

**STATE OF NEBRASKA  
NEBRASKA POWER REVIEW BOARD**

IN THE MATTER OF THE APPLICATION OF	)	<b>PRB-3786-G</b>
PRAIRIE BREEZE WIND ENERGY II, LLC,	)	
HEADQUARTERED IN CHICAGO, ILLINOIS,	)	
REQUESTING AUTHORITY TO CONSTRUCT	)	
A 73.5 MEGAWATT WIND TURBINE ELECTRIC	)	<b>ORDER</b>
GENERATION FACILITY AND RELATED	)	
FACILITIES IN ANTELOPE AND BOONE,	)	
COUNTIES, NEBRASKA.	)	

On the 23<sup>rd</sup> day of January, 2015, 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 the 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.”):

Lichter, Haase, Morehouse and Reida, participating.

**FINDINGS OF FACT**

1. That on January 2, 2015, Prairie Breeze Wind Energy II, LLC, (“Prairie Breeze II”) filed an application with the Board requesting authorization to construct a seventy-three and one-half (73.5) megawatt wind turbine electric generation facility and necessary related facilities. (Exh. 1). Prairie Breeze II estimated that the facility would consist of approximately forty-one (41) wind turbines, at a total cost of approximately

\$125 million. (T19:21 to 20-2 ; Exh. 1, pages 3-4). Prairie Breeze II plans to commence construction in the second quarter of 2015, and begin commercial operation in the fourth quarter of 2015. (T20:2-4). The application was designated “PRB-3786-G.”

2. The proposed 73.5 megawatt generation facility would be located generally east of the City of Elgin, in Antelope and Boone Counties, Nebraska. (Exh. 1, page 2). The proposed facility would be located adjacent to and immediately east of the existing Prairie Breeze I (see paragraph 9 of this Order) wind turbine electric generation facility. (Exh. 1, page 2 and 5).

3. That those power suppliers and entities, other than the applicant, that the Board deemed to be potentially affected by or interested in PRB-3786-G were the Nebraska Public Power District, the Omaha Public Power District, the Municipal Energy Agency of Nebraska, the Lincoln Electric System, the Northeast Nebraska Public Power District, the Elkhorn Rural Public Power District, the City of Madison, the City of Ord, the Village of Pender, the Village of Spaulding, the City of Wakefield, the City of Wayne, the City of Elgin, and the Village of Meadow Grove. Written notice of the filing of the application and the hearing date was provided to these potentially interested parties and to Prairie Breeze II via certified U.S. mail (Exh. 2).

4. Notice of the filing and the opportunity to request to participate in the proceedings was provided to the general public by publication of notice in the *Petersburg Press* and *The Elgin Review* newspapers on January 14, 2015. (Exhs. 3, 4 and 5). Both the *Petersburg Press* and *The Elgin Review* are legal newspapers

with circulation in the general area where the proposed generation facility would be located.

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

6. That pursuant to the requirement set out in Neb. Rev. Stat. § 37-807(3), the Board consulted with the Nebraska Game and Parks Commission (“the Commission”) to ensure that the Board utilizes its authority in furtherance of the purposes of the Nebraska Nongame and Endangered Species Act, and to ensure that approval of the proposed generation facility and related facilities would not jeopardize the continued existence of any endangered or threatened species or result in the destruction or modification of habitat of such species which is determined by the Commission to be critical. The Commission provided a letter to the Board dated January 22, 2015. (Exh. 6). The Commission’s letter stated that the proposed location of the generation facility is within the range of the state-listed endangered whooping crane (*Grus americana*). It is also within the range of the following state-listed threatened species: western prairie fringed orchid (*Platanthera praeclara*), small white lady’s slipper (*Cypripedium candidum*) and river otter (*Lontra canadensis*). (Exh. 6, page 2). The northern long-eared bat (*Myotis septentrionalis*) may also occur in the project area. The bat is not currently a state-listed endangered or threatened species, but it is proposed to be listed as endangered by the U.S. Fish and Wildlife Service. If listed as endangered by the U.S. Fish and Wildlife Service, it would automatically also become a state-

listed endangered species. If the bat were to be listed as endangered during the generation facility's existence, modifications to the facility's operations may be required, such as adjustment of cut-in speeds or shutting down turbines during certain times of the year. (Exh. 6, page 4).

7. In its letter, the Commission found that there are no records of whooping cranes within the project area, but there are records of whooping cranes within ten miles of the project area. Prairie Breeze II agreed to install bird flight diverters on the transmission line to which this facility will connect, and to develop a whooping crane contingency plan. (Exh. 6, page 3). Surveys conducted indicated no western prairie fringed orchids or small white lady's slippers were present in the project area. (Exh. 6, page 3). The Commission believes it is unlikely construction would occur within or near areas with river otter habitat. (Exh. 6, page 4).

8. Based on Prairie Breeze II's agreement to perform the mitigation measures stated in the Commission's January 22 letter, the Commission determined that the project "may affect, but is not likely to adversely affect" any state-listed endangered or threatened species, and the Commission did not object to the Board's approval of the application. (Exh. 6, page 4).

9. Prairie Breeze II is a subsidiary of Invenergy Wind Development North America, LLC ("Invenergy"). (T15:15-17; Exh. 1, page 4). Invenergy currently has a wind portfolio that consists of 5,747.1 megawatts of generation in the United States, including 51 operating wind projects. (T:17:10-14; Exh. 7, page

3). Invenergy is the sixth largest owner of wind assets in the United States, according to the American Wind Energy Association (AWEA). (T17:9-10; Exh. 7, page 3). Invenergy already has one wind turbine generation facility operating in Nebraska, which is the Prairie Breeze Wind Energy Center (“Prairie Breeze I”) consisting of 118 turbines and 201 megawatts capacity. (T17:20 to 18:3).

10. The project will be privately financed. (T22: 25 to 26:1; Exh. 1, page 3). Prairie Breeze II will bear all risks associated with developing, constructing, financing and operating the proposed facility. (T22:13-16 ; Exh. 7, page10).

11. Based on meteorological data collected at the proposed site, Prairie Breeze II expects the capacity factor at the facility to be over fifty percent. (T20:20-25).

12. The project is already in the Southwest Power Pool’s (SPP) interconnection study queue. The SPP has already produced a “Definitive Interconnection System Impact Study for Generation Interconnection Requests”. (Exh. 1, pages 7-129).

13. By locating the facility adjacent to the existing Prairie Breeze I wind turbine generating facility, Prairie Breeze II is able to reduce costs. Prairie Breeze II is able to use the existing operations building. Technicians already on site will be able to service the facility, which otherwise would require hiring new personnel. Prairie Breeze II is also able to use the existing substation that serves Prairie Breeze I, and thereby reduce its costs by not having to build its own

separate substation. Prairie Breeze II was able to pass those costs savings on in the form of offering a lower energy price to LES in the purchase contract. (T32:6 to 33:4).

14. Prairie Breeze II has a power purchase agreement with the Lincoln Electric System (LES), under which LES will purchase the full electric output of the facility for twenty-five years. (T20:11-14; T22:16-18). The price for the electric output is fixed throughout the life of the contract. (T39:5-7). LES estimates the contract will provide \$106 million in benefits to LES and its customers, when comparing LES's forecasted power cost needs over the life of the contract with and without the Prairie Breeze II power purchase agreement. (T37:16-23; T39:5-7). LES has other contracts with wind generation facilities that include escalator clauses for inflation. LES believes having both types of contracts provides diversity in the utility's portfolio, and the longer fixed contract provides stability in the power pricing. (T39:4 to 40:4).

15. LES also wants to have geographic diversity in its renewable generation portfolio. LES has contracts with facilities in Nebraska, Kansas and Oklahoma. Prairie Breeze II allows for additional generation in Nebraska. This diversification helps to hedge against having too much wind generation in one location where the wind may not be blowing, and thus is not providing any output. It also allows LES to diversify when it comes to the price at which LES can resell its renewable generation, since the SPP market price is different for different regions within SPP. LES resells some or all of the power purchased from its wind

generation contracts, and diversification allows LES to mitigate its risk of having too much generation in one region that might have depressed electric prices.

(T39:14 to 41:5).

16. Purchasing a renewable resource located in Nebraska helps LES plan for how to deal with proposed federal carbon regulations. There is some uncertainty if a utility will be able to count emission-free generation if it is located in another state. Purchasing additional wind from a facility inside Nebraska not only provides electricity from an emission-free generation source, but LES avoids the risk that the electric output may not be credited toward its carbon emission goal. (T41:6-19). Although LES currently has sufficient generation resources for its customers' needs, the diversification benefits provided by the addition of Prairie Breeze II is important to LES's portfolio mix. (T48:15 to 49:8; 50:16 to 52:10).

17. Prairie Breeze II took the steps necessary so that the output from the facility will be eligible for the federal production tax credit. (T27:21 to 28:1; T49:20 to 50:9).

18. The price LES would pay for the electric output from the proposed facility was provided to the Board in Exhibit 11, which is a redacted copy of the relevant portions of the power purchase agreement between Prairie Breeze II and LES. The contractual price for the electricity were submitted by Prairie Breeze II as confidential information. Prairie Breeze II asserts that the pricing information constitutes proprietary commercial information which would provide a

competitive advantage to its competitors if publicly released. The Board accepted Exhibit 11 without publicly disclosing it at the hearing to preserve its confidentiality under the provisions of Neb. Rev. Stat. section 84-712.05(3). Exhibit 11 was therefore submitted under seal and the Board will keep the pricing information confidential. (T12:6-25).

### **CONCLUSIONS OF LAW**

19. 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 for authority to construct electric generation and related facilities located in the State of Nebraska. Such approval is required prior to commencement of construction of facilities such as those described in application PRB-3786-G.

20. The Board has complied with the requirements under Neb. Rev. Stat. § 37-807(3) to consult with and request the assistance of the Nebraska Game and Parks Commission in order to utilize the Board's authority in furtherance of the purposes of the Nebraska Nongame and Endangered Species Act, and to insure that approval of the proposed electric generation facility and related facilities would not jeopardize the continued existence of any endangered or threatened species or result in the destruction or modification of habitat of such species which is determined by the Commission to be critical. Based on Prairie Breeze II's commitments to implement mitigation measures, the Commission has determined that the proposed project "may affect but is not likely to adversely affect" any endangered or threatened species or habitat critical to those species. The Board believes it is reasonable to defer to the expertise of the Commission. The



Board therefore concludes that, due to Prairie Breeze II's agreement to implement the protection and mitigation measures outlined in the Commission's letter dated January 22, 2015, approval of the proposed generation facility and its related facilities would not jeopardize the continued existence of any endangered or threatened species or result in the destruction or modification of the critical habitat of such species.

21. The Board considers the pricing information in Exhibit 11 to be proprietary and commercial information, the public disclosure of which would serve no useful purpose. The Board therefore finds that the pricing information in Exhibit 11 is not a public record and is not subject to public disclosure under the provisions of Neb. Rev. Stat. section 84-712.05(3).

22. The Board finds that the evidence shows the proposed project will serve the public convenience and necessity. The project will provide cost-effective energy to LES's ratepayers, will provide valuable diversity in LES's generation portfolio, and will provide a hedge against carbon emission regulations affecting fossil-fuel generation resources. LES only pays for the electricity actually produced by the facility, so LES's ratepayers have no further exposure to risk associated with this facility.

23. The Board finds that the evidence demonstrates that Prairie Breeze II can most economically and feasibly supply the electric service resulting from the proposed project.

24. The Board finds that the evidence demonstrates the proposed project will not unnecessarily duplicate other facilities or operations.

25. That based on the foregoing findings, Prairie Breeze II is entitled to an Order approving the construction of the proposed wind turbine electric generation facility described in application PRB-3786-G.

### ORDER

That during that part of its public meeting held January 23, 2015, held subsequent to the hearing on the merits pertaining to application PRB-3786-G, a majority of the members of the Power Review Board, by a vote of 4 to 0, voted in favor of a motion to approve application PRB-3786-G.

IT IS THEREFORE ORDERED by the Nebraska Power Review Board that, pursuant to the Board's action taken during its public meeting held January 23, 2015, application PRB-3786-G filed by Prairie Breeze Wind Energy II, LLC for authorization to construct a 73.5 megawatt wind turbine electric generation facility and necessary related facilities in Antelope and Boone Counties, Nebraska, and hereby is APPROVED. A condition of this Order is that Prairie Breeze Wind Energy II, LLC shall abide by and implement, to the best of its ability, the protection and mitigation measures described in the Nebraska Game and Parks Commission's consultation letter dated January 22, 2015.

Dated this 23<sup>rd</sup> day of March, 2015.

  
Stephen M. Lichter, 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-3786-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 on this 23<sup>rd</sup> day of March, 2015.

Prairie Breeze Wind Energy II, LLC  
c/o Mick Baird  
Invenergy Wind Development North  
America LLC  
One South Wacker Drive, Suite 1900  
Chicago, IL 60606

Michael S. Degan, Esq.  
Husch Blackwell LLP  
13330 California Street, Suite 200  
Omaha, NE 68154

  
\_\_\_\_\_  
Timothy J. Texel