



*Opponent Testimony Provided to the
Senate Utilities Committee
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In Opposition to Senate Bill 478

Good afternoon Mister Chairman, Vice-Chair and Ranking Member,

Introduction:

Enel North America, through its subsidiary, Enel Green Power, is a leading developer, owner and operator of renewable energy projects and is currently a significant owner/operator of wind capacity in the State of Kansas. Enel Green Power operates six wind power plants in Kansas with a combined capacity of 1.3 GW and an additional 520 MW in development, representing over \$2.7 billion in total investment. Enel's investments in Kansas has created 210 full-time, permanent jobs in the state. Enel Green Power is invested in Kansas and committed to the long-term sustainability of the communities where it operates, supporting critical initiatives.

In 2020, nearly \$12.5M was paid in lease payments to local landowners. These payments are annual payments made consistent with landowner lease agreements and continued operation of the power plants. In addition, Enel Green Power has invested more than \$4M in the state through its sustainability efforts and averaging nearly \$685k per year since 2014.

Position on SB 478:

Enel Green Power opposes the passage of SB 478. In its current form, SB 478 would give local jurisdictions decision-making authority to select a light mitigation system. This completely undermines the Federal Aviation Administration's (FAA) expert opinion to decide what light mitigation system can and should be deployed at a specific wind generation facility. Ultimately, a light mitigation system is a decision best made by the developer with approval from the FAA. The FAA impliedly preempts the entire field of air safety including the decision to approve or deny a light mitigation system regardless of any state or local law.

This bill requires that newly installed wind generation facilities constructed and operational prior to July 1, 2022, must install and maintain a light mitigation system on or before July 1, 2025. We recommend providing additional time for compliance given the lengthy timelines for FAA review and approval. The light mitigation system requirement should be at the time of the commercial

operation date, as the light mitigation system must be installed and tested, which cannot be executed until all turbines and lights are in operation.

The retroactivity requirement will be a burdensome and costly endeavor representing a multi-million-dollar expense. Existing facilities were permitted under existing rules, and it would be improper to retroactively inflict this additional cost. Further, not all wind generation facilities may receive FAA approval for a light mitigation system because of their proximity to military infrastructure. As proposed, this bill does not allow light mitigation system requirements to be waived. An amendment granting a waiver or extension of light mitigation technology requirements for new and existing wind generation facilities based upon technical or economic feasibility considerations should be considered.

Value of the Resources:

Wind generation is not intended to be a substitute for other generation, but instead plays an important role in diversifying the generation fleet and reducing the exposure to volatile fuel supply costs while meeting the electricity needs of Kansans. Developers in conjunction with the FAA should decide what, if any, light mitigation system is best for a wind generation facility. Local officials should not be granted authority to decide what light mitigation system is best suited for a wind generation facility.

Conclusion:

SB 478 will significantly increase project costs in Kansas making those developments less productive and more costly for Kansans. Because of the increase in cost in developing wind projects from this bill, development could move to neighboring states like Missouri, Colorado, Oklahoma and other Midwestern states because Kansas will be at a competitive disadvantage. Kansas resources compete in a regional market on price. Lighting requirements are important to ensure the safe operation of commercial, private, and military activities, and should be decided in close coordination with the FAA by the developer. Any local regulations should be consistent with FAA requirements.

Thank you for your consideration and we urge your opposition to SB 478.