



March 3, 2025

**Transmitted Via Email**

California Public Utilities Commission  
Electric Safety and Reliability Branch (ESRB)  
Safety Enforcement and Division (SED)  
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**RE: Comments – Draft Resolution ESRB 13**

NextEra Energy Resources, LLC (“NEER”) appreciates the opportunity to provide comments on the draft resolution to implement changes to General Order (“GO”) 167-C, which proposes to extend maintenance and operation standards and enforcement mechanisms to energy storage systems, including requirements to report safety-related incidents to the California Public Utilities Commission (the “Commission”) Safety Enforcement and Division (“SED”). General Order 167-C also proposes to expand the existing requirements to report safety-related incidents for all generating assets, including renewable generation resources.

NEER supports the Commission’s efforts to enforce maintenance and operation standards and track safety-related incidents in the energy storage system (“ESS”) fleet. These efforts are particularly important considering recent safety-related incidents and the potential for those incidents to undermine the valuable contributions this resource type offers to California in its efforts to maintain reliability while transitioning to a carbon neutral economy.

Today, NEER owns and operates 2,122 MW of the 11,462 MW of utility-scale ESS operating in California, representing approximately 20% of the state’s utility-scale ESS resources. Like the Commission, NEER is committed to the success of these resources and similarly concerned about challenges that may threaten the ability of these resource types to continue to contribute to reliability.

NEER currently complies with GO 167-B as an owner and operator of a large volume of solar and wind resources operating in California. The proposed dual changes of expanding GO 167 to ESS resources and expanding existing safety-related reporting

requirements to all renewable generator resources, including ESS, will be highly impactful to NEER. As such, NEER has considerable interest in supporting the Commission in adopting a rational set of requirements that balance the need to address safety concerns with the need to avoid other, unintended adverse consequences.

NEER offers these comments for the Commission's consideration and encourages the Commission to work with industry and other stakeholders to better define "safety-related incidents."

### **Hazardous Emissions Should be Further Clarified to Hazardous Emissions Beyond the Permissible Exposure Limits Set by Cal/OSHA**

Draft Resolution ESRB-13 proposes to quantify safety-related incidents to include hazardous emissions. NEER believes there are certain emissions that do not represent safety hazards and the proposed language does not consider existing permissible exposure limits already established by Cal/OSHA. The current proposed language is vague, and is likely to contribute to the unintended adverse consequence of data collection that provides limited value for monitoring of actual safety-related incidents, an overwhelming volume of data for the Commission to process and analyze, and unduly burdensome reporting requirements for owners and operators that will likely be absorbed into future contracts for energy and unnecessarily increase costs for customers.

NEER requests that the Commission consider clarifying its proposed language so hazardous emissions are defined as "hazardous emissions beyond the permissible exposure limits set by Cal/OSHA."

### **\$50,000 Property Damage Threshold is Too Low for ESS Resources, May Result in "Signal to Noise" Reporting that Does Not Provide Safety-Related Insights to the Commission/SED**

Draft Resolution ESRB-13 would apply GO 167-B's current requirements to ESS owners and operators, including the requirement to report "safety-related incidents" to the Commission's emergency reporting website, which GO 167-B defines to include "damage to the property of the [Generating Asset Owner ("GAO") or Energy Storage

System Owner (“ESSO”)] or another person of more than \$50,000.” Renewable generation resources and ESS resources may incur “damage to the property of the GAO or ESSO . . . of more than \$50,000” that do not result in “death to a person; an injury or illness to person requiring overnight hospitalization; a report to Cal/OSHA, OSHA, or other regulatory agency; or involves a GA or ESS malfunction or failure resulting in fires, explosions, hazardous emissions, or safety related reports to other agencies” and do not result in “significant negative media coverage.” Examples of property damage over \$50,000 at a renewable or ESS site that do not necessarily create safety hazards to operators or the public or result in media coverage but that would be captured by the current draft resolution include replacements of subcomponents of inverter systems, breakers, underground cables, control house equipment, and transformers. Actual safety incidents with potential safety hazards generally result in much more expensive property damage. Lumping those significant incidents with routine equipment issues above a \$50,000 threshold would only serve to mask incidents of actual safety concern among more numerous failures and replacements that have little to do with the safety of these resources.

The proposed \$50,000 threshold could create a “signal to noise” problem for the Commission, where massive data collection may distract from the most important data points – safety-related incidents. NEER does not believe the Commission’s intent is to receive reports for minor malfunctions or equipment replacements that have no safety impact, but the current threshold of \$50,000 would likely result in that outcome. This, in turn, will likely result in data collection that provides limited value for monitoring of actual safety-related incidents, an overwhelming volume of data for the Commission to process and analyze, and unduly burdensome reporting requirements for owners and operators that will likely be absorbed into future contracts for energy and unnecessarily increase costs for customers.

NEER recommends that the Commission adopt a much higher property damage threshold of \$1,000,000 to identify true safety hazards to operators and/or the public.

NEER further requests that the Commission consider clarifying its proposed language so that the property damage threshold is a qualifying requirement for the “malfunction or failure” requirement as follows:

Such reporting shall include any incident that has resulted in death to a person; an injury or illness to a person requiring overnight hospitalization; or a report to Cal/OSHA, OSHA, or other regulatory agency; or damage to the property of the GAO or ESSO or another person of more than \$~~1,00~~50,000 when such damage involves a; or involves a GA or ESS malfunction or failure resulting in fires, explosions, hazardous emissions beyond the permissible exposure limits set by Cal/OSHA, or safety related reports to other agencies. The GAO or ESSO shall also report any other incident involving a GA or ESS that has resulted in significant negative media coverage (resulting in a news story or editorial from one media outlet with a circulation or audience of 50,000 or more persons) when the GAO or ESSO has actual knowledge of the-such media coverage.

### **Testing and Technical Evaluations Could Drive Significant Costs Ultimately Borne by Customers if ESS Sites are Subject to Continual Testing**

NEER agrees that it is reasonable for SED to request an ESS owner to conduct a test or technical evaluation for determining compliance with the Standards enforced by General Order 167, particularly in instances where SED has well-reasoned concerns that such testing is necessary for determining compliance. For example, in instances where an ESS resource has reported safety-related incidents that reveal a potential compliance violation with the relevant Standards, it is reasonable and appropriate for SED to request testing or technical evaluation. However, NEER is concerned with the potential for a scenario in which SED proactively requests tests and technical evaluations to gauge compliance with new standards and practices as they emerge and are adopted for ESS resource types, without allowing NEER and other similarly situated resource owners the opportunity to first get in compliance with new standards and practices. This could result in significant costs that that will likely be absorbed into future contracts for energy and unnecessarily increase costs for customers, at a time when California customers face an affordability crisis. NEER requests the Commission to consider modifications to Section 10.3 to clarify the circumstances in which it is appropriate for SED to request testing or technical evaluations, such as in instances where an ESS has reported a safety-related incident that reveals a potential compliance

violation with a Standard enforced by GO 167-C, and clarifies that testing and technical evaluations must be rooted in binding and regulatory or safety standards.

Thank you for the opportunity to provide these comments. We appreciate the Commission's hard work to ensure the safety and continued success of California's energy fleet.

Sincerely,

*Sarah Garcia*

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NextEra Energy Resources, LLC