NEBRASKA POWER REVIEW BOARD

Minutes of the 862nd Meeting

May 16, 2025

  The 862nd 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. Grennan. Mr. Liegl had informed the staff about a month ago that he would be traveling and therefore not able to attend the May meeting. Mr. Grennan was appointed by Governor Pillen to replace Mr. Moen, whose term ended December 31, 2024. Mr. Grennan previously served on the Board from 2014 through 2022. The Legislature confirmed Mr. Grennan’s appointment on May 14. Executive Director Texel congratulated Mr. Grennan on his appointment and confirmation. He also expressed appreciation to Mr. Moen for his nine years of service to the PRB. He noted that Mr. Grennan had taken his oath of office prior to the start of today’s meeting. Executive Director Texel stated that public notice for the meeting had been published in the *Lincoln Journal Star* newspaper on May 6, 2025.  The Board made the meeting available to the public through Webex, and the Webex login information was available on the Board’s website. Public notice of the meeting was published in the *Lincoln Journal Star* newspaper.  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.  They would be unmuted and 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 or comment to the Board. 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, as well as extra copies of the agenda.

The Board first considered the draft minutes from its April 18, 2025, public meeting.  The minutes had been sent electronically to the Board members. The staff did not have any changes to the minutes and no one had contacted the Board to suggest any corrections. Vice Chairwoman Gottschalk moved to approve the draft minutes for the April 18 meeting. Mr. Austin seconded the motion. Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – yes, and Mr. Liegl – absent.  The motion carried 4-0 with one absent.

The next agenda item was acceptance of the expense report for the month of April.  In April there was $40,287.93 in personal services, $32,982.01 in operating expenses, and $63.00 in travel expenses. The total April expenses were $73,332.94. Executive Director Texel told the Board the personal services expenditures were much higher than usual in April because there were three pay periods during April. This happens twice every year. He said that the Board is ten months into the fiscal year, so 83.3% of the fiscal year has gone by. The Board has used 87.19% of the agency’s cash fund. The agency is approximately four percent over budget for its cash fund. Chairman Hutchison brought up the current situation where the Board expects to need to operate on its reserve funds by the end of the current fiscal year. Next month the Board will address the assessment figure and he wanted the Board to be aware of the situation. He also discussed the possibility of both he and Vice Chairwoman Gottschalk attending the summer meeting of the National Association of Regulatory Utility Commissioners (NARUC). He asked to have this issue put on next month’s agenda for the Board to vote on. Ms. Hallgren (the Board’s business manager) explained that last year the Board collected less than the Board has historically spent. She wanted the Board to know that she collects the gross revenue certificates from the utilities, but the Governor’s Budget Office tells her what the assessment figure is going to be. Mr. Austin moved to accept the April expense report. Mr. Grennan seconded the motion. Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Moen – yes, and Mr. Liegl – absent.  The motion carried 4-0 with one absent.

The next item on the agenda was to consider the Municipal Energy Agency of Nebraska’s (MEAN) Petition for Charter Amendment 41. This amendment would add the town of Center, Colorado as a voting member of MEAN and update the list of directors in MEAN’s charter. Executive Director Texel explained that Nebraska statute section 18-2433 sets out the approval criteria. The statute states that the Board must determine that the statements in the petition are true and conform to the public convenience and welfare, and that the plants, systems and works, the operation of the same, the exercise of powers, and the assumption of duties and responsibilities of, or on the part of, such agency, do not nullify, conflict with, or materially affect those of any other district or a corporation organized under the provisions of chapter 70, article 6 or 8, or the Electric Cooperative Corporation Act, or those of any part of such district or corporation. MEAN supplied a certified copy of its Board’s resolution voting to approve the addition of Center as a member and a copy of the ordinance passed where the Town of Center authorized the actions necessary to become a full member of MEAN. Public notice was published in two newspapers located in the area in and around the Town of Center. The newspapers were the *Center Post-Dispatch* and the *Valley Courier.* The publication date was April 23, 2025. Statewide notice in Nebraska was published in the *Omaha World Herald* on April 23, 2025. Written Notice was sent to the Nebraska Public Power District, the Western Area Power Association (WAPA) and Tri-State Generation and Transmission Association, Inc., since those entities have wheeling or wholesale contracts with MEAN. Written Notice was also sent to the mayor of Center, Colorado. Michelle Lepin, legal counsel for MEAN, spoke on behalf of MEAN and told the Board that Center has been a participant in MEAN for years and now is requesting to be a full voting member of MEAN. Executive Director Texel stated that because there were no protests or objections to the petition, the Board can choose to have a hearing or to waive the hearing. He recommended the Board waive a hearing, since no party objected to approval or requested a hearing. Vice Chairwoman Gottschalk moved to waive the hearing and approve MEAN’s Petition for Charter Amendment 41.  Mr. Austin seconded the motion.  Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – yes, and Mr. Liegl – absent.  The motion carried 4-0 with one absent.

The Board went into recess at 9:25 a.m. to conduct an evidentiary hearing on PRB-4052-ESR. During the hearing the Board acted in its quasi-judicial capacity. Although the public was free to observe in person or on Webex, no comments from Webex or people attending the meeting will be allowed. The Board reconvened its meeting at 11:25 a.m. All members who were present prior to the recess were again in attendance. The Board tabled agenda items 5, 6 and 7 so it could first address agenda item 8, which is PRB-4052-ESR.

As explained prior to recessing, during the recess the Board held an evidentiary hearing on PRB-4052-ESR. This is a joint application filed by Bridge Solar Energy Development I, LLC (Bridge Solar) and the Lincoln Electric System (LES). The application is for authority to construct or install a three-megawatt energy storage resource (also known as battery storage) at LES’s substation located at 2nd and N Street in Lincoln. PRB-4052-ESR was filed according to the guidelines set out in Guidance Document 14. Guidance Document 14 addresses jurisdictional and procedural aspects of applications for ESRs. Chairman Hutchison asked if there was a motion. Mr. Austin moved to approve PRB-4052-ESR with the condition that if the unit were to be moved outside the current boundaries of the Lincoln downtown microgrid a new application would be required.  Mr. Grennan seconded the motion.  Voting on the motion:  Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – yes, and Mr. Liegl – absent.  The motion carried 4-0 with one absent. Executive Director Texel explained that the Board’s vote is considered to be a preliminary, but binding, ruling by the Board. The written order will still be the Board’s final decision on the application. He explained that in uncontested matters where the Board members can agree that the evidence is clear in favor of approval it is the Board’s longstanding practice to vote on the application during its public meeting as a matter of convenience for the applicant. This allows the applicant to know whether the project is approved or not so the applicant can proceed forward with the project. Otherwise the applicant would have to wait four to eight weeks for the Board to issue its written decision before beginning work on the project.

The Board then went back to where it left off on its agenda prior to PRB-4052-ESR. Item five was to consider proposed amendments to PRB Guidance Document 14. Guidance Document 14 (GD 14) deals with how the Board addresses Energy Storage Resources, also referred to as battery storage facilities. At last month’s meeting the Board approved the executive director’s draft of changes to address a loophole that was discovered when legislative bill LB 349 was closely examined. The day before the April 18 PRB meeting OPPD provided some additional requested substantive changes. The Board members had the OPPD draft language, but due to the short time frame the language had not been shared with the Nebraska Power Association or any private developers. Board members expressed that they had not had adequate time to review and consider the proposed language, so the Board tabled the issue to its May meeting. Eolian Energy then submitted proposed edits to GD 14. Both OPPD’s and Eolian’s proposals were distributed to the NPA and the PRB’s list of private developers, and were made available through a link on the agenda on the PRB’s website. Chairman Hutchison suggested that the Board designate two members as a committee to review the proposed changes and together with the executive director draft a third proposal that merges the changes submitted by OPPD and Eolian. The other Board members liked the committee approach and thought Chairman Hutchison and Vice Chairwoman Gottschalk should be the committee members. Mr. Austin moved to table the draft amendments to Guidance Document 14 until the June meeting and create a committee comprised of Chairman Hutchison and Vice Chairwoman Gottschalk to review and prepare a Board draft of changes to Guidance Document 14 for the Board to consider. Mr. Grennan seconded the motion. Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – yes, and Mr. Liegl – absent.  The motion carried 4-0 with one absent.

The next item on the agenda was to consider withdrawing from the CREPC 1920 Ad Hoc Committee. This item is related to the Tri-State Generation and Transmission Association’s presentation at last month’s meeting. Chairman Hutchison discussed his participation on the committee. The committee was created in response to the Federal Energy Regulatory Commission’s (FERC) requirement in Orders 1920 and 1920-A that regional transmission organizations (RT0s) and load responsible entities (utilities) coordinate with state regulatory commissions to engage in long-term transmission planning. The Committee on Regional Electric Power Cooperation (CREPC) coordinated the formation of the 1920 Ad Hoc Committee so commissions in the western interconnection would have a way to work together to work with the load serving entities, since there are no RTOs in the west other than the California ISO. After the Tri-State presentation it was the Board’s understanding that there is not a need for the PRB to be involved in the 1920 Committee. MEAN and Tri-State are the two primary Nebraska power suppliers that deal with transmission issues in the western interconnection. Both are becoming members of the Southwest Power Pool’s (SPP) western expansion. As that occurs, the PRB will be able to address its long-term transmission planning through the SPP’s Regional State Committee (RSC), as the PRB is currently doing for planning in the eastern interconnection. It therefore seems there is little need for Nebraska to have a representative attend the 1920 Ad Hoc Committee meetings. Vice Chairwoman Gottschalk made a motion that the Power Review Board withdraw from its participation in the CREPC 1920 Ad Hoc Committee. Mr. Grennan seconded the motion: Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – yes, and Mr. Liegl – absent.  The motion carried 4-0 with one absent.

The next item on the agenda was to consider whether the PRB will withdraw from the SPP’s Market+ Initiative. Similar to the previous issue, with SPP’s expansion into the western interconnection there is little reason to have the PRB participate in Markets+. Markets+ is SPP’s regional day-ahead energy market in the western interconnection. The full market is scheduled to go into effect in 2027. FERC approved the SPP’s western tariff, so it does not appear there is any further need for the PRB to remain a part of Markets+. The Nebraska power suppliers in the western interconnection that own transmission will be part of SPP, not Markets+. The PRB may not be eligible to remain a participant in Markets+ because Tri-State Generation and Transmission Association and MEAN are joining the SPP western expansion. Mr. Austin made a motion that the Power Review Board withdraw from its participation in the SPP Markets+ Initiative. Vice Chairwoman Gottschalk seconded the motion: Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – yes, and Mr. Liegl – absent.  The motion carried 4-0 with one absent.

The Board tabled agenda item 9 (the executive director’s report) so it could consider agenda item 10. Agenda item 10 is whether the Board will approve a pay raise for the executive director and general counsel. All State employees, whether they are covered by the bargaining unit or they are rules-covered employees, are eligible to receive a 3.25% pay raise effective July 1, 2025. The pay increase is broken out by a 2.25% raise to all employees, then all those with an average or above performance evaluation will get an additional 1% raise. Both PRB staff members will receive the 3.25% pay raise. Agency heads are non-classified employees, and their salary is left to the discretion of their Board or Commission. The State budget built in sufficient funding for all three PRB employees to receive the 3.25% raise. Vice Chairwoman Gottschalk made a motion to give the executive director and general counsel a 3.25% pay increase effective July 1, 2025. Mr. Grennan seconded the motion: Voting on the motion: Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – yes, and Mr. Liegl – 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 briefly about the recent quarterly meeting of the SPP RSC and Board of Directors, which was held in Omaha, Nebraska. He said that the planning reserve margin (PRM) continues to be an important issue. Some SPP members have expressed concern over the increase in the PRM. The proposed new levels would be a winter peak PRM of 38% and 17% for summer.

Mr. Grennan left the meeting at 11:55 a.m.

The executive director stated that the “Orientation Manual” has been updated and the new version is on the Board’s website. NPPD had asked about using the manual to help educate senators about the PRB and the electric industry in Nebraska. The last update to the manual was done in 2018. Parts of the manual were quite outdated. One example is that the manual still referred to certified renewable export facilities and did not address privately developed renewable energy generation facilities.

The executive director discussed the legislative bills introduced in the 2025 session. The bills on the tracking document are those that are related to the PRB or the electric industry. He said he would only address bills that had been prioritized, or that had some major change since the last update.

LB 43 was introduced by Senator DeKay. This bill has been previously discussed, but it is an important bill to the PRB and utilities. The bill makes changes related to notice and certification requirements for electric generation facilities and transmission lines located near certain military installations. This is a clean-up bill to address issues that were identified after the bill requiring certifications for facilities within ten miles of applicable military installations was enacted last year. LB 43 cites federal regulations to set out the counties in which the applicable military installations in Nebraska are located. 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. The counties covered are Banner, Cheyenne, Deuel, Garden, Kimball, Morrill, Scotts Bluff and Sioux, as well as areas within ten miles of Offutt Air Force Base in Bellevue. The bill also allows a one-time exemption after a utility consults with its vendors to ensure the vendors do not use any components manufactured by a foreign adversary. There is also a “fail safe” provision that allows a process where the PRB can 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 than that associated with using the part. This process was copied from the Pacific Conflict Stress Test Act that was enacted last year. The legislature passed LB 43 on February 21, and the Governor signed it on February 25. The bill included an emergency clause, so it went into effect upon the Governor’s signature.

LB 105 was introduced by Senator Hughes. This was brought to Senator Hughes by the Nebraska Rural Electric Association to allow public power districts to divide voting precincts for purposes of creating the voting subdivisions in their charters, instead of the current requirement that a district either include an entire precinct or county or none of it. The bill also removes the limitation that the PRB only reviews charter amendments to determine if the rural users of electricity will be prejudiced by the new voting configuration. LB 105 was enacted on April 3, and the Governor signed it on April 7.

LB 396 was introduced by Senator DeKay. The bill would eliminate the requirement that public power districts file their budgets and audits with the PRB, and that the PRB approve the form of the budgets. NPPD brought this bill to eliminate the requirements. The bill was passed on a 47-0 vote on March 13. The Governor signed the bill on March 17. The bill will take effect three months after adjournment of the legislative session, which will be well before the next round of budget and audit submissions are due.

LB 526 was introduced by Senator Jacobson at the request of the Governor. The introduced version of the bill provides for an excise tax on cryptocurrency mining and authorized public power districts to require payments or letters of credit from cryptocurrency mining operations for certain infrastructure upgrades. The bill was amended to remove the excise tax, and cryptocurrency companies withdrew their opposition. Cryptocurrency operations must notify the local utility of its intent to locate in the area prior to installation of the operation. The bill was passed by the Legislature on a 49 to 0 vote on May 14. It is now waiting for the Governor’s signature. The bill includes an operative date of October 1, 2025.

Executive Director Texel stated that the next three PRB meetings are scheduled for June 20, July 18, and August 15, 2025.

Vice Chairwoman Gottschalk moved to adjourn the meeting.  Mr. Austin seconded the motion. Voting on the motion:  Chairman Hutchison – yes, Vice Chairwoman Gottschalk – yes, Mr. Austin – yes, Mr. Grennan – absent, and Mr. Liegl – absent.  The motion carried 3 – 0.  The meeting adjourned at 12:05 a.m.

Timothy J. Texel

Executive Director and General Counsel