

QUAY COUNTY, NEW MEXICO  
BOARD OF COUNTY COMMISSIONERS  
ORDINANCE NO. 53

AN ORDINANCE AMENDING ORDINANCE NO. 51 TO CORRECT THE NAME OF THE LESSEE UNDER AN INDUSTRIAL REVENUE BOND LEASE; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

WHEREAS, Quay County (the “County”) is a legally and regularly created, established, organized and existing political subdivision of the State of New Mexico (the “State”) created pursuant to Sections 4-20-1 through 4-20-7 NMSA 1978; and

WHEREAS, the County Board of Commissioners (the “Commission”) adopted Ordinance No. 51 (the “Bond Ordinance”) on October 9, 2017;

WHEREAS, the Bond Ordinance authorizes the issuance of the County’s Taxable Industrial Revenue Bonds (New Mexico Wind Energy Center Repower Project) Series 2017 (the “Bonds”) for the benefit of New Mexico Wind Energy Center, LLC, an affiliate of NextEra Energy Resources, LLC (“NextEra”);

WHEREAS, following the adoption of the Bond Ordinance, NextEra informed the County that NextEra had inadvertently provided an incorrect name for the subsidiary, because “New Mexico Wind Energy Center, LLC”, although based on the name of a NextEra wind farm project, does not correspond to any legal entity;

WHEREAS, NextEra has requested the Commission to amend the Bond Ordinance to correct the name of the subsidiary to “FPL Energy New Mexico Wind, LLC”;

WHEREAS, the Commission has determined that it is in the best interest of the County to amend the Bond Ordinance to correct the name of the NextEra subsidiary; and

WHEREAS, there has been published in the *Quay County Sun*, a newspaper of general circulation in the County, public notice of the Commission’s intention to adopt this Ordinance, which notice was published at least fourteen days prior to final action upon this Ordinance.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, THE GOVERNING BODY OF QUAY COUNTY, NEW MEXICO:

Section 1. RATIFICATION. All actions not inconsistent with the provisions of this Ordinance previously taken by the Commission and the officials of the County directed toward approval of the issuance and sale of the Bonds are ratified, approved and confirmed.

Section 2. AMENDMENT OF NAME OF COMPANY. The definition of “Company” in the Bond Ordinance is changed from “New Mexico Wind Energy Center, LLC, a Delaware limited liability company”, to “FPL Energy New Mexico Wind, LLC, a Delaware limited liability company”.

Section 3. ORDINANCE IRREPEALABLE. After the Bonds are issued, this Ordinance shall be and remain irrevocable until the Bonds, including interest, are fully paid, canceled and discharged in accordance with the Indenture (as such term is defined in the Bond Ordinance).

Section 4. REPEALER. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the extent of that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

Section 5. SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 6. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE DATE. This Ordinance, immediately upon its final passage and approval, shall be authenticated by the signature of the presiding officer of the Commission of Commissioners, and by the signature of the County Clerk or any Deputy County Clerk, and shall be recorded in the ordinance book of the County, kept for that purpose, and shall be in full force and effect thereafter in accordance with the laws of the State, and notice of adoption thereof shall be published once in a newspaper which maintains an office in, and is of general circulation in the County.

Done this 13th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS,  
QUAY COUNTY, NEW MEXICO

By:   
Franklin McCasland, Chairman

By:   
Sue Dowell, Member

By:   
Mike Cherry, Member

(SEAL)

ATTEST:

By:   
Ellen White, County Clerk