

# **Board of Adjustment Appeal**

## **Attachment 3**

**Oklahoma Corporation Commission Final  
Order No. 733782**

**BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA**

IN THE MATTER OF	)	CASE NO. PUD2023-000002
APPLICATION OF NEXTERA ENERGY	)	
TRANSMISSION SOUTHWEST, LLC	)	
FOR RECOGNITION AS	)	ORDER NO. <u>733782</u>
A TRANSMISSION ONLY UTILITY	)	

**FINAL ORDER**

BY THE COMMISSION:

The Corporation Commission of the State of Oklahoma ("Commission") being regularly in session and the undersigned Commissioners present and participating, there comes on for consideration and action the Application of NextEra Energy Transmission Southwest, LLC ("NEET SW" or "Applicant") seeking an order for recognition as a Transmission Only Utility.

**I. PROCEDURAL HISTORY**

On January 6, 2023, NEET SW filed the Application of NEET SW for Recognition as a Transmission Only Utility ("Application") seeking recognition as a Transmission Only Utility ("TOU") as that term is defined at OAC 165:35-43-2.

On January 30, 2023, NEET SW filed the Affidavit of Service of Tyler J. Sullivan, affirming the Application was sent on January 6, 2023 to the Public Utility Division ("PUD") of the Commission and to the Office of the Oklahoma Attorney General ("Attorney General").

On March 27, 2023, PUD filed the Affidavit of Jason C. Chaplin.

**II. SUMMARY OF THE EVIDENCE**

**Becky Walding – NextEra Energy Transmission Southwest, LLC**

The Affidavit of Becky Walding was filed with the Application on January 6, 2023. Ms. Walding is Assistant Vice President of NEET SW and Executive Director of Development of NEET SW's parent company, NextEra Energy Transmission, LLC ("NEET"). Ms. Walding's Affidavit affirmed the statements contained in the Application.

The record demonstrates that NEET SW is an Oklahoma TOU. Pursuant to OAC 165:35-43-2, a TOU is "an entity that builds, constructs, owns, operates, controls, manages, or maintains Transmission Line(s) within the State of Oklahoma and provides no retail service subject to the rate jurisdiction under 17 O.S. Section 151 et seq. by [the] Commission." NEET SW is a qualified transmission developer operating in Oklahoma that does not provide retail service.

The Oklahoma Legislature has declared at Section 287 of Title 17 that growing Oklahoma's transmission infrastructure in association with the Southwest Power Pool ("SPP") and thereby unlock Oklahoma's wind energy potential is in the public interest:

[i]t is in the public interest to promote the development of a robust transmission grid to facilitate delivery of renewable energy and improve reliability of the electric transmission system. It is further in the public interest, in cooperation with electricity transmission entities and the Southwest Power Pool, to promote wind-energy development in the state to the extent that the renewable energy generated from wind can be utilized in every part of the state and exported to other states.

NEET constructs, owns, operates, controls, manages, and maintains transmission lines and services across North America. NEET is an indirect, wholly owned subsidiary of NextEra Energy, which, through its subsidiaries, own and operate approximately 11,800 circuit miles of high-voltage transmission, approximately 77,400 miles of distribution lines, and over 1,000 substations across North America as of January 2023.

NEET SW successfully participated in an SPP bidding process to construct a new 345 kV transmission line in central Oklahoma between the Minco, Pleasant Valley, and Draper substations. In particular, on October 27, 2020, the SPP Board of Directors finalized approval of its 2020 Integrated Transmission Planning ("ITP") recommendations. These recommendations included the Minco-Pleasant Valley-Draper 345 kV Competitive Upgrade Project ("the Project") located in central Oklahoma and running through Grady, McClain, and Cleveland Counties. SPP subsequently issued an RFP to qualified entities to provide them an opportunity to submit a proposal to construct, own, and operate the Project pursuant to the SPP Tariff. NEET SW was the successful bidder.

The Project will increase electric reliability, reduce congestion, defer reliability upgrades, lower end-use consumer costs, and provide environmental benefits due to more efficient operation of transmission assets and greater utilization of renewable resources. In its 2020 ITP Assessment Report, published October 27, 2020 ("2020 ITP Assessment"), provided as Exhibit B to the Application, SPP identified the Project as needed to address "several different needs in and around the Oklahoma City (OKC) area." *See* 2020 ITP Assessment, Exhibit B to the Application, at p. 122. The 2020 ITP Assessment, at p. 122, explained:

The first of two 345/138 kV transformers at Cimarron experiences congestion for the loss of the second. Just south of the Cimarron station, the Czech Hall-Cimarron 138 kV line, which feeds the west side of the city, experiences congestion for the loss of the Cimarron-Draper 345 kV line. The Skyline-Quail Creek 138 kV line to the north of the city experiences congestion for the loss of the Northwest-Arcadia 345 kV line. These issues show the impact of west-to-east power flows across the EHV loop around OKC as well as the need for additional sources into OKC to serve local load.

SPP identified the Project, along with upgrades to certain other existing facilities (including the Cimarron-Draper 345 kV line and the Midwest-Franklin 138 kV line), to address the above-mentioned congestion.

In addition, the Project will increase ad valorem tax revenues for local communities, as well as payments to landowners for right-of-way.

Transmission costs from the Project will be allocated regionally pursuant to the requirements of the SPP Tariff. The 2020 ITP Assessment identified a portfolio of recommended projects, including the Project. In the 2020 ITP Assessment, SPP evaluated the costs and benefits of the recommended portfolio under different future scenarios, referred to as Future 1 and Future 2. SPP determined that net impacts to the State of Oklahoma from the recommended portfolio of projects would be a \$0.10 net rate increase under Future 1 and a \$0.13 net rate decrease under Future 2 (representing an increase or decrease to the rates of the average retail residential ratepayer based on an estimated residential consumption of 1,000 kWh per month). *See* 2020 ITP Assessment, Exhibit B, at § 8.2 and Tables 8.16 and 8.17. However, these estimates likely understate customer savings, in that they use SPP's estimated costs for the Project, which were \$36 million higher than NEET SW's proposed cost of \$55 million for the Project.

NEET SW expects approximately 230 total construction jobs will be created during the construction of the Project. NEET SW expects approximately 30-50 of these construction jobs will be hired locally.

The Project will connect to an existing 650 MW of wind generation resources at the Minco 345 kV Substation, one of the Project's endpoints. In addition, approximately 465 MW of new generation resources have requested interconnection to the Minco 345 kV Substation. These generator interconnection requests are comprised of new solar, wind, and battery storage facilities.

### **Jason C. Chaplin – Public Utility Division of the Oklahoma Corporation Commission**

Mr. Chaplin testified that he is employed by the Commission in PUD. Mr. Chaplin testified that pursuant to OAC 165:35-43-2, a TOU means an entity that builds, constructs, owns, operates, controls, manages, or maintains Transmission Line(s) within the State of Oklahoma and provides no retail service subject to the rate jurisdiction under 17 O.S. Section 151 et seq. by this Commission.

Mr. Chaplin testified that NEET SW filed its Application in this Cause, requesting the Commission issue an order recognizing NEET SW as a TOU

Mr. Chaplin testified that NEET SW is a subsidiary of NEET, which is a competitive transmission company in North America. NEET develops, finances, constructs, operates, and maintains transmission assets across the continent. NEET operates through its regional subsidiaries, such as NEET SW, to construct, own, and operate regulated transmission projects that strengthen the electric grid. NEET is an indirect, wholly owned subsidiary of NextEra Energy, which, through its subsidiaries, owns and operates approximately 11,800 circuit miles of high-

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

Mr. Chaplin testified that pursuant to OAC 165:35-43-3, Recognition by the Commission,

(a) If an entity wishes to seek recognition by the Commission that such entity is a Public Utility, as defined by Title 17 O.S. Section 151, such entity shall file an application before the Commission seeking such recognition as a Public Utility.

(b) Appropriate assessment fees may be applied to such entity during the application for recognition process as provided by Commission rules.

Mr. Chaplin testified that pursuant to OAC 165:35-43-4, Reporting,

(a) For a TOU providing electric transmission services, other than those facilities operating for the purpose of directly connecting generation resources to the existing grid, regular review of operations is reasonable to preserve the reliability of electric transmission service, to ensure public safety, and the enhancement of economic efficiency in the production and consumption of electricity for the electric consumer. This Subchapter establishes annual reporting requirement(s) to each TOU under Commission jurisdiction.

(b) On or before June 15 of each year, each TOU shall submit information to PUD about any Transmission Line(s) the TOU has built, constructed, owned, operated, managed and/or maintained based on the preceding calendar year. Additionally, on or before June 15 of each year, each TOU shall submit information about any additional Transmission Line(s) it plans to build, own, operate, manage and/or maintain subsequent to June 15. Within such submission, the TOU shall provide information, which includes but is not limited to the following:

(1) A description of any new transmission route(s) that the TOU has submitted to the SPP's regional planning process or other applicable regional planning process, or that has been approved by a Federal authority;

(2) A status report of any Interconnection proposal that the TOU has submitted to a regional planning process or that has been approved by a Federal authority;

(3) Identification of the allocation of transmission costs to Oklahoma Utilities from SPP;

(4) An analysis of the costs and benefits to Oklahoma rate payers of any transmission project or portfolio of

transmission projects, if the TOU or regional planner has prepared such a study, and excluding projects done primarily to comply with NERC standards;

(5) The expected number of Oklahoma residents that will be employed during construction of any project and the specific type of job(s) utilizing Oklahoma residents;

(6) The expected number of Oklahoma residents that will continue to be employed after construction of any project and the specific type of job(s) utilizing Oklahoma residents;

(7) A statement reflecting any known annual property or ad valorem tax assessed to the TOU for Transmission Lines and related operations;

(8) Aggregate total payments made to private landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;

(9) Aggregate total payments made to public landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;

(10) Identification of any new energy resource(s) to which the transmission project is directly connected or, to the extent known, resources to which the transmission project could be connected to integrate existing natural gas or other resource generation;

(11) Copies of any impact studies previously provided to state or federal agencies concerning the environment and the wildlife in the area of any new Transmission Line(s) built by the TOU will be made available for onsite review as requested;

(12) An attestation that the TOU's insurance coverage will be made available for onsite review as requested.

Mr. Chaplin testified that pursuant to OAC 165:35-43-7, Decommissioning of transmission lines,

(a) A TOU shall be responsible, at its expense, for the decommissioning of any and all of its equipment upon abandonment or the end of the useful life of a Transmission Line or other electric transmission facility. After the decommissioning of any Transmission Line, a TOU shall restore the land upon which a decommissioned Transmission Line or other electric transmission facility was located consistent with the TOU's decommissioning plan.

(b) A TOU shall submit a decommissioning plan to identify the methodology used to mitigate potential impacts resulting from the

cessation of operation at the end of the project's useful life. The plan shall consist of but not limited to the following:

- (1) Identification of the specific project components that will be removed;
- (2) A description of the decommissioning process in the event of abandonment during construction and abandonment during operation;
- (3) A description of the process used for soil and road restoration; and
- (4) An attestation that a statement of financial capability or insurance coverage sufficient to decommission the project outlined in the plan will be made available to the Commission upon request.

Mr. Chaplin testified that PUD reviewed the Application and Exhibits filed by NEET SW for recognition as a TOU and the applicable Commission rules found at OAC 165:35 subchapter 43 referenced above. The Company's Application included information about NEET SW, NEET, and NextEra Energy including each company's expertise in developing, financing, constructing, operating, and maintaining transmission assets in North America. NEET SW is a qualified transmission developer active in the SPP where the Company successfully participated in the SPP bidding process to construct a new 345 kV transmission line in central Oklahoma between the Minco, Pleasant Valley, and Draper substations. NEET is currently a transmission owner in Oklahoma with GridLiance High Plains LCC ("GridLiance") as an indirect subsidiary approved by this Commission in January 2021. GridLiance is a transmission company that owns approximately 444 miles of transmission lines and related infrastructure located in the Oklahoma panhandle. The Company also included in its Application information pursuant to the reporting requirements found in OAC 165:35-43-4 referenced above.

Mr. Chaplin testified that it is PUD's recommendation that the Application filed by the Company satisfies the requirement found within OAC 165:35-43-3(a) to be recognized as a Transmission Only Utility in Oklahoma. PUD further recommends if this Commission approves the Company's requested relief, pursuant to OAC 165:35-43-7(b), the Company shall submit to PUD its decommissioning plan in its initial annual reporting submission pursuant to OAC 165:35-43-4(b), to identify the methodology used to mitigate potential impacts resulting from the cessation of operation at the end of a transmission project's useful life.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

THE COMMISSION FINDS that it has jurisdiction of this cause pursuant to Article IX, Section 18, of the Oklahoma Constitution, and Title 17, Sections 151 and 152, of the Oklahoma Statutes.

THE COMMISSION FURTHER FINDS that NextEra Energy Transmission Southwest, LLC provided notice to the Commission's Public Utility Division and to the Office of the

Oklahoma Attorney General and that such notice was sufficient and given as required by law and Commission rules.

THE COMMISSION FURTHER FINDS that the Oklahoma Legislature has declared at Section 287 of Title 17 that growing Oklahoma's transmission infrastructure in association with the Southwest Power Pool, and thereby unlocking Oklahoma's renewable energy potential, is in the public interest.

THE COMMISSION FURTHER FINDS that the Southwest Power Pool has determined that the Project will increase electric reliability in central Oklahoma, reduce congestion, defer reliability upgrades, lower end-use consumer costs, and provide environmental benefits due to more efficient operation of transmission assets and greater utilization of renewable resources.

THE COMMISSION FURTHER FINDS that based upon the record in this case, as summarized herein, that the Applicant, NextEra Energy Transmission Southwest, LLC, is a Transmission Only Utility pursuant to the Commission's Electric Utility Rules at OAC 165:35-43-2.

THE COMMISSION FURTHER FINDS that NextEra Energy Transmission Southwest, LLC should be required to submit to PUD its decommissioning plan in its initial annual reporting submission pursuant to OAC 165:35-43-4(b) in order to identify the methodology used to mitigate potential impacts resulting from the cessation of operation at the end of a transmission project's useful life.



**ORDER**

THE COMMISSION THEREFORE ORDERS that the Findings of Fact and Conclusions of Law set forth above are hereby accepted as the Order of the Commission.

THE COMMISSION FURTHER ORDERS that the Commission hereby recognizes NextEra Energy Transmission Southwest, LLC as a Transmission Only Utility in the state of Oklahoma.

THE COMMISSION FURTHER ORDERS that NextEra Energy Transmission Southwest, LLC should be required to submit to PUD its decommissioning plan in its initial annual reporting submission pursuant to OAC 165:35-43-4(b) to identify the methodology used to mitigate potential impacts resulting from the cessation of operation at the end of a transmission project's useful life.

THIS ORDER SHALL BE EFFECTIVE immediately.

OKLAHOMA CORPORATION COMMISSION

\_\_\_\_\_  
J. TODD HIETT, Chairman

*Bob Anthony*  
\_\_\_\_\_  
BOB ANTHONY, Vice Chairman

*Kim David*  
\_\_\_\_\_  
KIM DAVID, Commissioner

**CERTIFICATION**

DONE AND PERFORMED by the Commissioners participating in the making of this Order, as shown by their signatures above, this 20th day of April, 2023.

*Amy Cummings*  
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AMY CUMMINGS, Secretary

