



September 30, 2019

Ms. Merideth Hadala
Michigan Public Service Commission
7109 W Saginaw Hwy
Lansing, MI 48917

Delivered to:

Nick Evans
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Julie Baldwin
baldwinj2@michigan.gov

**Re: NextEra Energy Resources' Comments Regarding Draft Legally Enforceable
Obligation Rules**

Dear Ms. Hadala:

NextEra Energy Resources, LLC ("NEER") files these comments with the Michigan Public Service Commission ("Commission") in response to the draft rules filed by the Commission Staff regarding the establishment of a Legally Enforceable Obligation ("LEO") by a qualifying facility ("QF") pursuant to the Public Utility Regulatory Policies Act ("PURPA").

NEER commends the Commission Staff for leading a thorough and collaborative process that allowed stakeholders to weigh in on the policy proposal being drafted by Commission Staff. The proposed rules adopt several policies advocated by NEER. Importantly, consistent with other jurisdictions, the proposed rules include the following three key criteria for defining a LEO:

(1) the tendering of a proposed contract, (2) proof of site control, and (3) commitment to pay for interconnection costs.

During the stakeholder process, NEER also recommended that the rules require QFs to provide performance guarantees that include, at minimum, a scheduled commercial on-line date, minimum and maximum annual delivery obligations, and adequate security for non-performance. Unfortunately, this recommendation was not included in the Commission's draft rules. NEER reiterates its recommendation to include these performance guarantee criteria to ensure that QF projects are viable and fulfill their contractual obligations, as also determined by the Minnesota

Public Service Commission¹. Absent these provisions, the risk for non-performance will inappropriately be shifted to ratepayers.

Thank you for the opportunity to comment on this matter and to participate in the stakeholder process. If the Commission or staff has any questions on these comments, please contact me at the number or e-mail below.

Sincerely,



Stephen Gibelli
Senior Director of Regulatory Affairs and Policy
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¹ The Minnesota Public Service Commission Docket No. E-015/CG-11-1073, *In the Matter of the Petition by Highwater wind LLC and Gadwall Wind LLC for Resolution of a Cogeneration and Small Power Production Dispute with Minnesota Power*, “Order Denying Claim of Legally Enforceable Obligation” at 8.