

**STATE OF NEBRASKA
NEBRASKA POWER REVIEW BOARD**

IN THE MATTER OF THE SPECIAL)	PRB-3701-SG
GENERATION APPLICATION OF PRAIRIE)	
BREEZE WIND ENERGY, LLC,)	
HEADQUARTERED IN CHICAGO, ILLINOIS,)	
FOR AUTHORITY TO CONSTRUCT A 200)	
MEGAWATT WIND TURBINE ELECTRIC)	ORDER
GENERATION FACILITY AND A 25-MILE)	
TRANSMISSION INTERCONNECTION LINE)	
IN ANTELOPE, BOONE AND MADISON)	
COUNTIES, NEBRASKA.)	

ON THE 8th day of February, 2013, 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 17th day of January, 2013, Prairie Breeze Wind Energy LLC (“Prairie Breeze” or “the Applicant”) filed a special generation application with the Board requesting authorization to construct a 200 megawatt wind turbine electric generation facility and a twenty-five mile 230 kilovolt (“kV”) transmission interconnection line. (Exh. 1). The application was designated “PRB-3701-SG.”

2. The wind turbines will be spread out in a corridor approximately four to six miles wide beginning generally nine miles west and several miles south of the City of Elgin and proceeding east, remaining south of the City of Tilden and the Village of Meadow Grove, and ending approximately one to two miles east of the Village of Meadow Grove. The Applicant provided a map showing the location of the corridor and the present expected location of the turbines. (Exh. 1, pages 6 and 7). The turbines would be located in Boone and Antelope counties. (T22:16-17).

3. The twenty-five mile 230 kV transmission line that will interconnect Applicant's generation facility to the local electric transmission grid system will begin approximately two miles south of the City of Elgin and proceed east and north inside a corridor approximately four miles wide to its end south of the Village of Meadow Grove. The Applicant provided a map showing the location of the corridor in which the transmission line will be located. (Exh. 1, page 12). The interconnection facilities will be located in Madison County. (T22:17-18).

4. The Board provided written notice of the filing of the application, the hearing date, and an opportunity to file a protest or intervention to power suppliers and other entities it deemed to be potentially affected by or interested in the application, as well as the Applicant, via certified U. S. mail. (Exh. 2).

5. Notice of the filing of the application, the hearing date, and the opportunity to file a Petition for Intervention, was provided to the general public by publication in the Elgin Review, Neligh News and Leader, Petersburg Press and Tilden Citizen/Meadow Grove News newspapers on Wednesday, January 23, 2013. (Exhs. 3, 4, 5, 6, and 7).

6. The Nebraska Public Power District (“NPPD”) filed a Petition for Intervention (titled “Motion to Intervene”) requesting to participate in the hearing. (Exh. 9). The hearing officer granted NPPD’s Petition for Intervention. (Exh. 10).

7. No other Petitions for Intervention, written Protests, or Objections were filed with the Board concerning this application.

8. Pursuant to its obligation under Neb. Rev. Stat. § 37-807(3), the Board consulted with the Nebraska Game and Parks Commission (“the Commission”) to ensure that the Board’s approval of PRB-3701-SG would not jeopardize the continued existence of any state-listed threatened or endangered species or result in the destruction or modification of habitat of such species determined by the Commission to be critical. In a letter dated February 5, 2013, the Commission notified the Board that the project is within the range of certain state and federally listed endangered and threatened species. (Exh. 8). Although the Commission determined that the project area did not contain habitat suitable for some of the species, and that there are no records of Whooping Cranes within the project area, in order to reduce the possible risk of a Whooping Crane colliding with a power line the Commission recommended marking any transmission lines within the proposed turbine layout area (shown in Exhibit 1, page 7) with bird flight diverters. The twenty-five mile transmission interconnection line will be marked with bird flight diverters in areas to be determined and agreed upon by the Commission, the U.S. Fish and Wildlife Service and the Applicant. (Exh. 8, page 3). The Commission also noted that habitat assessments and site surveys were conducted for western prairie fringed orchid and small white lady’s slipper in the turbine layout area, and neither species were

found to be present. The Commission determined that a site survey should be conducted immediately prior to commencement of construction to ensure that these two species are not within the turbine layout area. With Applicant's compliance to mark the necessary areas of transmission lines with bird flight diverters and to conduct a pre-construction site survey, the Commission determined the project "may affect, but is not likely to adversely affect" any state-listed threatened or endangered species, and the Commission does not object to the approval of the project as planned.

9. That on February 8, 2013, the Board commenced the formal hearing on PRB-3701-SG.

10. Applicant is a wholly-owned subsidiary of Invenergy Wind Development North America LLC. (T21:8-11; Exh. 1, page 2). Applicant is a privately owned developer. (T23:18-21; T27:22-23). In a previous application designated CREF-01-10, Invenergy Wind Development LLC requested authority to construct a 200 megawatt wind turbine electric generation facility in the same location as in the current application. The Board gave conditional approval of the proposed facility in CREF-01-10, but final approval is pending. (T13:16-23). Applicant stated in its application that upon final approval of PRB-3701-SG, Invenergy Wind Development will withdraw its pending CREF-01-10 application. (Exh. 1, page 5).

11. Applicant and the Omaha Public Power District ("OPPD") have entered into a power purchase agreement under which Applicant will sell one hundred percent of the available electricity generated at the proposed facility to OPPD. (T22:1-2; T35:10-19; T36:14-22; T57:9-13; Exh. 11, page 24; Exh. 13, pages 1-2). The hearing officer

accepted a partially redacted copy of the power purchase agreement between Applicant and OPPD into evidence under seal due to the presence of proprietary and commercial information in the non-redacted portion of the agreement which if released publicly would give an advantage to Applicant's business competitors and the release of which serves no public purpose. (T16:16 to 17:12).

12. The term of the agreement between Applicant and OPPD for the sale of the facility's available generated electricity is twenty-five years. (T35:20-22; T47:23 to 48:8; Exh. 11, page 16; Exh. 13, page 2).

13. The OPPD Board of Directors conducted an advertised public hearing on January 17, 2013, affording OPPD's ratepayers the opportunity to review and comment on the proposed project involved in PRB-3701-SG. (T45:21 to 46:8; Exh. 13, page 1). Notice of the public hearing was published in the Omaha World-Herald newspaper. Notice was also provided on OPPD's website. (T55:3-18). All OPPD directors were present at the public hearing, and the hearing was opened and conducted by director J. K. Green. (T:5614-16; Exh. 13, page 5).

14. The most recent Annual Electric Power Industry Report filed by OPPD with the United States Department of Energy, known as Form EIA-861, covered the calendar year 2011. (T50:13-22; Exh. 13, page 2; Exh. 14, page 1). According to the information contained in OPPD's Annual Electric Power Industry Report, OPPD's 2011 total energy sales were 15,328,409 megawatt hours (MWHs). (T50:13-25). Although the energy sales shown in Schedule 2, Part B, on lines 10 and 16 is 15,862,719, the 534,310 in Total Energy Losses shown on line 15 is deducted from the subtotal to obtain the total

energy sales. (Exh. 14, page 3). Of the final total, 423,597 MWHs of energy sales were from renewable energy generation sources. (T51:7-23; Exh. 13, page 2). Based on the information in the report, in 2011 OPPD obtained 2.8 percent of its total energy production from renewable energy sources. The proposed facility in PRB-3701-SG is expected to produce approximately 928,560 MWHs in energy sales. When the electricity produced by the proposed facility is added to the figures in the most recent Annual Electric Power Industry Report, this would bring OPPD's total energy sales from renewable sources to 8.8%. (T52:16 to 53:19; Exh. 13, page 2).

15. The total cost of the project is estimated to be 360 million dollars, including the necessary interconnection facilities. The cost of the project will be borne entirely by the Applicant. (T34:13-24). There will be no impact on OPPD's rates as a result of this project. (T47:14-22; Exh. 13, page 4).

16. The twenty-five mile 230 kV transmission interconnection line will be a radial feed dedicated to delivering electricity generated at the proposed facility to the point of interconnection with NPPD's transmission grid system. No retail or wholesale customers will be served by the line. (T39:20 to 40:4).

17. The transmission line will be constructed by Applicant, but ownership will be transferred to NPPD shortly after completion of construction. NPPD will be responsible for operating the line. (T40:5 to 41:3).

CONCLUSIONS OF LAW

18. Pursuant to Neb. Rev. Stat. §§ 70-1014.01(3)(a), 70-1012 and 70-1013, the Board has jurisdiction to conduct a hearing and either approve or deny a special

generation application filed by a private developer for authority to construct a qualifying renewable generation facility in the State of Nebraska.

19. The evidence demonstrates that the project which is the subject of application PRB-3701-SG qualifies as a special generation application.

- a. The Applicant intends to develop a renewable energy source (in this instance, wind power) for sale to a Nebraska electric utility set out in Neb. Rev. Stat. § 70-1014.01(2)(a) (in this instance, a public power district).
- b. The OPPD Board of Directors conducted a public hearing affording its ratepayers the chance to review and comment on the application.
- c. The power and energy from the facility will be sold exclusively to OPPD for a term of at least twenty years.
- d. The total production from all such renewable projects does not exceed ten percent of OPPD's total energy sales as shown in OPPD's most recent Annual Electric Power Industry Report to the United States Department of Energy.

20. The Board finds that OPPD has met the conditions described in Neb. Rev. Stat. § 70-1014.01(3)(a). Pursuant to Neb. Rev. Stat. § 70-1014.01(3)(b), the Applicant is therefore entitled to an Order approving the project as described in application PRB-3701-SG.

ORDER

That during that portion of its public meeting on February 8, 2013, held subsequent to the hearing on application PRB-3701-SG, 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-3701-SG. Chairman Siedschlag recused himself from participation in the discussion and voting on this matter.

IT IS THEREFORE ORDERED by the Nebraska Power Review Board that, pursuant to the Board's action taken during its public meeting held February 8, 2013, application PRB-3701-SG requesting authorization for Prairie Breeze Wind Energy LLC to construct a 200 megawatt wind turbine electric generation facility and a 25-mile 230 kilovolt transmission interconnection line in Antelope, Boone, and Madison Counties, Nebraska be, and hereby is, APPROVED.

IT IS FURTHER ORDERED that the Applicant will coordinate with the Nebraska Game and Parks Commission to ensure that bird flight diverter devices are installed on any transmission lines in the turbine layout area, and in locations on the twenty-five mile transmission interconnection line determined by the Commission to be necessary, and that a site survey be conducted immediately prior to commencement of construction activities to ensure the absence of other threatened or endangered species identified in the Commission's February 5, 2013 letter, as described in paragraph 8 of this Order.

Dated this 26th day of March, 2013.



Stephen Lichter, Vice 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-3701-SG 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 28th day of March, 2013.

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