

**STATE OF NEBRASKA  
NEBRASKA POWER REVIEW BOARD**

IN THE MATTER OF THE APPLICATION OF	)	<b>PRB-3661-G</b>
THE MUNICIPAL ENERGY AGENCY OF	)	
NEBRASKA, HEADQUARTERED IN LINCOLN,	)	
NEBRASKA, REQUESTING AUTHORIZATION	)	
TO ACQUIRE A .25 PERCENT OWNERSHIP	)	
INTEREST IN AN EXISTING 800 MEGAWATT	)	<b>ORDER</b>
COAL-FIRED GENERATION FACILITY	)	
LOCATED IN POTTAWATTAMIE COUNTY,	)	
IOWA.	)	

ON THE 9<sup>th</sup> day of September, 2011, the above-captioned matter came on for consideration before the Nebraska Power Review Board (“the Board”). The Board, being fully advised in the premises, and upon reviewing said application and all evidence presented to the Board at said hearing, HEREBY FINDS AS FOLLOWS (references to testimony are designated by a “T” followed by the transcript page, then the lines upon which the testimony appears, while references to exhibits are designated by “Exh.”):

**FINDINGS OF FACT**

1. That on the 17<sup>th</sup> day of August, 2011, the Municipal Energy Agency of Nebraska (“MEAN” or “Applicant”) filed an application with the Board requesting authorization to acquire an additional .25 percent ownership interest in an existing coal-fired generation facility known as the “Walter Scott, Jr. Energy Center Unit 4” located in Pottawattamie County, Iowa. (Exh. 1). The application was designated “PRB-3661-G.”
2. The estimated total purchase price of the interest to be acquired in the generation station and related facilities is \$4,605,264. (Exh. 1, page 2).

3. That those power suppliers, other than the Applicant, that the Board deemed to be potentially affected by or interested in said application were the Nebraska Public Power District, the Lincoln Electric System, and the Omaha Public Power District. Written notice of the filing of the application, the hearing date, and an opportunity to file a protest or intervention was provided to these potentially interested parties, as well as MEAN, via certified U.S. mail. (Exh. 2).

4. Notice of the filing of the application and the hearing date, and the opportunity to file a Petition for Intervention, was provided to the general public by publication in the Omaha World-Herald newspaper on Wednesday, August 24, 2011. (Exh. 3).

5. That no Petitions to Intervene, written Protests, or Complaints were filed with the Board concerning this application.

6. The Board did not consult with the Nebraska Game and Parks Commission concerning the potential impact of the proposed acquisition on any threatened or endangered species or their critical habitat pursuant to Neb. Rev. Stat. § 37-807(3) as is normally required to insure that any action taken by the Board would not jeopardize the continued existence of any endangered or threatened species or result in the destruction or modification of those species' critical habitat. In this instance, the Applicant would acquire additional ownership rights in a generation facility that is already in existence and currently operating in the State of Iowa. The Board's action would approve a financial transaction changing the percentage of Applicant's ownership interest in the generation facility. Therefore, any action taken by the Board in this proceeding would not determine

whether any physical facilities that could impact any threatened or endangered species would be built or could continue operating. (T7:4 to 19).

7. That on September 9, 2011, the Board commenced the formal hearing on PRB-3661-G.

8. That in a previous application filed by the Applicant with the Board, designated PRB-3376, Applicant requested authority to acquire fifty (50) megawatts or 6.67 percent of the output of the Walter Scott, Jr. Energy Center Unit 4 generation facility. (Exh. 5). The application was approved by the Board. The generation facility in which Applicant acquired an ownership interest as a result of PRB-3376 is the same generation facility that is involved in the current proceeding, PRB-3661-G. At the time Applicant filed its application designated PRB-3376, the generation facility was known as "Council Bluffs Unit Number 4." The name of the facility was later changed to "Walter Scott, Jr. Energy Center Unit 4." (Exh. 5; T9:13-17).

9. What is now known as the Walter Scott, Jr. Energy Center Unit 4 commenced commercial operation in June 2007. (T11:5-11; Exh. 4, page 6). The facility is owned by a partnership of fifteen different power suppliers. Lincoln Electric System of the City of Lincoln, Nebraska, has a 12.66 percent ownership interest in the facility. Applicant currently has a 6.67 percent ownership interest in the facility. Applicant also now owns or controls an additional .4 percent interest in the facility it obtained from the City of Waverly, Iowa. The City of Waverly became a member of Applicant's organization and assigned its ownership interest in the facility to Applicant. (T11:11-19; Exh. 4, page 6).

10. The City of Pella, Iowa holds a 1.33 percent ownership interest in the facility, which equates to approximately 10.64 megawatts of the facility's total output. (T11:19-24; Exh. 4, pages 6-7). The City of Pella, Iowa ("Pella"), wishes to sell its ownership interest in the facility to the Missouri River Energy Services Company ("MRESC"). Under the participation contract, Applicant and the other participants in the facility have a right of first refusal to acquire a portion of the Pella's interest, allocated on a pro rata share basis among the other current owners that wish to purchase Pella's interest. (T12:20 to 13:25; Exh. 4, page 7).

11. Because all current participants in the facility have a right to acquire a pro rata share of Pella's interest, the exact amount to which Applicant may be entitled is unknown. Applicant believes that the share it would be entitled to acquire would amount to between two and three megawatts. To accommodate this uncertainty, Applicant requests that the Board authorize Applicant to acquire an ownership interest that amounts to up to three megawatts of the facility's output. (T14:1 to 17:12).

12. The ownership agreement in the facility allows Applicant and the other current participants to match the price that Pella has been offered by another seller, in this case the MRESC. MRESC has offered to acquire Pella's generation and transmission assets for \$2,333 per kilowatt installed. (Exh. 4, page 7).

13. Applicant has sixty-seven members in four states for which it supplies electric power. Forty of its members are located in the State of Nebraska, while ten of its members are in Iowa, three are in Wyoming, and fourteen are in Colorado. The additional electricity obtained as a result of PRB-3661-G would primarily be used to

serve Applicant's ten members located in Iowa, which are part of the Midwest Independent System Operator's (MISO) footprint. (T19:12 to 20:2; Exh. 4, page 9).

14. The electric load for Applicant's members continues to grow. Applicant projects that it will experience three percent load growth from 2011 to 2012, measured by total energy sales. It also projects that its peak demand will increase during that same time frame from 550 to 557 megawatts. (T20:3-9; Exh. 4, page 9).

15. MEAN has recently converted several of its short and mid-term contracts into long-term contracts. This benefits MEAN by allowing it to obtain better interest rates on long-term bond debt. The long-term contracts are then for the life of the applicable bonds. The conversion of the Cities of Delta, Colorado and Plainview, Nebraska, from ten-year contracts to long-term contracts were approved in August 2011. These cities amount to a load of approximately fifteen megawatts. The cities of Fountain, Colorado and Gillette, Wyoming, which have a load of 86 megawatts, recently extended their three to ten year agreements with MEAN. (T20:17 to 21:8; Exh. 4, page 10).

16. MEAN currently purchases a portion of its electric needs from the open market. It has not had difficulty procuring power off the market due to the current situation in the marketplace. However, by acquiring additional long-term generation assets such as an additional ownership share in the Walter Scott, Jr. Energy Center Unit 4, MEAN can reduce its reliance on the market, and help insulate itself from future market fluctuations. (T24:6-23; Exh. 4, page 12).

17. The Walter Scott, Jr. Energy Center Unit 4 is able to generate electricity in an economical and cost-effective manner. The cost of the additional two to three

megawatts that MEAN would obtain as a result of PRB-3661-G would be \$2,333 per kilowatt installed. In comparison to two of MEAN's other baseload units in which it has ownership interest, the cost of the electricity produced at the Wygen Unit I, an 85 megawatt coal generation facility in Wyoming in which MEAN owns a 23.5 percent share, is \$2,550 per kilowatt installed. The cost of the electricity produced at the Whelan Energy Center Unit 2, a 220 megawatt coal generation facility in Hastings, Nebraska, in which MEAN owns a 36.36 percent share, is \$2,700 per kilowatt installed. The relatively low cost of the electricity obtained as a result of the acquisition requested in PRB-3661-G would be a benefit to MEAN's ratepayers. (T27:17 to 30:18; Exh. 4, page 15).

18. The Walter Scott, Jr. Energy Center Unit 4 has installed environmental controls that meet all current regulatory requirements. The unit complies with the requirements for the federal Cross-State Air Pollution Rule that will go into effect January 1, 2012. (T30:20 to 31:10; T37:21-24).

19. The Walter Scott, Jr. Energy Center Unit 4 has been in operation for approximately four years. During that time, the unit has a proven record of reliable operation. (T30:12-18).

20. MEAN has a firm transmission path from the Walter Scott, Jr. Energy Center Unit 4 to the NPPD control area in Nebraska. If MEAN were to need the electricity from the Walter Scott, Jr. Energy Center Unit 4 in Nebraska, such as due to outages, etc., or if prices or weather made it more worthwhile to transport the electricity back to Nebraska instead of to MEAN's customers in the MISO region, MEAN has the transmission path necessary to do so. The transmission rights associated with MEAN's

requested additional ownership share in the Walter Scott, Jr. Energy Center Unit 4 is already included in the price MEAN would pay. (T37:13 to 38:11).

### **CONCLUSIONS OF LAW**

21. Pursuant to Neb. Rev. Stat. §§ 70-1012, 70-1013, and 70-1014, the Board has jurisdiction to conduct a hearing and either approve or deny an application filed by an electric power supplier based in Nebraska for authority to acquire a generation facility. MEAN is an electric power supplier based in Nebraska.

22. Acquiring additional long-term generation assets is beneficial to MEAN and its ratepayers in order to serve the new long-term contracts and renewed short-term contracts for which MEAN is responsible to supply electric energy.

23. The Board concludes that the evidence shows MEAN's proposed ownership interest in the generation facility will serve the public convenience and necessity.

24. The Board concludes that the evidence demonstrates that the Applicant can most economically and feasibly supply the electric service resulting from acquiring an additional ownership interest in the Walter Scott, Jr. Energy Center Unit 4.

25. The Board concludes that the evidence demonstrates that the facility does not unnecessarily duplicate other facilities or operations.

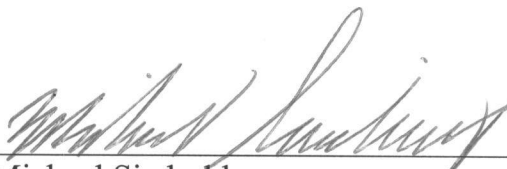
26. Based on the foregoing findings, the Applicant is entitled to an Order approving the acquisition of an additional .25 percent ownership interest in the generation facility described in application PRB-3661-G.

## ORDER

That during that portion of its public meeting on September 9, 2011, held subsequent to the hearing on application PRB-3661-G, a majority of the members of the Power Review Board, by a vote of 3 to 0, voted in favor of a motion to approve application PRB-3661-G.

IT IS THEREFORE ORDERED by the Nebraska Power Review Board that, pursuant to the Board's action taken during its public meeting held September 9, 2011, application PRB-3661-G for authorization for the Municipal Energy Agency of Nebraska to acquire an additional .25 percent ownership interest, equating to between two and three megawatts capacity, in an 800 megawatt coal-fired generation facility known as the Walter Scott, Jr. Energy Center Unit 4, located near the City of Council Bluffs, Pottawattamie County, Iowa, be, and hereby is, APPROVED.

Dated this 20 day of October, 2011.

  
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Michael Siedschlag  
Chairman



## CERTIFICATE OF SERVICE

I, Timothy J. Texel, Executive Director and General Counsel for the Nebraska Power Review Board, hereby certify that a copy of the foregoing **Order** in PRB-3661-G has been served upon the following parties by mailing a copy of the same to the following persons at the addresses listed below, via certified United States mail, first class postage prepaid, on this 21<sup>st</sup> day of October, 2011.

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Timothy J. Texel