

**STATE OF NEBRASKA
NEBRASKA POWER REVIEW BOARD**

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| IN THE MATTER OF THE APPLICATION |) | PRB-3980 |
| OF THE NEBRASKA PUBLIC POWER DISTRICT, |) | |
| HEADQUARTERED IN COLUMBUS, NEBRASKA, |) | |
| REQUESTING AUTHORIZATION TO CONSTRUCT |) | ORDER |
| NINE MILES OF 115 KILOVOLT TRANSMISSION |) | |
| LINE IN SCOTTS BLUFF COUNTY, NEBRASKA |) | |

On the 27th day of January, 2023, 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.”):

FINDINGS OF FACT

1. That on November 7, 2022, the Nebraska Public Power District (NPPD), headquartered in Columbus, Nebraska, filed an application with the Board requesting authorization to construct approximately nine (9) miles of 115 kilovolt (kV) transmission line in Scotts Bluff County, Nebraska. The application was designated “PRB-3980.”
2. The proposed 115 kV line would run from NPPD’s existing Scottsbluff 115 kV substation to NPPD’s existing Victory Hill 115 kV Substation. (Exh. 1, pages 1 and 4-5; Exh. 9). The corridor in which the line would be located is generally in the

northwest part of the City of Scottsbluff's retail service area and in the area just north and west of the City of Scottsbluff. The boundary of the corridor on the west is just west of County Road 20. The boundary on the east is an irregular shape that in the northeast goes as far east as just to the east of Sugar Factory Road, then moves west in steps that narrow the corridor until it is just west of Avenue I, then proceeds to the southeast to the Scottsbluff Substation. (Exh. 1, pages 4-5, (Exhibit A to Exhibit 1); Exh. 9). If approved, construction would commence on or about November 1, 2024, with an expected completion date of May 30, 2025. (Exhibit 1, page 3; T14:18 to 15:1).

3. That those power suppliers and entities, other than the applicant, that the Board deemed to be potentially affected by or interested in PRB-3980 were the Roosevelt Public Power District, the City of Scottsbluff, the City of Gering and the Western Area Power Administration. Written notice of the filing of the application and the hearing date was provided to these potentially interested parties and NPPD via certified U.S. mail (Exh. 2).

4. Notice of the filing and the opportunity to file a Petition for Intervention to participate in the proceeding was provided to the general public by publication of a notice in the *Scottsbluff Star-Herald* newspaper on Thursday, December 15, 2022. (Exhs. 3 and 4). The publication is a legal newspaper with circulation in the general area where the proposed transmission line would be located.

5. That no Petitions to Intervene or Protests were filed with the Board concerning this application. Roosevelt Public Power District and the City of

Scottsbluff each filed a consent and waiver form with the Board consenting to approval of the application and waiving a hearing in the matter. (Exhs. 6 and 7; T19:11-16). The Western Area Power Administration, Rocky Mountain Region (WAPA), a federal agency within the U.S. Department of Energy, does not normally make appearances in State administrative proceedings. Therefore, WAPA did not submit a consent and waiver form to the Board, but instead provided NPPD with an email stating that WAPA received the notice and does not object to the proposed project. (Exh. 8; T19:17 to 20:3).

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 transmission line 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 November 21, 2022, stating that the proposed project corridor is within the range of the state-listed endangered Swift fox (*Vulpes velox*). (Exh. 5, page 2).

7. The Commission determined that the project area is unlikely to contain suitable habitat for Swift fox, as the project corridor area has been previously disturbed by city development or agricultural activities. Due to this, the Commission determined that the proposed project is not anticipated to have an

impact on state-listed endangered or threatened species and did not object to the approval of the project. (Exh. 5, page 2).

8. The project area in which the proposed transmission line will be located is shown on Exhibit 1, pages 4 and 5, and on Exhibit 9. On both exhibits the project area is outlined by a dark red line designated as the “routing corridor” in both of the maps’ legends. Although NPPD has designated a preferred and alternate routes for the line, a final decision on the route that will be followed has not yet been determined. (Exh. 9; T15:24 to 16:5). NPPD could chose a final location for the line anywhere within the project corridor identified by the dark red line on Exhibits 1, pages 4-5 and on Exhibit 9. (T:15:7-20).

9. When selecting a route for a transmission line such as the one in PRB-3980, NPPD follows a public involvement process. After NPPD selects several alternative routes it holds an open house where affected landowners, city and other public officials, and members of the general public are invited to provide input. NPPD mails a notice of the open house to the registered owners of land adjoining the alternate proposed routes of the line. In this case, the first open house was held in September 2022. NPPD then narrows the alternative routes for the line based on the public input. NPPD then selects a preferred and alternate routes and holds a second open house to invite landowners, public officials and the general public to provide additional input. The second open house on the line involved in PRB-3980 was held in November 2022. (T16:6 to 17:13). NPPD also holds meetings with public officials, government agencies and other electric utilities regarding the line. NPPD met with officials from the Nebraska State Historical Society,

the Scottsbluff National Monument, the Nebraska Game and Parks Commission, and city and county officials. (T17:16-22). NPPD will then select a proposed final route and hold a public hearing on the proposed route. The final public hearing on the proposed line is scheduled for March 14, 2023. After a 30-day period to receive comments, NPPD will designate the final route for the line. (T17:23 to 18:16). The Board does not approve the exact siting or pathway for the line. Instead, NPPD must demonstrate that the line meets the Board's statutory approval criteria for a final route located anywhere inside the project corridor.

10. The preferred and alternate routes are not the most direct in order to connect the two substations. Although this adds distance, and therefore some cost, to the proposed line, it serves two purposes. First, by selecting a route by moving west from the Scottsbluff substation, going north, then coming back east to the Victory Hill substation, the route will create more distance between an existing NPPD 115 kV transmission line that moves east from the Scottsbluff substation, then proceeds north, then moves back west to connect with the Victory Hill substation. The distance adds reliability to the system by creating additional physical separation between the two lines. This could help avoid issues caused by localized natural hazards such as weather. (T43:6 to 44:20; Exh. 10). Second, by placing the line further west allows NPPD to avoid placing the line near where more homes and businesses are located. (T21:6 to 22:3; Exh. 10). Following a route further to the west allows the line to pass through less of the City of Scottsbluff than would be required using the most direct route. The most direct route would place the line closer to more homes, schools and businesses, affects more landowners, and

would require moving some facilities located in the City. Those issues can be minimized by locating as much of the line as possible outside the City limits, even though that adds some additional distance to the length of the line. (T22:4 to 23:5; Exh. 9).

11. There are multiple 230 kV and 115 kV transmission lines in the Scottsbluff area. (Exh. 10). NPPD owns and operates a 230 kV transmission line located north and west of Scottsbluff, and a 115 kV transmission line that comes from the north to the Victory Hill substation, proceeds south to the Scottsbluff substation, then south several miles until it turns west to the Bobcat Canyon substation. The other transmission lines are owned by WAPA, Tri-State Generation and Transmission Association, Inc., and the Missouri Basin Power Project. (Exh. 10; T26:9-15; T35:14 to 37:8). Some transmission lines in the area are part of the eastern interconnection, while others are part of the western interconnection. The interconnections are independently operated transmission grids. The two interconnections are not synchronous, so lines in the eastern interconnection do not directly interconnect with lines in the western interconnection, and eastern interconnection lines cannot directly serve loads in the western interconnection, and vice versa. (T26:16-24; Exh. 10). The area around Scottsbluff constitutes the far western boundary of the eastern interconnection, and has limited eastern interconnection transmission facilities. (T26:25 to 27:4).

12. The Scottsbluff substation is in the southern part of the City of Scottsbluff, while the Victory Hill substation is north of Scottsbluff. These two substations provide service to the loads in and around Scottsbluff. (Exh. 9; T26:5-7).

13. Under summer peak load conditions the existing transmission infrastructure in the Scottsbluff area is inadequate to maintain reliability for the load in the area. During contingency conditions involving the larger lines in the area, there would be thermal overloads and voltage depressions. Avoiding reliability issues under contingency conditions is a requirement imposed on electric utilities by the North American Electric Reliability Corporation (NERC). (T27:14 to 28:4).

14. NPPD is a member of the Southwest Power Pool (SPP), a regional transmission organization. The SPP functions as NPPD's transmission planning coordinator. SPP conducts transmission planning studies to determine the need for transmission facilities in its operating area. SPP prepared an Integrated Transmission Planning Assessment Report & Addendum that included analysis of transmission needs in the Scottsbluff area. The report was issued on December 9, 2022. The relevant portion of the SPP study identified the proposed 115 kV transmission line in PRB-3980 as a needed upgrade in the SPP operating area. The SPP study found that in the area near Scottsbluff, Nebraska, the line connecting the Scottsbluff and Victory Hill substations becomes congested in the event the Stegall 230 kV line or the Stegall-Wayside 230 kV line were to be taken out of service. The study found that adding a second circuit (115 kV line) from the Scottsbluff to Victory Hill substations provides an additional path for the electricity to flow north and mitigate the congestion. (Exh. 11, pages 15 and 21; T28:18 to 30:16; T32:11 to 33:22).

15. The SPP board of directors approved the project that is now designated PRB-3980 and on March 11, 2022, SPP issued NPPD a Notice to Construct the proposed project. (Exh. 12; T38:1-8). The designated reason supporting the need for the line was economic. (Exh. 12, page 2). NPPD's board of directors approved the commitment to construct the project at its May 2022 meeting, and NPPD formally accepted the Notice to Construct in a letter dated May 20, 2022. (Exh. 12; T38:9 to 39:4).

16. NPPD did examine whether alternatives were available instead of building the line proposed in PRB-3980. Because there is limited eastern interconnection transmission facilities in the Scottsbluff area, and the existing lines span long distances, there were limited options without building new transmission lines. The other transmission facility owners in the area coordinated with NPPD to determine the best transmission solution for the area. WAPA and Missouri Basin Power Project worked with NPPD and SPP to develop the solution in PRB-3980. Roosevelt Public Power District owns primarily subtransmission and distribution facilities (34.5 kV and smaller) in the area, which have inadequate capacity to address the reliability needs in the Scottsbluff area. Both NPPD and SPP determined the project in PRB-3980 was the best and lowest cost alternative to meet the reliability needs in the Scottsbluff area. (T39:8 to 41:25).

17. The estimated total cost of the project is \$8,720,755. (Exh. 1, page 3). Although NPPD will initially pay for the capital construction costs for the project, it will recover some of its costs over time using the SPP's "Highway/Byway" cost sharing

methodology. For projects involving facilities rated between 100 kV and 300 kV, SPP's cost methodology requires the utilities in the local zone where the new facilities will be located to pay approximately two-thirds of the project cost, while one-third of the cost is paid by the other members of the SPP, based on the load ratio of the SPP member utilities. NPPD is the utility with facilities in the local zone in this instance. Thus, NPPD will recover about one-third of the costs for the project. (T50:2-12).

CONCLUSIONS OF LAW

18. 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 a transmission line and related facilities located in the State of Nebraska, but outside a power supplier's service area. Such approval is required prior to commencement of construction of facilities such as those described in application PRB-3980.

19. The Board has complied with its 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 transmission line 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. In this proceeding the Commission determined that the proposed project is not anticipated to have an impact on any state-listed 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 approval of the proposed transmission line 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.

20. Pursuant to Neb. Rev Stat. § 70-1014(2), if an application filed with the Board involves a transmission project for which a regional transmission organization such as the SPP has issued a Notice to Construct, the Board is to consider information from the regional transmission organization's planning process. The Board may also take into account benefits the project provides to the region, including Nebraska, that the project provides when determining whether to approve or deny the application. In this instance the Board does take into account the SPP's planning process and recommendation.

21. The Board finds that the evidence shows the proposed project will serve the public convenience and necessity.

22. The Board finds that the evidence demonstrates that NPPD can most economically and feasibly supply the electric service resulting from the proposed project.

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

24. That based on the foregoing findings, NPPD is entitled to an Order approving the construction of the proposed transmission line and any related facilities described in PRB-3980.

ORDER

That during that part of its public meeting on January 27, 2023, held subsequent to the hearing pertaining to application PRB-3980, 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-3980.

IT IS THEREFORE ORDERED by the Nebraska Power Review Board that, pursuant to the Board's action taken during its public meeting held January 27, 2023, application PRB-3980 for authorization to construct approximately nine (9) miles of 115 kilovolt transmission line in Scotts Bluff County, Nebraska, be and hereby is APPROVED.

Reida (Chair), Hutchison (Vice Chair), Moen and Peck, participating.

Board member Grennan, not participating. Mr. Grennan recused himself due to his employer's involvement in engineering work on the proposed project. Mr. Grennan's term of office ended and he was replaced on the Board by Kristen Gottschalk shortly after the hearing in PRB-3980.

Board member Gottschalk, not participating. Board member Gottschalk had not yet received legislative confirmation as a Board member at the time of the hearing.

Dated this 17th day of March, 2023.

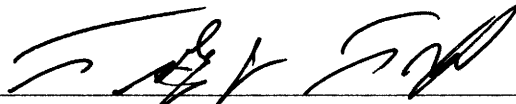


Frank Reida
Chairman

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-3980 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 17th day of March, 2023.

Christopher Elliott
Senior Staff Attorney
Nebraska Public Power District
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Timothy J. Texel