27, ¶ A (incorporating the terms and conditions of the Stipulation & Agreement into the Order).

42. The statutes from which NEET Southwest seeks a finding of inapplicability generally apply to retail sales that are outside of FERC jurisdiction. Because NEET Southwest will make no such sales, but instead will charge only for wholesale transmission services—an activity exclusively regulated by FERC—these statutes are inapplicable to NEET Southwest. For example, K.S.A. 66-101b requires that every electric public utility is required to furnish reasonably efficient and sufficient service at just and reasonable rates. Because FERC will maintain jurisdiction over the rates NEET Southwest charges for transmission service, regulation by the Commission under K.S.A. 66-101b would be preempted.

43. As the Commission ordered in approving ITC’s CCN Application and consistent with the Commission-approved Stipulation & Agreement addressing Grain Belt’s CCN Application, NEET Southwest requests that the Commission find that K.S.A. 66-101b-f, 66-128, and 66-128a-128e are inapplicable to NEET Southwest unless NEET Southwest acts outside conduct that is covered by FERC jurisdiction under Section 201(b) of the Federal Power Act (16 U.S.C. § 824).³⁰ As noted above, NEET Southwest’s charges for transmission services are wholly regulated by FERC, and therefore these statutes have no application to NEET Southwest’s business as authorized by the requested limited Certificate.

44. Also consistent with the Commission’s Orders in the ITC and Grain Belt dockets, NEET Southwest requests the Commission find that K.S.A. 66-128f to 66-128p are inapplicable to NEET Southwest as long as NEET Southwest “remains a provider of transmission service

³⁰ See *Order Approving Stipulation & Agreement and Addressing Application of Statutes*, Docket No. 07-ITCE-380-COC (June 5, 2007) at ¶ 41; *Order Approving Stipulation & Agreement and Granting Certificate*, Docket No. 11-GBEE-624-COC (December 7, 2011) at ¶ 22(f) and p. 27, ¶ A.

only.”³¹ These statutes apply to utilities that construct, own, or operate electric generating facilities. As NEET Southwest is only applying to construct, own, operate, and maintain transmission lines, these statutes are inapplicable to NEET Southwest’s business as authorized by the requested Certificate.

45. NEET Southwest additionally requests the Commission find that K.S.A. 66-117 is inapplicable to NEET Southwest’s business as authorized by the requested certificate. Like Sections 66-101b-f, 66-128, and 66-128a-128e, Section 66-117 applies to rates over which the Commission may exert authority. As discussed above, NEET Southwest’s transmission service rates are regulated exclusively by FERC. Therefore, as with the other statutes, this statute has no application to NEET Southwest’s business and a Commission finding to that effect is consistent with the treatment of ITC and Grain Belt.³²

46. Last, as the Commission approved in its Order granting Grain Belt’s CCN,³³ NEET Southwest requests waiver from K.S.A. 66-1402 and 66-1403 as long as NEET Southwest does not act outside of conduct that is covered by FERC jurisdiction under Section 201(b) of the Federal Power Act (16 U.S.C. § 824). Waiver is necessary for K.S.A. 66-1402 and 66-1403 because the requirement to file affiliate contracts applies automatically, without limitation to rate-regulated utilities furnishing retail services. However, the practical application of Section 66-1402 applies

³¹ See *Order Approving Stipulation & Agreement and Addressing Application of Statutes*, Docket No. 07-ITCE-380-COC (June 5, 2007) at ¶ 42.

³² See *Order Approving Stipulation & Agreement and Addressing Application of Statutes*, Docket No. 07-ITCE-380-COC (June 5, 2007) at ¶ 39; *Order Approving Stipulation & Agreement and Granting Certificate*, Docket No. 11-GBEE-624-COC (December 7, 2011) at ¶22(f) and p.27, ¶A

³³ *Order Approving Stipulation & Agreement and Granting Certificate*, Docket No. 11-GBEE-624-COC (December 7, 2011) at ¶22(g) (stating the parties’ support for waiver of K.S.A. 66-1402) and p.27, ¶A (incorporating the terms and conditions of the Stipulation & Agreement into the Order). Although waiver in Docket No. 11-GBEE-624-COC was limited to K.S.A. 66-1402, waiver of both K.S.A. 66-1402 and 1403 is appropriate because they are companion statutes.

where, as described in Section 66-1403, the utility attempts to collect costs associated with affiliate services through rates or charges over which the Commission retains jurisdiction. As discussed, NEET Southwest will not seek cost recovery through rates or charges set by the Commission, and NEET Southwest's rates are entirely regulated by FERC. Given the Commission will not regulate the rates of NEET Southwest under K.S.A. 66-1402 and 66-1403, NEET Southwest requests the Commission waive those statutes as long as NEET Southwest does not act outside of conduct covered by FERC jurisdiction.

47. Further, waiver of K.S.A. 66-1402 and 1403 will facilitate NEET Southwest's use of cost-saving resources available through its NextEra Energy affiliates, as discussed in the Direct Testimony of Ms. Walding, Mr. Mayers, Ms. Sweezer-Fischer, and Ms. Finnis.³⁴ Kansas ratepayers will continue to be protected from unnecessary affiliate costs pursuant to FERC's affiliate transaction rules. Specifically, NEET Southwest is subject to FERC's cross-subsidization restrictions on affiliate transactions, found at 18 C.F.R. §§ 35.43-.44. These restrictions preclude NEET Southwest from receiving non-power goods or services from a market-regulated or non-utility affiliate at a price above their market value. Kansas ratepayers are also protected from unnecessary costs by the cost cap, which NEET Southwest committed to as part of its winning bid for the Project at SPP.³⁵

48. For the foregoing reasons, NEET Southwest respectfully requests that the Commission find that K.S.A. 66-101b-f, 66-117, 66-128, and 66-128a-128p are inapplicable to NEET Southwest and that waiver is appropriate for K.S.A. 66-1402 and 66-1403.

³⁴ See Walding Direct Testimony at 12-19; 42-43; Mayers Direct Testimony at 6-10; 19-21; Sweezer-Fischer Direct Testimony at 5-9; and Finnis Direct Testimony at 5-7.

³⁵ See Walding Direct Testimony at 27.

XIII. CONCLUSION

The public interest will be served by Commission approval of this Application. The construction of the Project proposed by NEET Southwest will provide net benefits to the people of Kansas, will bolster the region's transmission infrastructure, and will enhance reliability for users of the transmission grid.

WHEREFORE, NEET Southwest respectfully requests that the Commission issue an order:

- (1) Granting NEET Southwest a CCN pursuant to K.S.A. 66-131 to operate as a public utility in Kansas for the purpose of constructing and operating the Project as contemplated by this Application;
- (2) Granting waivers to NEET Southwest from all appropriate statutes and regulations, as set forth above, or finding that such statutes and regulations are not applicable to NEET Southwest; and
- (3) Issuing such other and further relief as the Commission deems necessary to allow NEET Southwest to construct and operate the transmission line and associated facilities contemplated by this Application.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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