

**ORIGINAL**

Commissioner	Yes	No	Not Participating
Zay			√
Deig	√		
Swinger	√		
Veleta	√		
Ziegner	√		

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE PETITION BY APPLESEED )  
ENERGY STORAGE, LLC FOR CERTAIN ) CAUSE NO. 46352  
DETERMINATIONS BY THE COMMISSION WITH )  
RESPECT TO ITS JURISDICTION OVER ) APPROVED: APR 29 2026  
PETITIONER’S ACTIVITIES AS A PUBLIC UTILITY )**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**Anthony F. Swinger, Commissioner**  
**Sean Gorman, Administrative Law Judge**

On January 12, 2026, Appleseed Energy Storage, LLC (“Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) in this Cause for certain determinations, declinations of jurisdiction, and approvals relating to its proposed construction of a battery energy storage system with an installed capacity of approximately 200 megawatts (“MW”) (800 MW hours (“MWh”) (nameplate capacity, alternating current (“AC”)-coupled) located entirely in Cass County, Indiana (the “Facility”), in accordance with Ind. Code ch. 8-1-2.5.

Also on January 12, 2026, Petitioner prefiled the direct testimony and attachments of Stephen Eastridge, Project Director, Development for NextEra Energy Resources, LLC (“NextEra Energy Resources”).

On March 3, 2026, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Notice of Intent Not to File Testimony.

The Commission conducted an evidentiary hearing in this Cause on March 31, 2026, at 10:30 a.m. in Hearing Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Counsel for Petitioner and the OUCC appeared and participated in the hearing at which the prefiled exhibits and attachments of Petitioner were admitted into the record without objection.

Based upon the applicable law and evidence, the Commission now finds:

**1. Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published by the Commission as required by law. As discussed herein, Petitioner intends to engage in activity that would qualify it as a “public utility” under Ind. Code § 8-1-2-1 and as an “energy utility” under Ind. Code § 8-1-2.5-2. The Commission may decline to exercise, in whole or in part, its jurisdiction over an energy utility pursuant to Ind. Code § 8-1-2.5-5. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

**2. Petitioner's Characteristics.** Petitioner is a limited liability company organized and existing under the laws of the State of Delaware and authorized to do business in the State of Indiana. Petitioner's principal place of business is at 700 Universe Blvd., Juno Beach, Florida 33408. Petitioner is an indirect, wholly owned subsidiary of NextEra Energy Resources, which is itself a subsidiary of NextEra Energy, Inc. ("NextEra"). NextEra Energy Resources, through its subsidiaries, specializes in the development, construction, and operation of large-scale power projects, including battery storage projects. NextEra Energy Resources is headquartered in Juno Beach, Florida.

**3. Relief Requested.** Petitioner requested that the Commission decline to exercise its jurisdiction over Petitioner pursuant to Ind. Code § 8-1-2.5-5 as it pertains to the construction, ownership, operation, and any other activity in connection with the Facility. Petitioner will store and discharge electricity from the Facility for sale in the wholesale power market.

**4. Petitioner's Evidence.** Mr. Eastridge described the Facility and its location. He testified that the Facility will be located on approximately 35 acres to which Petitioner has consensually obtained necessary land rights. Mr. Eastridge testified that the Facility will have an installed capacity of 200 MW (800 MWh) (nameplate capacity, AC-coupled). He testified that the Facility will interconnect with the Duke Energy Indiana, LLC ("Duke") transmission system via an approximately 2.5-mile, 230 kV line from the collector substation to the existing Duke 230 kV Walton substation, within the footprint of the Midcontinent Independent System Operator ("MISO"). He testified that the Facility is expected to achieve a commercial operation date ("COD") by May 1, 2027.

Mr. Eastridge further testified that the electricity discharged by the Facility will be sold to either a contracted offtaker or MISO. He testified that Petitioner is currently in confidential commercial negotiations that could result in either a power purchase agreement ("PPA") or a build-transfer agreement ("BTA"). If the negotiations result in a PPA, the offtaker will be sold the energy discharged by the Facility. If the negotiations result in a BTA, the counterparty will purchase the membership interests in Appleseed Energy Storage, LLC, thereby becoming owner of the Facility. He testified that Petitioner has the ability to sell the electricity discharged by the Facility through the MISO market if there is not a contracted offtaker through either a PPA or a BTA. He testified that regardless of whether there is a contracted offtaker or the electricity is sold through the MISO market, Petitioner will only be selling the electricity discharged on a wholesale basis. He testified that if a BTA transaction occurs and results in Petitioner becoming affiliated with a regulated Indiana retail utility, Petitioner will file a notice in this Cause informing the Commission and the OUCC of the affiliation.

Mr. Eastridge testified as to how the Facility will store electricity and operate. He testified that a 200 MW (800 MWh) battery component will be on the AC side of the transformer. He explained that the battery will be charged by the electric grid. A battery management system will continuously monitor and regulate critical parameters, such as voltage, temperature, and state of charge, to maintain operational integrity and safety. A computerized monitoring system will provide up-to-date weather forecasts, power prices, historical electrical use, the amount of charge remaining in the battery, and when to use the energy storage system. When energy is needed on the power system, the power will be stepped up in voltage and sent to the onsite collector station,

and from there, will be transmitted via the Facility's interconnection facilities to the transmission grid. The Facility's boundaries, gen-tie line, and the point of interconnection are depicted in the preliminary site map, which was provided with Mr. Eastridge's testimony.

Mr. Eastridge testified regarding the benefits of battery storage to the electric transmission grid. First, it improves the operations of the electric grid. Battery storage can balance load on the grid by moving energy when demand is high. The technology also allows for a seamless switch between power sources and protects equipment by controlling voltage and frequency. Second, battery storage effectively integrates renewable resources into the electric grid. Battery storage fills in the gaps resulting from intermittent generation resources such as solar and wind, which means that system operators can more easily bring on and off renewable energy, reducing the need for load-balancing services and rapid generation ramping. Third, battery storage can reduce electrical system investments. By reducing the load on congested transmission and distribution systems, battery storage may defer expensive upgrades. Fourth, battery storage projects do not require a large area for development, are scalable in size, and can be located in many places. Finally, battery storage emits no greenhouse gases or other air pollutants, and it does not use water to operate.

Mr. Eastridge testified regarding the Facility's interconnection with the Duke transmission system. He testified that the Facility will consist of 16,212 battery modules, enclosed within 193 containers. Cables will be installed to convey the AC electricity to a collection substation located onsite where the voltage will be transformed from the 34.5 kV collection voltage to 230 kV. The Facility will interconnect to a 230 kV Point of Change of Ownership Pole immediately adjacent to the existing Duke 230 kV Walton substation. He testified that Duke's transmission system is a part of the wholesale power grid controlled by MISO. He testified that the Facility has applied for a Surplus Generation Interconnection Agreement ("GIA") with MISO and anticipates receiving the System Impact Study from MISO in the second quarter of 2026 and the Surplus GIA in the third quarter of 2026. He testified that the Facility's queue number in the MISO Interconnection Queue is S1102 and is surplus to the Appleseed Solar project's queue number of J992. He testified that under MISO's surplus interconnection process, MISO will evaluate the impact of the Facility on the reliability of the transmission system.

Mr. Eastridge provided additional capacity and interconnection details applicable to the Facility as required by the Commission's GAO 2025-02. Regarding the Facility's expected capacity factors, dispatchability and accreditation characteristics, Mr. Eastridge testified that the Facility will be fully dispatchable and thus does not have a capacity factor. He provided a table with his testimony showing MISO's anticipated capacity accreditation for all resource types, including battery storage. He testified that the Facility will be fully dispatchable at 200 MW for four hours during MISO's peak. He testified that through MISO's interconnection process, the Facility will secure network resource interconnection service for the 200 MW AC capacity. He testified that the Facility will be dispatched according to MISO's interconnection tariff and the GIA.

Mr. Eastridge testified that Petitioner has conducted several environmental and cultural studies to evaluate the appropriateness of the Facility site and that based upon the due diligence and permitting work to date, no environmental or cultural issues are foreseen that would delay or

prevent the permitting and construction of the Facility within the timeline discussed in his testimony. He testified that a Phase I Environmental Site Assessment (“ESA”) is currently being performed for the Facility area by Environmental Consulting & Technology, Inc. He testified that Petitioner’s affiliate, Appleseed Solar, LLC, completed a Phase 1 ESA for the Appleseed Solar Project boundary in September 2025, and he provided a copy of that Phase 1 ESA with his testimony. He testified that additional studies have been performed including a biological habitat desktop review, a bat habitat assessment, a cultural resources desktop analysis, an aquatic resource delineation report, and a grassland habitat survey memo.

Mr. Eastridge testified that Petitioner has applied or would apply for and obtain all necessary federal, state, and local permits needed for construction and operation of the Facility. Regarding local approvals required by Cass County (“County”), he testified that the County has an ordinance governing battery storage facilities (“Ordinance”) that requires the issuance of an Improvement Location Permit (“ILP”) by the County. He testified that Petitioner anticipates receiving the ILP at the time of construction of the facilities. He testified that the Ordinance also requires Petitioner to execute a Road Use Agreement and a Decommissioning Agreement with the County before construction of the Facility commences.

Mr. Eastridge provided details regarding the decommissioning plan that will apply to the Facility. He testified that the decommissioning plan provides assurance that the project facilities are properly decommissioned at the end of the Facility’s useful life or upon Facility abandonment. The Decommissioning Agreement with Cass County is expected to include the Facility’s decommissioning plan, which will provide the various steps that will be taken during decommissioning and details the equipment to be removed from the Facility site. To guard against the unlikely and worst-case possibility that Petitioner would be unable to meet its obligation to remove the Facility, Petitioner anticipates that it will be required by the Decommissioning Agreement to provide decommissioning security (*e.g.*, a performance or surety bond), the amount of which is determined by a professional engineer that is chosen by the Petitioner and approved by the County. The decommissioning security is intended primarily to cover the cost of removing project infrastructure and for restoring the leased premises to their preconstruction condition.

Mr. Eastridge testified that Petitioner may need to obtain the following Indiana permits and determinations:

(1) Prior to commencing construction activity, Petitioner must seek a Construction Stormwater General Permit (“CSGP”) from the Indiana Department of Environmental Management (“IDEM”), who administers the program in cooperation with the Cass County Soil and Water Conservation District office (“SWCD”). To obtain a CSGP, Petitioner must first submit for review a Construction Plan, which includes a Stormwater Pollution Prevention Plan for construction activities and post-construction land use. The Construction Plan must be submitted to IDEM (or the SWCD, if designated by IDEM) for Construction Plan review. Upon receiving notice that the Construction Plan review is complete, or a review is not required, Petitioner must then submit an application for a CSGP to the IDEM Stormwater Program. He testified that Petitioner will obtain a CSGP prior to commencement of construction.

(2) If IDEM determines, during its plan review, that an adverse environmental impact from the Facility is evident (ex: due to impairing the quality of the receiving stream or identification of Outstanding State Resource Water), IDEM may require an individual stormwater permit under the National Pollutant Discharge Elimination System (“NPDES”). After making that determination, IDEM would notify the Facility in writing of its NPDES determination, the reasoning for its determination, and the Facility’s required NPDES submittals pursuant to 327 IAC 15-2-9(c). Until the individual stormwater permit becomes effective and a Construction/Stormwater Pollution Prevention Plan is reviewed and determined to meet the intent of the permit, the Facility may not begin land-disturbing activities. He testified that Petitioner will obtain such a permit to the extent required by IDEM.

(3) Permits, as needed, from the Indiana Department of Transportation (“INDOT”) to allow Facility electric lines and other facilities to cross state highways for driveways, road exits, etc. He testified that Petitioner will apply for these permits as they become necessary.

(4) Appropriate permits from IDNR and IDEM, to the extent necessary, if isolated wetlands and floodways are impacted by the Facility.

(5) Indiana Department of Homeland Security (“IDHS”) requires a notice and application for the installation of a new utility scale battery storage system. He testified that Petitioner will provide the notice and application to the Division of Fire and Building Safety of IDHS at the appropriate time.

Mr. Eastridge testified that Petitioner may also be required by federal law to do the following: (1) self-certify as an exempt wholesale generator and apply for market-based rate authority under the Federal Energy Regulatory Commission’s (“FERC”) rules and regulations; (2) develop and implement a federal spill prevention, control, and countermeasure plan; and (3) obtain a Nationwide Permit from the U.S. Army Corps of Engineers for impacts to wetlands or other waters of the United States, to the extent necessary.

Mr. Eastridge testified that the Facility will not use water in any significant quantities, and it will have negligible or no impact on local water supplies. He explained that water will be used during construction and removal of project facilities primarily for dust control.

Mr. Eastridge testified that Petitioner seeks to retain the right to use the public right-of-way within the Facility site to place collector lines and transmission lines in the public right-of-way. Additionally, retention of this right would clarify issues surrounding use of the public right-of-way for road crossings. He testified that this is similar to the treatment given to other renewable energy projects in Indiana.

Mr. Eastridge testified that Petitioner does not seek or need the power to be exempt from local zoning. However, Petitioner requests that the Commission retain its jurisdiction to determine the reasonableness of local regulation under Indiana law.

Mr. Eastridge testified that Petitioner agrees to submit the status reports that have typically been required for renewable generation projects in Indiana, and he listed the initial and subsequent reports that Petitioner has agreed to submit.

Mr. Eastridge testified that he believes the public interest will be served in a number of important respects by the addition of the battery storage capacity represented by the Facility. First, the public needs electricity, as demonstrated by Petitioner's confidential commercial negotiations with a potential offtaker for the electricity stored and discharged by the Facility. Second, battery storage facilities allow electricity to be stored as it is generated and used at a future time to more closely align with electric demand. Third, the Facility will support system reliability under contingency conditions. The Facility can be scheduled on peak days to mitigate the potential exposure to thermal violations and displace a portion of total energy capacity that would otherwise be provided by fossil generation. In addition to ensuring local system reliability, the Facility can provide reserves (*e.g.*, 10-minute spinning reserve) during times when the Facility is not needed to support local reliability. The Facility will be capable of smoothing peak demand and the generation profile of intermittent renewable energy.

Fourth, the Facility will facilitate increased renewable penetration without sacrificing reliability. The Facility will be able to charge during periods of low load and/or high renewable generation and discharge during high load periods when transmission elements are overloaded. Fifth, the Facility landowner(s) will receive annual lease payments from the placement of battery storage facilities on their properties. Sixth, local taxing bodies will receive new tax revenues. Seventh, several hundred temporary construction jobs and several full-time operations and maintenance jobs will be created by the Facility. Lastly, the Facility will diversify the region's and Indiana's electricity generation portfolio, protecting against volatile price spikes and risks from relying too heavily on just a few sources of generation.

Mr. Eastridge testified that Petitioner has the necessary financial, technical, and managerial expertise to construct, own, and operate the Facility. He testified that through its subsidiaries and affiliates, NextEra Energy Resources owned and/or operated approximately 34,000 MW of total net generating capacity and 3,600 MW of storage capacity as of December 31, 2024. NextEra subsidiaries operate in all eight North American Electric Reliability Corporation ("NERC") regions as generator owners and generator operators and, as such, are required to comply with applicable NERC Reliability Standards. Regarding Petitioner's financial capability, he testified that Petitioner is a wholly-owned subsidiary of NextEra. A Fortune 200 company, NextEra's year-end 2024 balance sheet included over \$178 billion of assets and \$60 billion of shareholder equity. He testified that NextEra has the financial capacity to finance, develop, construct, operate, and maintain energy storage projects over the long-term. He testified that NextEra's financial strength and ability to finance the Facility are demonstrated in NextEra's 2024 Annual Report. He testified that Petitioner will operate the Facility in a commercially reasonable manner and in accordance with good utility practice.

Mr. Eastridge testified regarding the requirements of Ind. Code § 8-1-2.5-5. He testified that technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies renders the exercise, in whole or in part, of jurisdiction over Petitioner by the Commission unnecessary or wasteful. He explained that Petitioner is already

subject to the requirements of Cass County, the rules and regulations of FERC, and other federal, state and local agencies and that the requirements of those governmental entities adequately address concerns the Commission may otherwise have and protect the public interest regarding the future operation and wholesale transactions involving the Facility. In addition, competitive forces in the wholesale power markets serve as a check on these activities, particularly on the wholesale power price. Also, MISO is responsible for the safe and reliable operation and planning, including generation interconnection planning, of the electric transmission systems under their functional control, which includes the Duke transmission system to which the Facility will interconnect. Mr. Eastridge testified that further regulation of these matters by the Commission will be unnecessary and wasteful of the Commission's resources.

Mr. Eastridge testified that a declination of jurisdiction by the Commission, in whole or in part, will be beneficial for Petitioner, Petitioner's customers, and Indiana, and will promote the efficiency of Petitioner. He explained that Petitioner will benefit from the ability to devote its efforts and resources to complying fully with the requirements of the federal, local, and other state regulatory agencies with jurisdiction over its operations, as well as the requirements of MISO, which will promote the efficiency of Petitioner's ongoing development and operation of the Facility. He testified that Indiana will benefit from the resiliency provided to the grid by battery storage generally, and this Facility specifically. He testified that the exercise of jurisdiction by the Commission will encumber Petitioner with duplicative requirements that are unnecessary in view of other regulatory requirements.

Mr. Eastridge testified that the exercise of Commission jurisdiction will inhibit Petitioner in competing with other providers of functionally similar energy services or equipment. He testified that should the Commission exercise jurisdiction over Petitioner, the Commission would be placing Petitioner at a disadvantage with respect to other independent power producers such as wind and solar projects over whom the Commission has declined to exercise jurisdiction. Such regulation would expose Petitioner to the risk of regulatory lag and hinder the quick implementation of business decisions in a highly competitive market, which would create a significant competitive disadvantage for Petitioner. In addition, the Commission's exercise of jurisdiction may compel Petitioner publicly to disclose proprietary information to its disadvantage.

#### **4. Commission Discussion and Findings.**

**A. "Public Utility" Status.** For the Commission to decline to exercise jurisdiction over Petitioner pursuant to Ind. Code ch. 8-1-2.5, the Commission must first assert jurisdiction over Petitioner. The definition of "public utility" includes any corporation ". . . that may own, operate, manage, or control any plant or equipment within the state for the . . . production, transmission, delivery, or furnishing of heat, light, water, or power . . ." Ind. Code § 8-1-2-1(a)(2). When determining whether the Facility qualifies as a public utility under this definition, the express language of the statute controls and the rules of statutory construction apply. *Bushong v. Williamson*, 790 N.E.2d 467, 471 (Ind. 2003). The Commission gives all words their plain and ordinary meaning unless otherwise indicated. *U.S. Steel Corp. v. N. Ind. Pub. Serv. Co.*, 951 N.E.2d 542, 552 (Ind. Ct. App. 2011).

Mr. Eastridge explained how the Facility will store electricity and operate. He testified that a 200 MW (800 MWh) battery component will be on the AC side of the transformer. He explained that the battery will be charged by the electric grid. A battery management system will continuously monitor and regulate critical parameters, such as voltage, temperature, and state of charge, to maintain operational integrity and safety. A computerized monitoring system will provide up-to-date weather forecasts, power prices, historical electrical use, the amount of charge remaining in the battery, and when to use the energy storage system. When energy is needed on the power system, the power will be stepped up in voltage and sent to the onsite collector station, and from there, will be transmitted via the Facility’s interconnection facilities to the transmission grid.

At a minimum, we find that the Facility is for the “transmission, delivery, or furnishing” of power. Ind. Code § 8-1-2-1 does not define the word “furnishing,” but according to the Merriam-Webster dictionary, the word furnish “. . . implies the provision of any or all essentials for performing a function.”<sup>1</sup> In the context of delivering electricity, the battery component of the Facility performs the function of chemical conversion so electricity can be held and later transmitted directly or indirectly to the public; consequently, the Commission finds that by holding and converting energy, the Facility, including the battery, performs an essential role in supplying energy indirectly to the public between when the electricity was generated and is later transmitted and delivered to the consumer in the wholesale market. Accordingly, in connection with its ownership, development, financing, construction, and operation of the Facility, the Commission finds Petitioner is a “public utility” under Ind. Code § 8-1-2-1 because the Facility injects and furnishes, that is, functionally provides, electricity for use.

**B. Requirement to Obtain a Certificate of Public Convenience and Necessity for the Facility.** Ind. Code § 8-1-8.5-2 requires a pre-construction certificate for facilities that are “for the generation of electricity.” Although “generation” is not a defined term in the Indiana Code, the Merriam-Webster dictionary defines generation as “origination by a generating process.”<sup>2</sup> FERC has found that batteries do not generate electricity. *See, e.g., N.C. Eastern Municipal Power Agency*, 172 FERC ¶ 61,249, at P 33 (2020); *Blue Ridge Power Agency*, 181 FERC ¶ 61,048, at P 29 & n.48 (2022). Further, we note that other Indiana rules and statutes addressing resource interconnections and incentives, which can apply in addition to the generation cost recovery assurance of Ind. Code ch. 8-1-8.5, and include implicitly or even explicitly batteries, do not constrain themselves to the term generation. As an example, our customer-generator interconnection rules define applicable facilities as “an arrangement of equipment for the production of electricity.” 170 IAC 4-4.3-1(d). The use of the term “production” reflects a focus on the injection of electricity to the public utility system rather than how the electricity is originated or generated. Additionally, Indiana statutes that explicitly include energy and storage systems or technologies as clean energy resources also define the related energy which flows in terms of “electricity that is produced.” Ind. Code §§ 8-1-37-4(a)(10) and 8-1-37-2. Based on this analysis, we conclude that generation of electricity and production of electricity do not invoke the same statutory meaning in Indiana, that is, facilities or resources other than generators can produce electricity for injection into the grid. Accordingly, while we conclude that the Facility may produce electricity to be injected into the grid, based on the evidence in this proceeding, we find that the

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<sup>1</sup> <https://www.merriam-webster.com/dictionary/furnish>

<sup>2</sup> <https://www.merriam-webster.com/dictionary/generation>

Facility is not a generator and therefore is not a facility which requires a certificate pursuant to Ind. Code § 8-1-8.5-2.

C. **Ind. Code § 8-1-2.5-5.** Ind. Code § 8-1-2.5-5 authorizes the Commission to decline to exercise, in whole or in part, jurisdiction over an “energy utility” if certain conditions are satisfied. In particular, this statute provides that “the Commission may enter an Order, after notice and hearing, that the public interest requires the Commission “to commence an orderly process to decline to exercise, in whole or in part, its jurisdiction over . . . the energy utility . . . .” Ind. Code § 8-1-2.5-5(a). Ind. Code § 8-1-2.5-2 defines “energy utility” to mean, in part, a public utility within the meaning of Ind. Code § 8-1-2-1. Since we have determined that Petitioner is a “public utility” under Ind. Code § 8-1-2-1, we find Petitioner is also an “energy utility.”

In determining whether the public interest will be served by a declination of jurisdiction, the Commission will consider the following:

- (1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise, in whole or in part, of jurisdiction by the commission unnecessary or wasteful.
- (2) Whether the commission’s declining to exercise, in whole or in part, its jurisdiction will be beneficial for the energy utility, the energy utility’s customers, or the state.
- (3) Whether the commission’s declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency.
- (4) Whether the exercise of commission jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment.

Ind. Code § 8-1-2.5-5(b).

The evidence in this Cause demonstrates that Petitioner does not intend, nor does it request authority, to sell the electricity stored and distributed by the Facility to the general public or to any retail customer. Instead, the power will be distributed solely for resale subject to the jurisdiction of FERC under the provisions of the Federal Power Act, 16 U.S.C. § 824 *et seq.* Petitioner has indicated that it will operate the Facility in a manner consistent with good utility practice. Further, the costs of the Facility will not be recovered through a rate base/rate of return or other process typically associated with public utility rates. Further, Mr. Eastridge testified that the exercise of Commission jurisdiction will inhibit Petitioner in competing with other providers of functionally similar energy services or equipment. He testified that should the Commission exercise jurisdiction over Petitioner, the Commission would be placing Petitioner at a disadvantage with respect to other independent power producers over whom the Commission has declined to exercise jurisdiction. Such regulation could hinder the prompt implementation of business decisions in a highly competitive market, which would create a competitive disadvantage for Petitioner.

The evidence presented demonstrates that further Commission regulation of the Facility: (1) would be duplicative of other regulatory bodies; (2) could complicate and cause inefficiencies in Petitioner's development and operation of the Facility; (3) could impede Petitioner's ability to compete with other wholesale power providers; and (4) would be an unnecessary use of the Commission's resources. Consequently, we find Petitioner's request that the Commission decline to exercise its jurisdiction over the Facility is in the public interest and is granted. In so finding, as part of the Commission's public interest analysis regarding Petitioner's proposed declination of jurisdiction, we have considered several additional factors the Commission has typically considered in similar proceedings, as discussed below.

**D. Location.** As part of its public interest analysis, the Commission may consider whether the Facility's planned location would serve the public interest. Based on the factors reviewed below, the Commission finds that the Facility's proposed location may be compatible with the surrounding land uses.

**i. Local Zoning and Permitting Requirements.** Petitioner submitted evidence that it has complied or will comply with local zoning and land use requirements, has or will obtain all construction, grading, and wastewater permits, and will not rely on the public utility exemption from local zoning regulation. Mr. Eastridge testified that Cass County has an ordinance governing battery storage facilities that requires the issuance of an improvement location permit by the County. He testified that Petitioner anticipates receiving the improvement location permit at the time of construction of the facilities. He testified that the ordinance also requires Petitioner to execute a Road Use Agreement and a Decommissioning Agreement with the County before construction of the Facility commences. Regarding local regulation, he asked that the Commission retain its jurisdiction to determine the reasonableness of local regulation under Indiana law.

The evidence demonstrates that Petitioner has complied, or will comply, with all applicable local requirements. The evidence discussed further below supports a finding that there is a reasonable expectation the statewide public interest will be served by the addition of Facility. The balance of the public interest in this addition and the local interest provided through local zoning oversight would be skewed if Petitioner's request regarding retaining Commission jurisdiction in order to review local zoning requirements was approved. The evidence does not identify other similarly situated utilities for which such skewing has been applied to the balances struck through our many declination of jurisdiction proceedings (See Speedway Solar, LLC, Cause No. 45230 (IURC Sept. 18, 2019); Lone Oak Solar Energy LLC, Cause No. 45255 (IURC Oct. 29, 2019); Fairbanks Solar Energy Center LLC, Cause No. 45254 (IURC Oct. 29, 2019); Riverstart Solar Park LLC, Cause No. 45336 (IURC June 3, 2020); Brickyard Solar, LLC, Cause No. 45424 (IURC May 5, 2021); Greensboro Solar Center, LLC, Cause No. 45425 (IURC May 15, 2021); Dunns Bridge Solar Center, LLC, Cause No. 45467 (IURC May 26, 2021); Cavalry Energy Center, LLC, Cause No. 45474 (IURC May 26, 2021); and Dunns Bridge Energy Storage, LLC, Cause No. 45476 (IURC June 9, 2021)). We find that retaining the balance between local and statewide interest by not granting Petitioner's extra jurisdictional retention request is reasonable to place the Facility in the same statewide jurisdictional position as similarly situated utilities. Since Petitioner requests the Commission to decline its jurisdiction over the Facility, its location, operations, and other activities in connection with the Facility, we decline to approve Petitioner's request that the Commission retain its jurisdiction under Ind. Code § 8-1-2-101.

ii. **Land Use and Energy Storage Resources.** Mr. Eastridge testified that Petitioner is a subsidiary of NextEra Energy Resources, which specializes in the development of battery storage projects in the United States. Based on the evidence presented, it appears that Petitioner, utilizing NextEra Energy Resources' experience in developing other battery storage projects throughout the United States, has determined that the Facility site is sufficient for the development of an economically viable project.

iii. **Water Use and Supply.** Mr. Eastridge testified that the Facility will not have significant water use and will have negligible or no impact on local water supplies. Water will be used during construction and removal of project facilities, primarily for dust control. Therefore, the evidence presented demonstrates that area water use and supplies should not be adversely affected by the Facility.

iv. **Transmission Interconnection.** Mr. Eastridge testified regarding the Facility's interconnection with the Duke Energy Indiana, LLC ("Duke") transmission system. He testified that Duke's transmission system is a part of the wholesale power grid controlled by the Midcontinent Independent System Operator ("MISO"). He testified that the Facility has applied for a Surplus Generation Interconnection Agreement with MISO and anticipates receiving the System Impact Study from MISO in the second quarter of 2026 and entering into the Surplus Generation Interconnection Agreement in the third quarter of 2026. He testified that the Facility's queue number in the MISO Interconnection Queue is S1102 and is surplus to the Appleseed Solar project's queue number of J992.

Mr. Eastridge testified that the Facility will be fully dispatchable and thus does not have a capacity factor. He provided a table with his testimony showing MISO's anticipated capacity accreditation for all resource types, including battery storage. He testified that through MISO's generator interconnection process, the Facility will secure network resource interconnection service for the 200 MW AC capacity. He testified the Facility will be dispatched according to MISO's interconnection tariff and the Surplus Generation Interconnection Agreement ("GIA"). Based on Mr. Eastridge's testimony, the Commission finds Petitioner provided information responsive to GAO 2025-02.

v. **Additional Permitting and Environmental Issues.** Mr. Eastridge testified that Petitioner has applied or would apply for and obtain all necessary federal and state permits needed for construction and operation of the Facility. Petitioner has performed or is performing a number of environmental and site studies to evaluate the appropriateness of the Facility site, including a Phase I ESA, biological habitat desktop review, bat habitat assessment, cultural resources desktop analysis, aquatic resource delineation report, and a grassland habitat survey memo.

Mr. Eastridge testified that, to the extent required by state law, Petitioner may need to obtain the following permits and determinations: (1) a Construction Stormwater General Permit from IDEM; (2) an NPDES permit from IDEM; (3) INDOT permits to allow the Facility's electric lines and other equipment to cross state highways and for driveways, road exits, and similar infrastructure; (4) appropriate permits from IDNR and IDEM, to the extent necessary, if isolated wetlands and floodways are impacted by the Facility; and (5) notice and application to IDHS.

Petitioner may also be required by federal law to do the following: (1) self-certify as an exempt wholesale generator and apply for market-based rate authority under FERC's rules and regulations; (2) develop and implement a federal spill prevention, control, and countermeasure plan; and (3) obtain a Nationwide Permit for impacts to wetlands or other waters of the United States.

vi. **Use of the Public Right-of-Way.** Mr. Eastridge testified that Petitioner seeks to retain the right to use the public right-of-way within the Facility site. Based upon the evidence presented, we find Petitioner's request for limited use of the public right-of-way to be reasonable. Petitioner will retain the right to use the public right-of-way as identified in its evidence.

E. **Need.** In determining whether to decline to exercise jurisdiction, the Commission has previously considered whether the development of additional resource capacity will serve the public interest. Mr. Eastridge testified that there is a need for the electricity stored and distributed by the Facility, as evidenced by Petitioner's confidential commercial negotiations with a potential offtaker. Mr. Eastridge discussed the various benefits of the Facility, including the environmental benefits of battery storage, efficiencies that flow from proximity to generation resources, economic benefits to landowners, generation of local tax revenues, the creation of jobs during the construction and operation of the Facility, and other benefits of utility-scale battery storage.

Based on the evidence of record, the Commission finds a reasonable expectation of need for the Facility and finds that its construction will serve the public interest.

F. **Financing and Management.** To ensure that Indiana consumers are not adversely affected by the proposed development of renewable energy resources in Indiana, developers have gradually demonstrated to the Commission that the financial structure of a proposed project would not jeopardize retail electric supply. In assessing a developer's financing to ensure the viability of a proposed project, the Commission may consider the developer's ability to finance, construct, lease, own, and operate other generating facilities in a commercially responsible manner. As necessary, the Commission may also consider the specific method proposed to finance a particular project.

Mr. Eastridge provided evidence that Petitioner has the necessary financial, technical, and managerial expertise to construct and operate the Facility. He provided evidence of the financial strength and development experience of Petitioner's parent company NextEra Energy Resources and its affiliates. Based on the evidence presented, the Commission finds Petitioner has shown it has the ability to finance, construct, and manage the Facility.

G. **Transfers of Ownership.** The Commission reserves its jurisdiction under Ind. Code § 8-1-2-83 and requires Petitioner to obtain prior Commission approval of any transfer of assets owned by Petitioner. Petitioner, however, shall not be required to seek prior Commission approval, but shall provide written notice under this Cause to the Commission and the OUCC, of any transfers of ownership of Facility assets or ownership interests in Petitioner involving: (1) the grant of a security interest, mortgage, deed of trust or other encumbrance to a bank or other lender or collateral agent, administrative agent or other security representative, or a trustee on behalf of

bondholders in connection with any financing or refinancing (including any lease financing), or any investor, guarantor, equipment supplier or financing entity; (2) Petitioner or an affiliate becoming a debtor in possession; (3) a foreclosure (or deed in lieu of foreclosure) on the property owned by Petitioner; or (4) a transfer of all or a part of the ownership of the Facility or its assets to an affiliate of Petitioner. Additionally, a third-party owner and operator may succeed to Petitioner's declination of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial, and managerial capability to own and operate the Facility and (2) the successor satisfies the same terms and conditions imposed on Petitioner as set forth in this Order.

**H. Affiliate Transactions.** In addition to determining whether the public interest would be served if the Commission declines to exercise its jurisdiction, the Commission must also consider what actions it must take to ensure that the public interest is served throughout the commercial life of the Facility. Specifically, the Commission must determine the extent to which it must reserve its authority over Petitioner's activities involving affiliate transactions and transfers of ownership. To ensure the Commission's declination of jurisdiction over an "energy utility" is in the public interest, the Commission must be assured that adequate consumer protections are in place, should an "energy utility" subsequently become an affiliate, as defined in Ind. Code § 8-1-2-49, of any regulated Indiana retail utility. While the Commission is declining to exercise its jurisdiction over Petitioner's affiliate transactions initially, the Commission reserves its authority to regulate Petitioner should it become an affiliate of any regulated Indiana retail utility. Accordingly, Petitioner must inform the Commission and the OUCC at the time it becomes an affiliate of any regulated retail utility operating in Indiana if such an affiliation occurs.

Petitioner shall obtain prior Commission approval with respect to the sale of any electricity to any affiliated, regulated Indiana retail electric utility. The Commission notes that it retains certain authority under Section 201 of the Federal Power Act to examine Petitioner's books, accounts, memoranda, contracts, and records consistent with the limitations contained therein. 16 U.S.C. § 824.

**6. Financial Assurance.** In his testimony, Mr. Eastridge identified the decommissioning requirements applicable to the Facility and stated that Petitioner anticipates having to provide a decommissioning security (*e.g.*, a performance or surety bond) to Cass County in accordance with the Decommissioning Agreement that will be entered into with the County. Petitioner shall provide the Commission with notice when such financial instrument has been established, including the form and amount, or in the event Petitioner is no longer required to comply with all or part of the financial assurance requirements agreed to in the Decommissioning Agreement.

**7. Reporting Requirements.** As a condition of this Order and our continued declination of jurisdiction, Petitioner must file reports with the Commission as described below, and provide any other information requested by the Commission. These reporting requirements are intended to ensure that the Commission obtains reliable, up-to-date information in a timely manner necessary to carry out its statutory obligations. A responsible officer of Petitioner shall verify all reports, and Petitioner shall file the reports under this Cause within the prescribed timeframes herein.

The following reports shall be prepared and filed by Petitioner:

**A. Initial Report.** Petitioner's initial report, due within 30 days after the date of this Order, shall provide the following information, to the extent it is known and available:

- (1) Facility ownership and name(s) of the Facility;
- (2) Name, title, address, email address, and phone number(s) for primary contact person(s) for the Facility;
- (3) The anticipated total output of Facility;
- (4) Connecting utility(s);
- (5) Links to any Interconnection System Impact Studies prepared by MISO;
- (6) Expected in-service (commercial operation) date;
- (7) An estimate of the engineering/construction timeline and critical milestones for the Facility;
- (8) The status of the GIA with MISO;
- (9) The information listed below in the Subsequent Reports section to the extent such information is available.

**B. Subsequent Reports.** Petitioner's subsequent reports shall be filed by each January 15 and July 15 until the quarter that occurs after commercial operation is achieved. Subsequent reports should include the following information:

- (1) Any changes to the information provided in the Initial Report;
- (2) Links to any Interconnection Studies not previously submitted to the Commission;
- (3) Copy of the GIA as filed with FERC;
- (4) Notice of the establishment of an independent financial instrument, including its form and amount;
- (5) Achievement of construction milestones described in the GIA and such events as the procurement of major equipment, the receipt of major permits material to the construction and operation of the Facility, construction start-up, initial energization, and commercial operation;
- (6) When commercial operation is achieved, the nameplate capacity, the Project's MISO accredited capacity rating(s), the term and identity of a purchaser for any contracts then existing for utility sales, contingency plans (if any) detailing response plans to emergency conditions as required by state or local units of government, the interconnecting transmission owner and/or MISO; and
- (7) An update on all supply chain related challenges and/or delays

**C. Additional Requirements.** Petitioner shall notify the Commission in the event that it modifies or suspends the Facility under the terms of the GIA and does not reinstitute work within three years following commencement of such suspension. If the Commission determines that Petitioner: (1) has failed to enter into an agreement pursuant to MISO generator interconnection procedures, (2) has suspended the Facility under the terms of the GIA and has not reinstated work within three years following commencement of such suspension, or (3) has

otherwise suspended its efforts to complete the Facility within three years of this Order, the Commission may issue an order in accordance with Ind. Code § 8-1-2.5-7 providing notice to Petitioner of the Commission's intent to proceed to issue an Order terminating the declination of jurisdiction set forth herein.

**8. Conclusion.** Consistent with Ind. Code § 8-1-2.5-5, the Commission finds that declining to exercise its jurisdiction over Petitioner, as requested and discussed above, will facilitate moving forward with construction of the proposed Facility and add battery storage capacity in Indiana. This should be beneficial to the State of Indiana and for those public utilities that may indirectly have access to the Facility's stored power. We further find that declining to exercise our jurisdiction over Petitioner will promote energy utility efficiency. In addition, Petitioner has demonstrated that it, utilizing NextEra Energy Resources' and its affiliates' experience and financial position, has the technical, financial, and managerial capabilities to construct, own, and operate the proposed Facility. It has also shown that the wholesale market for electricity in Indiana may benefit from the addition of the Facility's battery storage capacity, and, therefore, its market entry is reasonable.

Accordingly, based on these findings and the additional requirements contained in this Order, the Commission finds a declination of its jurisdiction over Petitioner as an energy utility, except in the areas in which we reserve jurisdiction that are identified above, is in the public interest. While the Commission is not declining jurisdiction for a particular term of years, the Commission does not intend to reassert jurisdiction absent circumstances affecting the public interest. Petitioner is not granted authority to offer its power for sale to the general public; therefore, any revenue Petitioner derives from the sale of electricity for resale by the purchaser is not subject to the public utility fee.

If the Commission determines Petitioner: (1) has failed to commence construction of the Facility within the timeframe provided under this Order, (2) is no longer diligently pursuing the commencement of construction of the Facility, or (3) has not completed construction of the Facility under the terms of the GIA, then the Commission may issue an Order in accordance with Ind. Code § 8-1-2.5-7 providing notice to Petitioner of the Commission's intent to proceed to issue an Order terminating the declination of jurisdiction set forth herein. Through the subsequent reports required by this Order, Petitioner shall notify the Commission and the OUCC when construction begins and when commercial operation of the Facility begins. Petitioner shall also file with the Commission such other information as we may from time to time require from other Indiana public utilities.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. Petitioner is a "public utility" within the meaning of Ind. Code § 8-1-2-1 and an "energy utility" within the meaning of Ind. Code § 8-1-2.5-2.
2. The Facility is a "utility" within the meaning of Ind. Code § 8-1-2-1.
3. A Certificate of Public Convenience and Necessity is not required for the Facility.

4. The Commission declines to exercise its jurisdiction over Petitioner and its construction, operation, and financing of the Facility, except as specifically stated within this Order.

5. Petitioner shall not exercise an Indiana public utility's rights, powers, and privileges of eminent domain and of exemption from local zoning, land use requirements, land use ordinances, and construction-related permits in the operation and construction of the Facility. Petitioner shall retain the right to a limited use of the public right-of-way within the Facility area as described above.

6. Petitioner shall not sell at retail in the State of Indiana any of the electricity stored and distributed by the Facility without further Order of the Commission. The gross revenues generated by sales for resale of the electricity generated by the Facility are adjudged to be exempt from the public utility fee prescribed by Ind. Code ch. 8-1-6.

7. Petitioner shall comply fully with the terms of this Order and file with the Commission under this Cause all information required by the terms of this Order.

8. This Order shall be effective on and after the date of its approval.

**DEIG, SWINGER, VELETA, AND ZIEGNER CONCUR; ZAY ABSENT:**

**APPROVED: APR 29 2026**

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**

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**Dana Kosco  
Secretary of the Commission**