NEBRASKA POWER REVIEW BOARD

Minutes of the 859th Meeting

January 17, 2025

  The 859th meeting of the Nebraska Power Review Board (Board or PRB) was held in the First Floor Hearing Room, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.  The roll was called and present were Chairman Hutchison, Vice Chairwoman Gottschalk, Mr. Austin, and Mr. Liegl. Mr. Moen had informed the Board he would not be able to attend this meeting due to a work conflict. Executive Director Texel stated that public notice for the meeting had been published in the *Lincoln Journal Star* newspaper on January 7, 2025.  The Board made the meeting available to the public through Webex.  The Webex login information was available on the Board’s website and was published in the *Lincoln Journal Star* notice.  The agenda on the Board’s website provided links to the agenda items with associated documents the Board will consider, as well as a link to the Nebraska Open Meetings Act. Executive Director Texel explained that if any member of the public watching the meeting on Webex wanted to speak, they can click on the “raise your hand” icon.  At that time they would be unmuted, they could announce who is speaking, provide an address, and disclose if they represent an organization. Anyone wishing to comment on an item or ask a question could also type the comment or question in the “chat” function and the Board’s staff would read the question. All background materials for the agenda items to be acted on were provided to all Board members prior to the meeting and a copy of the materials was in each Board member’s meeting notebook.  The executive director announced that a copy of the Nebraska Open Meetings Act was on display on the south wall of the room, and another copy was available in a black three-ring binder on the table in the back of the room.  A copy of all materials that the Board would consider was available for public inspection on a file cabinet on the south wall near the back of the room, as well as extra copies of the agenda.

The Board first considered the draft minutes from its November 15, 2024, public meeting.  The minutes had been sent electronically to the Board members. No one had contacted the board with recommended corrections and the staff did not have any suggested changes. Mr. Liegl moved to approve the draft minutes. Vice Chairwoman Gottschalk seconded the motion. Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – abstain, Mr. Liegl – yes, and Mr. Moen – absent.  The motion carried 3-0 with one absent and one abstaining.

The next agenda item was acceptance of the expense report for the months of November and December.  In November there was $30,088.51 in personal services, $17,976.83 in operating expenses, and $5,205.44 in travel expenses. The total November expenses were $53,270.78. The travel expenses were higher than usual due to Mr. Austin, Mr. Liegl and the executive director attending the American Public Power Association’s legal seminar in Tennessee. In December there was $28,204.65 in personal services, $17,554.92 in operating expenses, and $(-)868.94 in travel expenses. The total December expenses were $44,890.63. The Board received reimbursements from SPP for Chairman Hutchison’s SPP related travel expenses in December. Executive Director Texel said that the Board is six months into the fiscal year, so 50% of the fiscal year has gone by. The Board has used 53.38% of the agency’s cash fund. Chairman Hutchison asked about the personal services category being at 63%. This appears that we will be in a deficit at the end of the fiscal year. Ms. Hallgren explained that when the allocation was set up for each category it was known there was going to be some categories with a deficit since the Board was not allowed to collect its full budgeted amount. Vice Chairwoman Gottschalk moved to accept the November and December expense reports. Mr. Liegl seconded the motion. Voting on the motion: Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Liegl – yes, and Mr. Moen – absent.  The motion carried 4-0 with one absent.

The next item on the agenda was to consider dismissal of PRB-4043-G. The City of Kimball filed an application for authority to install 8 megawatts of diesel generation. The application was filed on December 13, 2024. The application states that Kimball will purchase four diesel Caterpillar model 3516 engines that have two megawatts (MW) capacity each. Executive Director Texel explained that he contacted the City and learned that the generators will replace the City’s existing generators that have a total capacity of 8 MW. Under section 70-1012(1)(b), a municipality is exempt from the need for PRB approval for a new generation facility if the PRB finds that the new generation will replace existing generation owned by the municipality, the total capacity of the new generation does not exceed the capacity of the existing generation, the facility will have less than 25,000 kilowatts capacity, and the applicant will not use the plant to supply wholesale power to customers outside the applicant’s existing retail service area. The City provided the PRB with a letter stating that Kimball currently has 8 MW of generation capacity and the new units will be replacing the existing generation units. The City stated that it will not use the units to supply customers outside the City’s service area. The letter explained that Kimball is a member of the Municipal Energy Agency of Nebraska (MEAN) and could be called upon for emergency purposes to operate the generators and provide electricity for the Southwest Power Pool (SPP) market. Kimball also provided the PRB with a certification regarding the military installation. Executive Director Texel stated that based on the information provided, he believes Kimball qualifies for an exemption pursuant to Neb. Rev. Stat. section 70-1012(1)(b). Mr. Austin moved to dismiss the City of Kimball’s application PRB-4043-G. Mr. Liegl seconded the motion. Voting on the motion: Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Liegl – yes, and Mr. Moen – absent.  The motion carried 4-0 with one absent.

The next item on the agenda was to consider renewal of contract 94906 04 with JK Energy Consulting, LLC. This is the Board’s contract for the consultant that represents the PRB and the Nebraska on the SPP Cost Allocation Working Group, and serves as advisor to the PRB’s member that serves on the SPP Regional State Committee (RSC). That member is currently Chairman Hutchison. The contract was originally signed in 2021. The state allows contracts to have five renewals before a new request for proposals must be issued. This would be the fourth renewal of this contract. The current contract period ends June 30, 2025. The contract period the Board is considering would be for July 1, 2025 to June 30, 2026. The contract follows the State’s fiscal year. The current contract amount is for $14,868 per month, or $178,416 annually. The contract allows the contractor to request an increase in compensation after the initial two years of the contract. An increase request cannot be more than five percent. Last year there was no change in the compensation. JK Energy submitted a letter confirming that it wants to renew the contract with no increase in compensation for the renewal beginning July 1, 2025. There is a price increase set out for the portion of the contract covering calendar year 2025 that the Board previously discussed due to Mr. Krajewski becoming chair of the RSC’s Cost Allocation Working Group. It is expected that when a commissioner from a state is elected chair of the RSC, the staff member serving on the CAWG from that state will become the chair of the CAWG. This creates an increase in workload for JK Energy that is beyond what is covered by the current contract. This also happened when Dennis Grennan was RSC chairman in 2020. If Mr. Krajewski becomes CAWG chair JK Energy is requesting an increase in compensation of $1,233 per month in addition to the base amount during the period where he is CAWG chair. This additional compensation would be for the second half of the 2025-2026 contract term. It is likely the same or similar additional amount would be needed for the first half of the 2026-2027 contract term. Mr. Krajewski was in attendance at the meeting and addressed the Board to explain the amounts in the contract and his desire to renew the contract. The executive director explained the process for renewal of the contract. Once the Board approves the contract renewal and the compensation amount, Executive Director Texel would inform the Department of Administrative Services’ Materiel Division of the Board’s desire to renew the contract. The Materiel Division will then prepare the addendum and contract renewal forms for JK Energy to sign. Chairman Hutchison stated the Mr. Krajewski is highly respected with the groups at SPP, including the Board of Directors and is an asset to Nebraska. Vice Chairwoman Gottschalk moved to approve renewal of contract 94906 04 with JK Energy Consulting, LLC from July 1, 2025 to June 30, 2026 at a compensation level of $14,868 per month with an addendum to allow for an additional $1,233 per month contingent upon Mr. Krajewski serving as chair of the RSC’s Cost Allocation Working Group. Mr. Austin seconded the motion. Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Liegl – yes, and Mr. Moen – absent. The motion carried 4 – 0 with one absent.

The next item on the agenda was the election of chair and vice chair for 2025. Executive Director Texel stated that the Board normally vote on the chair and vice chair at the January meeting. Mr. Austin nominated Chairman Hutchison to stay as chair and Vice Chairwoman Gottschalk to remain vice chair. Mr. Liegl seconded the motion. Voting on the motion:  Chairman Hutchison –yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Liegl – yes, and Mr. Moen – absent.  The motion carried 4 –0 with one absent.

The first item on the executive director’s report was the Southwest Power Pool (SPP) update. The Board had a copy of JK Energy’s monthly activities report. Chairman Hutchison spoke about congestion hedging issues. The next RSC meeting will be in the first week of February. He asked that if the utilities had any comments or input for him on SPP issues to reach out to him. He spoke about several discussion items for the RSC meeting, including the long-term planning reserve margin. This is a difficult discussion because a utility cannot build new generation in a short time frame. He also spoke about FERC order 1920. The PRB submitted comments to FERC during the public comment period on the advanced notice of proposed rulemaking. The order deals with cost allocation issues for transmission planning and building. One of the concerns with the transmission costs is that states who have a zero emission policy or a renewable portfolio standard need transmission to support that type of policy, but the costs associated with that transmission is then at least partially paid for by the utilities in other states that do not have such requirements.

The executive director discussed the legislative bills introduced in the 2025 session. The last day for bill introduction is January 22. The bills on the tracking document are those that are related to the PRB or the electric industry. Senator Brandt was elected chairman of the Natural Resources Committee.

LB 20 was introduced by Senator John Cavanaugh. The bill requires local electric utilities to interconnect customers that have agricultural self-generation facilities. The bill clarifies that an electric utility cannot tell a customer with a self-generation unit larger than 25 kilowatts that the customer must sign a buy-sell agreement or the utility will deny further electric service. Executive Director Texel did not recommend testifying on this bill, but he stated that if time allowed he would attend the hearing just in case, to address any questions or misstatements about current law on the subject. It was his opinion that current law would not allow a utility to disconnect a customer with a self-generation facility, absent some kind of safety code violation or non-payment. The Board members agreed the PRB would not take a position on the bill.

LB 29 was introduced by Senator Conrad. The bill creates a review process for agency rules and regulations. Every state agency would need to conduct a review of all existing and pending rules and regulations. A detailed report would be submitted to the Clerk of the Legislature by June 30. The first review would start January 1, 2026. While the review is being conducted, until it is submitted the agency’s rulemaking authority would be suspended. The legislative committee with jurisdiction over that agency can then make recommendations for changes to the regulations. The Board took no position on the bill.

LB 35 was introduced by Senator Brandt. Current law states that a private developer is exempt from the need to certify that a new privately developed renewable energy generation facility has no components manufactured by a foreign adversary if the private developers certifies it is in compliance with the North American Electric Reliability Corporation’s (NERC) critical infrastructure protection standards. The certification must be made at least 30 days prior to commencement of construction. The new language would allow the developer to certify that it “will, upon reaching commercial operation” be in compliance with the NERC standards. The Board did not take any position on the bill.

LB 43 was introduced by Senator DeKay. The bill would change provisions relating to notice and certification requirements for electric generation facilities, transmission line, and privately developed renewable energy generation facilities located near certain military installations. This bill is a clean up to address issues that have come up after the bill requiring certifications for facilities within ten miles of applicable military installations was enacted last year. The bills, through federal regulations, sets out the counties that have the applicable military installations. Electric utilities operating in those counties would need to address the certification, while utilities that do not operate in those counties would not need to do so. It also provides for a one-time exemption, after a utility consults with its vendors to ensure the vendors do not use components manufactured by a foreign adversary. There is also a “fail safe” provision that would allow a process where the PRB could approve the use of parts made by a foreign adversary if the utility has no other way of obtaining the parts and the PRB determines that not using the part would cause greater harm thatn that associated with using the part. This process was copied from the Pacific Conflict Stress Test Act that was enacted last year. All Board members agreed that the PRB supports this bill and should offer testimony in support.

LB 105 was introduced by Senator Hughes. This is a Nebraska Rural Electric Association bill to allow public power districts to divide voting precincts for purposes of creating their charter voting subdivisions, instead of the current requirement that a district either include an entire precinct or county or none of it. This is the same bill introduced last year as LB 837. The executive director said last year the PRB was neutral, but he had testified to support the removal of the word “rural” in the part of the statute that says the PRB must find that the charter change does not prejudice the rural users of electricity. He had testified the Board believes it should protect all users of electricity. All Board members agreed that the PRB will take the same position as last year on the bill.

LB 117 was introduced Senator Holdcroft. The bill would provide a sales and use tax exemption for electricity, natural gas, propane and sewer utility services. Chris Dibbern, the Public Advocate for natural gas ratepayers, asked that the PRB support this bill. She said that about 36 states already do not put a tax on these utility services. Vice Chairwoman Gottschalk stated that personally she could support the bill, but she was not sure the PRB as a state agency should take a position on the bill. The other Board members agreed. The Board took no position on the bill.

LB 121 was introduced by Senator Hardin. The bill would prohibit disposal of solar panels and wind turbine blades and their component parts in Nebraska landfills. The executive director said the bill does not affect the PRB, but wanted to mention it because it deals with wind and solar facilities. A very similar bill was introduced last session. The only difference was the previous bill did not include solar panels. The Board took no position on the bill.

LB 349 was introduced by Senator Prokop. The bill would change provisions relating to applications, notices, filings, exemptions, and violations regarding the construction or acquisition of certain electric energy storage resources by electric suppliers. The bill creates a definition for electric energy storage resources. It also changes the definition of a power supplier by stating that an electric supplier can be any legal entity “public or private” and that engaging in storage of electricity makes an entity an electric supplier. The bill amends section 70-1012(1) to specifically require PRB approval of energy storage resources, in addition to generation and transmission facilities. However, the bill also amends the definition of “privately developed renewable energy generation facility” to include electric energy storage resources. The Board members agreed that Executive Director Texel should testify in a neutral capacity on LB 349.

Mr. Liegl left the meeting at 10:57 a.m.

Executive Director Texel stated that the next three PRB meetings are scheduled for February 21, March 21, and April 18, 2025. The Board has again scheduled its 2025 public meetings for the third Friday of each month.

Mr. Austin moved to adjourn the meeting.  Vice Chairwoman Gottschalk seconded the motion. Voting on the motion:  Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Liegl – absent, and Mr. Moen – absent.  The motion carried 3 –0 with two absent.  The meeting adjourned at 11:03 a.m.

Timothy J. Texel

Executive Director and General Counsel