

**STATE OF NEBRASKA  
NEBRASKA POWER REVIEW BOARD**

IN THE MATTER OF THE APPLICATION	)	<b>PRB-4006</b>
OF THE NEBRASKA PUBLIC POWER DISTRICT,	)	
HEADQUARTERED IN COLUMBUS, NEBRASKA,	)	
REQUESTING AUTHORIZATION TO CONSTRUCT	)	
EIGHT MILES OF 115 KILOVOLT TRANSMISSION	)	<b>ORDER</b>
LINE IN MADISON AND STANTON COUNTIES,	)	
NEBRASKA	)	

On the 17<sup>th</sup> day of November, 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 September 14, 2023, the Nebraska Public Power District (NPPD), headquartered in Columbus, Nebraska, filed an application with the Board requesting authorization to construct approximately eight (8) miles of 115 kilovolt (kV) transmission line in Madison and Stanton Counties, Nebraska. The application was designated “PRB-4006.”

2. That although the hearing was originally scheduled for October 20, 2023, NPPD filed a Motion for Continuance on October 13 asking that the hearing

date be rescheduled to November 17, 2023. (Exh. 8). The hearing officer granted the continuance. (Exh. 9).

3. The proposed 115 kV line would run from NPPD's existing Stanton North 115 kV substation to NPPD's existing Norfolk 115 kV Substation. (Exh. 1, pages 2 and 4; Exh. 11). The corridor in which the line would be located is located in the Stanton County Public Power District's (Stanton Co. PPD) retail service area from just east of 564<sup>th</sup> Avenue to the western edge of Stanton Co. PPD's service area along Grandview Drive. Part of the line would then be located in the Elkhorn Rural Public Power District's (Elkhorn RPPD) retail service area from Grandview Drive to just east of NPPD's Norfolk Substation. A short distance of the line would then be located in the NPPD's retail service area to interconnect with NPPD's Norfolk Substation. The boundary of the corridor on the north is Highway 275, moving at a slight northwest angle starting approximately at Crown Road and to a curved line surrounding the Norfolk Substation. The boundary on the south follows the half-section line between 839<sup>th</sup> Road and 840<sup>th</sup> Road, angling to the northwest toward the Norfolk Substation just west of Grandview Drive. (Exh. 1, page 4; Exh. 11; T22:6-16).

4. The Applicant believes the new line will improve the reliability and resiliency of the transmission system in northeast Nebraska. (T17:15-19; Exh. 1, page 2).

5. If approved, construction would commence on or about January 1, 2024, with an expected completion date of September 17, 2025. (Exhibit 1, page 3; T17:12 to 14).

6. That those power suppliers, other than the applicant, that the Board deemed to be potentially affected by or interested in PRB-4006 were the Stanton Co. PPD and the Elkhorn RPPD. The Board also provided written notice of the application to the City of Stanton and the City of Norfolk due to their general proximity to the project area. Written notice of the filing of the application, the hearing date, and the opportunity to file an intervention or protest was provided to these potentially interested parties and NPPD via certified U.S. mail. (Exh. 4).

7. 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 *Norfolk Daily News* and the *Stanton Register* newspapers on Wednesday, September 27, 2023. (Exhs. 5 and 6). Both publications are legal newspapers with circulation in the general area where the proposed transmission line would be located.

8. That no Petitions to Intervene or Protests were filed with the Board concerning this application. The Stanton Co. PPD and the Elkhorn RPPD each filed a consent and waiver form with the Board consenting to approval of the application and waiving a hearing in the matter. (Exhs. 2 and 3).

9. 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 October 12, 2023, stating that the proposed project corridor is within the range of the state-listed endangered Northern Long-Eared Bat (*Myotis septentrionalis*) and Interior Least Tern (*Sternula antillarum athalassos*), and the state-listed threatened Piping Plover (*Charadrius melodus*), Western Prairie Fringed Orchid (*Platanthera praeclara*) and Small White Lady's Slipper (*Cypripedium candidum*). (Exh. 10, page 2).

10. The Commission determined that the project area does not appear to have suitable habitat for Interior Least Terns and Piping Plovers. The Commission found there appears to be suitable habitat in the project corridor for Western Prairie Fringed Orchids and Small White Lady's Slippers. The Commission also determined the corridor contains suitable roosting habitat for Northern Long-Eared Bats. (Exh. 10, page 2).

11. The Commission informed the Board that, in order to mitigate potential effects on Northern Long-Eared Bats, NPPD's contractor agreed that any required tree removal or trimming would be completed outside the bats' active maternity roosting season, which runs from June 1 through July 31. NPPD's contractor also agreed that pre-construction surveys would be conducted according to standard protocols for Western Prairie Fringed Orchids during their flowering period, which runs from June 15 through July 15, and for Small White Lady's

Slippers during their flowering period, which runs from May 15 through June 7. (Exh. 10, pages 2-3). At the hearing NPPD confirmed that it had agreed to the mitigation requirements proposed by the Commission. (T20:16-22).

12. With the implementation of the mitigation measures set out in the Commission's October 12 letter, and described in paragraph 11 above, the Commission determined that the proposed project "May Affect, but is Not likely to Adversely Affect" state-listed endangered or threatened species, and the Commission did not object to the approval of the project. (Exh. 10, page 3).

13. The project area or corridor in which the proposed transmission line will be located is shown on Exhibit 1, page 4, and on Exhibit 11. 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 route and alternate routes for the line, a final decision on the exact route that will be followed has not yet been determined. (Exh. 9; T:21:4-10). Whatever pathway NPPD selects for the line, the final route will be located within the project corridor identified by the dark red line on Exhibits 1, page 4 and on Exhibit 11. (T21:11 to 22:3).

14. When selecting a route for a transmission line such as the one in PRB-4006, NPPD follows a public involvement process. In the present instance, NPPD used a two-phased approach. (T18:7-15). In the first phase NPPD selects a preferred route and several alternative routes based on routing criteria and field research. NPPD then held an open house in September 2023 where landowners, public agencies and county and city officials and other interested parties were invited to provide input. (T:18-24). NPPD also

met separately with selected elected officials and public agencies, such as the State Historic Preservation Office and the Nebraska Game and Parks Commission. The second phase consists of a public hearing where a proposed route will be presented and public input is allowed. (T18:25 to 19:10). The second public hearing is scheduled to take place on December 12, 2023. After the second hearing, there will be a 30-day comment period during which additional public comments will be accepted. After that a final route will be selected. (T21:4-10). 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.

15. There are multiple 345 kV and 115 kV transmission lines in the general vicinity of the project area, particularly to the north of the project area. (Exh. 12). NPPD owns and operates multiple 345 kV transmission lines that interconnect at the Hoskins Substation north of the project area, and at least one 115 kV transmission line that comes from the southeast and interconnects with the Hoskins Substation. However, no line connects the lines or substations south of the Hoskins Substation. (Exh. 12).

16. The transmission system in the northeast part of the State in the vicinity of Norfolk and Stanton faces reliability issues. During summer and winter peak conditions, the transmission system in the area can experience thermal overloads and voltage collapse. New load additions and requests for new service in the area, including one load that is 70 megawatts, have stressed the transmission system in the area. The transmission facilities in the area are therefore inadequate to maintain system reliability in the area under standards set by the North American Electric Reliability Corporation (NERC).

(T28:5 to 29:4; T34:9-19). If the 115 kV transmission line proceeding south from the Hoskins substation were to experience a failure, NPPD would not be able to provide adequate electric service to the towns of Stanton, West Point and Beemer. The proposed line would create a redundant transmission path to serve those loads southeast of the Hoskins substation. (T29:5-25).

17. 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 a Delivery Point Network Study that included analysis of transmission needs in northeast Nebraska near Norfolk and Stanton, Nebraska. The report was issued on February 4, 2022. (Exh. 13; T30:17 to 31:2). The study showed that under certain contingencies the system in the area would experience thermal overloads. If the 115 kV line between the Hoskins and Stanton North substations were to fail under peak load conditions, the system in the area could face voltage collapse. (Exh. 13, pages 8-11; T33:6-20). The relevant portion of the SPP study identified the proposed 115 kV transmission line in PRB-4006 as a needed upgrade in the SPP operating area, in addition to NPPD upgrading its Hoskins substation. (Exh. 13, page 12; T33:6 to 34:6).

18. The SPP board of directors approved the project that is now designated PRB-4006 and on October 10, 2023, SPP issued NPPD a Notice to Construct the proposed project. (Exh. 14; T37:23 to 38:8). The designated reason

supporting the need for the line was regional reliability. (Exh. 14, page 2).

NPPD's board of directors approved the commitment to construct the project at its November 9, 2023 meeting, and NPPD formally accepted the Notice to Construct in a letter dated November 13, 2023. (Exh. 15; T38:9-16).

19. NPPD and SPP did examine whether alternatives were available instead of building the line proposed in PRB-4006. Both NPPD and SPP determined the project in PRB-4006 was the best and lowest cost alternative to meet the reliability needs in the Norfolk and Stanton area. (T38:19 to 39:12).

20. The other utilities operating in the area would not be able to provide the necessary transmission service. NPPD's transmission system involved in this application involves high voltage transmission lines. The other utilities operating in the general area own and operate subtransmission and distribution lines, which are inadequate to deal with the voltage issues that need to be addressed. (T39:13 to 40:4).

21. The estimated total cost of the project is \$10,960,315. (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. (T23:10-18).

### **CONCLUSIONS OF LAW**

22. 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-4006.

23. 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 "May Affect, but is Not likely to Adversely Affect" state-listed endangered or threatened species as long as the mitigation measures agreed to by NPPD's contractor are implemented. 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 if the mitigation measures set out in the Commission's October 12 letter and paragraph 11 of this Order are followed.

24. 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.

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

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

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

28. 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-4006.

## **ORDER**

That during that part of its public meeting on November 17, 2023, held subsequent to the hearing pertaining to application PRB-4006, 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-4006, subject to NPPD's compliance with the mitigation measures set out by the Nebraska Game and Parks Commission in its letter to the Board dated October 12, 2023. [Exhibit 10].

IT IS THEREFORE ORDERED by the Nebraska Power Review Board that, pursuant to the Board's action taken during its public meeting held November 17, 2023, application PRB-4006 for authorization to construct approximately eight (8) miles of 115 kilovolt transmission line in Madison and Stanton Counties, Nebraska, be and hereby is, APPROVED.

IT IS FURTHER ORDERED by the Board that the Nebraska Public Power District will comply with and implement, to the best of its ability, the mitigation measures set out by the Nebraska Game and Parks Commission in its letter to the Power Review Board dated October 12, 2023, which is Exhibit 10 in the record of the hearing, and outlined in paragraph 11 of this Order.

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

Dated this 24<sup>th</sup> day of January, 2024.

  
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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-4006 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 30<sup>th</sup> day of January, 2024.

Christopher Elliott  
Senior Staff Attorney  
Nebraska Public Power District  
P.O. Box 499  
Columbus, NE 68602-0499



Timothy J. Texel