



OPPD BOARD OF DIRECTORS

BOARD MEETING MINUTES

March 21, 2024

The regular meeting of the Board of Directors of the Omaha Public Power District (“OPPD” or “District”) was held on Thursday, March 21 at 5:00 p.m. at the Omaha Douglas Civic Center, 1819 Farnam Street, 2nd Floor Legislative Chamber, Omaha, Nebraska and via WebEx audio and video conference.

Present in person at the Civic Center were Directors A. E. Bogner, M. J. Cavanaugh, M. R. Core, S. E. Howard, J. M. Mollhoff, C. C. Moody, M. G. Spurgeon and E. H. Williams. Also present in person were L. J. Fernandez, President and Chief Executive Officer, T. F. Meyerson of the Fraser Stryker law firm, General Counsel for the District, E. H. Lane, Sr. Board Operations Specialist, and other members of the OPPD Board meeting logistics support staff. Chair E. H. Williams presided and E. H. Lane recorded the minutes. Members of the executive leadership team present in person included K. W. Brown, C. V. Fleener, S. M. Focht, G. M. Langel, T. D. McAreavey, M. V. Purnell, B. R. Underwood, and T. R. Via. Joining via WebEx was L. A. Olson and J. M. Bishop did not attend.

Board Agenda Item 1: Chair Opening Statement

Chair Williams gave a brief opening statement, including reminders for using the WebEx audio and video conferencing platform.

Board Agenda Item 2: Safety Briefing

Josh Clark, Manager, Protective Services, provided physical safety reminders. L. J. Fernandez, President and CEO, provided psychological safety reminders, including current safety focus reminders about: (i) Fatigue Due to Sleep Debt; (ii) Lockouts, Tagouts and Hold Options; and (iii) Brain Injury Awareness Month.

Board Agenda Item 3: Guidelines for Participation

Chair Williams then presented the guidelines for the conduct of the meeting and instructions on the public comment process in the room and using WebEx audio and video conferencing features.

Board Agenda Item 4: Roll Call

Ms. Lane took roll call of the Board. All members were present in person.

Board Agenda Item 5: Announcement regarding public notice of meeting

Ms. Lane read the following:

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“Notice of the time and place of this meeting was publicized by notifying the area news media; by publicizing same in the Omaha World Herald, OPPD Outlets newsletter, oppd.com and social media; by displaying such notice on the Arcade Level of Energy Plaza; and by e-mailing such notice to each of the District’s Directors on March 15, 2024.

A copy of the proposed agenda for this meeting has been maintained, on a current basis, and is readily available for public inspection in the office of the District’s Corporate Secretary.

Additionally, a copy of the Open Meetings Act is available for inspection on oppd.com and in this meeting room.”

Board Consent Action Items:

6. Approval of the February 2024 Meeting Minutes and the March 21, 2024 Agenda
7. Restatement of the OPPD 401(k) and 457 Retirement Savings Plan – Resolution No. 6633
8. SD-1: Strategic Foundation Monitoring Report – Resolution No. 6634
9. SD-12: Information Management and Security Policy Revisions – Resolution No. 6635
10. Approval of Increase in Credit Facilities – Resolution No. 6636
11. Approval of Operating Plant Service Agreement (OPSA) – Engineer’s Certification – Resolution No. 6637
12. Award RFP No. 6126 15kV Metalclad Switchgear Cubicles and Switchgear Enclosure – Resolution No. 6638

It was moved and seconded that the Board approve the consent action items.

Chair Williams noted the Board discussed the action items during the All Committees meeting held on Tuesday, March 19, 2024.

Chair Williams then asked for public comment. There were no comments from the public in attendance at the meeting or on WebEx.

Thereafter, the vote was recorded as follows: Bogner – Yes; Cavanaugh – Yes; Core – Yes; Howard – Yes; Mollhoff – Yes; Moody – Yes; Spurgeon – Yes; Williams – Yes. The motion carried (8-0).

Board Agenda Item 13: President’s Report

President Fernandez next presented the following information:

- February 2024 Baseload Generation
- February 2024 Balancing Generation
- February 2024 Renewables
- Heat the Streets
- In Memoriam – Kenneth R. Kitchen

Board Agenda Item 14: Opportunity for comment on other items of District Business

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Chair Williams asked for comments from the public in the room on other items of District business. There were two comments.

David Begley, 4611 S. 96th Street, Omaha, provided comments on decarbonization and lack of statutory requirements for green energy.

Dawaune Lamont Hayes, Omaha, NE, provided comments on SD-7: Environmental Stewardship and the Green ERA Campus program in Chicago.

Chair Williams asked for comments from members of the public on WebEx. There was one comment.

David Corbin, 1002 N. 49th St, representing the Nebraska Sierra Club, offered congratulations on the smart thermostat program participation and provided comments on the Omaha Climate Action Plan.

There were no additional comments from the public in attendance at the meeting or via WebEx.

There being no further business, the meeting adjourned at 5:25 p.m.

DocuSigned by:
Scott Focht
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S. M. Focht
Vice President – Corporate Strategy and
Governance and Assistant Secretary

DocuSigned by:
Erin Lane
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E. H. Lane
Sr. Board Operations Specialist

**Open your eyes
before it is too late.**

Prepared and submitted by customer-owner David D. Begley, 4611 South 96th St,
Omaha, NE

The transition that is underway to get to a decarbonized end state is posing material, adverse challenges to electric reliability. A key risk is that many existing “dispatchable” resources that can be turned on and off and adjusted as needed are being replaced with weather-dependent resources such as wind and solar that have materially different characteristics and capabilities.

MISO CEO, John Bear



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all con games are essentially the inculcation of greed, coupled with misdirection—the pigeon drop (“ Oh, look, is this your wallet?”) essentially identical to the Great Housing Bubble (“ Would you like this house for nothing?”).

David Mamet

Everywhere an Oink Oink: An Embittered, Dyspeptic, and Accurate Report of Forty Years in Hollywood

#kindlequotes



Dave Begley

February 3 · 🌐



The CAGW con game: Federal income tax credits and, “Would you like to save the Planet?”

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Q1. What is an elective payment (also known as an "elective pay" and informally as "direct pay")? (added June 14, 2023)

A. Elective pay allows applicable entities (as defined), including tax-exempt and governmental entities that would otherwise be unable to claim these credits because they do not owe federal income tax, to benefit from some clean energy tax credits by treating the amount of the credit as a payment of tax and refunding any resulting overpayment.

For example, as a result of the Inflation Reduction Act, a local government that makes a clean energy investment that qualifies for the investment tax credit can file an annual tax return (via Form 990-T) with the IRS to claim elective pay for the full value of the investment tax credit, as long as it meets all of the requirements, including a pre-filing registration requirement. As the local government would not owe other federal income tax, the IRS would then make a refund payment in the amount of the credit to the local government. See [Q15 on the Applicable credits for elective pay](#) page for a list of applicable tax credits.

Q2. What is credit transfer (also known as "transferability") and who can use it? (added June 14, 2023)

A. Transferability allows a taxpayer who generates certain clean energy tax credits to elect to transfer (i.e., sell) all or a portion of a tax credit to an unrelated third-party transferee (i.e., buyer) in exchange for cash. In such transactions, the buyer and seller negotiate and agree to the terms and pricing. The transferor is sometimes referred to as the "seller" and the transferee is sometimes referred to as the "buyer". Applicable entities cannot use transferability; they can only use elective pay.

Q1. Who is eligible to use elective pay? (updated March 5, 2024)

- A. The statute lists six "applicable entities" that are eligible for and can use elective pay. Applicable entities include tax-exempt organizations, states, and political subdivisions such as local governments, Indian tribal governments and their subdivisions, Alaska Native Corporations, the Tennessee Valley Authority, rural electric cooperatives, U.S. territories and their political subdivisions, and agencies and instrumentalities of state, local, tribal, and U.S. territorial governments. See [Q10](#) for information about other taxpayers.

Don't let the tax tail wag the dog.

March 6, 2024

Dear York County Commissioners:

The purpose of this letter is to rebut some of what OPPD CEO L. Javier Fernandez told you yesterday. This is not a point-by-point rebuttal, but I want to cover three major points.

1. Mr. Fernandez rhetorically asked why OPPD was pursuing the K-Junction solar project. He said it was because the energy landscape is changing. That's true as far as it goes. The real reason is the lucrative federal income tax credits that the federal government gives for a solar project. Income tax credits are way more valuable to a person or entity than a deduction. It is a dollar-for-dollar reduction of federal income tax liability.

Warren Buffett knows how valuable income tax credits are. At the Berkshire-Hathaway meeting in Omaha a few years back, I heard with my own ears Warren Buffett say that there was no way Berkshire subsidiary MidAmerican Energy n/k/a Berkshire-Hathaway Energy would have spent \$1 billion on wind turbines but for the federal income tax credits. I've seen various numbers on the value of the credits to Berkshire, but I think the total is more than the \$1 billion cash outlay for the capital equipment. In other words, free money from Uncle Sam to Uncle Warren to build a capital project with a twenty-year life of generating power.

As a side note, you might find it interesting that OPPD Director Craig Moody lives about six blocks from Warren Buffett.

From my casual reading about the Inflation Reduction Act, federal tax credits are now available to public power districts and not just to tax-paying entities.

OPPD's Saunders County solar project is owned and operated by a private company. It reaps the federal income tax credits and supposedly passes the savings onto its customer, OPPD. But with the IRA, OPPD can be the owner and operator of the solar project and cut out the middle man. That's why OPPD bought K-Junction Solar.

I think that if OPPD does eventually build another solar project, it will be getting a direct cash payment from the federal government and that will substantially reduce OPPD's capital cost. Per the IRA, the federal tax credits are assignable and tradable. There is already a trading market in them. And OPPD will also get yearly cash payments for production tax credits.

Combine true believers in global warming and the big money to be made via federal tax credits and the result is a land rush for wind and solar projects.

If you want more info on how lucrative the federal tax credits are, take a look at *Herick v. Bluestem Energy Solutions, LLC*, 32 Neb. App. 410 (2023).

2. The OPPD CEO said that OPPD has always made energy available. I've told the OPPD Board that their number one job is reliability.

What Mr. Fernandez did not tell you is that OPPD has a policy to achieve net zero carbon by 2050. It is SD-7. I've drafted and submitted to the Board a number of proposed resolutions to repeal SD-7, but I've been ignored.

Numerous times I've told the OPPD Board about the studies conducted by the Minnesota-based Center for the American Experiment. CAE's experts have developed models that measure the true cost of net zero.

CAE has studied Minnesota, Wisconsin and, most recently, Colorado. The results are uniform: Net zero will triple rates and, in January, result in blackouts.

The Minnesota report is linked here: [The High Cost of 100 Percent Carbon-Free Electricity by 2040 \(americanexperiment.org\)](https://americanexperiment.org)

Net zero means adding much more wind and solar than the current plan. OPPD hired the San Francisco consultant E3, Inc. to determine the optimal mix of solar, wind and batteries to achieve net zero. The 2021 Integrated Resources and Pathways to Decarbonization report cost OPPD about \$1.5 million.

OPPD's consultant determined that an additional 3,000 MW of solar, 3,800 MW of wind and 800 MW of batteries was necessary to achieve net zero carbon by 2050. **Note well that these MW are from new projects.** In other words, if OPPD gets a foothold in York County with K-Junction Solar, OPPD's new solar projects could be located in your county. [Integrated Resources Plan](#), page 5.

While the cost to achieve net zero is not York County's concern, I do think it is relevant. E3, Inc. wrote that the cost to achieve net zero would be, "approximately \$1 billion/year (real 2020\$) in incremental costs by 2050." [OPPD Pathways to Decarbonization Final Report, 2021](#), page 61. Translation: \$28 billion (in 2020 dollars) to achieve net zero with the actual out-of-pocket cost to be much higher given the inflation we've experienced since 2020.

Tripling power rates in OPPD's service region would have a ripple effect throughout the state.

Mr. Fernandez did correctly say that businesses and consumers depend upon OPPD's electricity and, in many cases, power is essential to life (e.g. hospitals). And since the US Strategic Command is based in Sarpy County, reliable electricity is also critical to national security.

There was a reference yesterday to the 2021 lengthy forced blackout in Texas. It was called winter storm Uri. At the February 2024 OPPD Board meeting, I told the Board that about 587 Texans died due to the blackout. That would work out to about 15 dead Nebraskans if we had a forced blackout due to net zero carbon.

Over the months, my appeals to reason have not worked with the OPPD Board. So, last month I made an appeal to emotion and cited Clint Eastwood's lines in the movie *Unforgiven*, "It's a hell of a thing, killin' a man. Take away all he's got, and all he's ever going to have."

It is really very hard for me to understand how the OPPD Board continues to ignore its statutory duty to protect Nebraskans' lives by providing reliable power; especially since I have personally told them about the risk to life.

3. Questions were put to Mr. Fernandez about the efficiency of solar. That is really a three-part question. Solar panel manufacturers brag if they can achieve 22% power conversion; most are in the 15-20% range. When one takes into account cloudy days, night time and the angle of the sun in Nebraska winters, a solar project only produces about 10-25% of its nameplate capacity.

More importantly for your purposes is how many acres are necessary to product a MW of power. Nuclear, of course, is the most land efficient. Solar is the least land efficient.

One report states that the land mass needed for solar would be equal to the size of the state of Maryland. [Bipartisan Farmland act acknowledges that agrivoltaics are part of America's future – pv magazine USA \(pv-magazine-usa.com\)](#).

Conclusion: In this country and state, we follow the rule of law. OPPD's Board has ignored its statutory duty to produce low cost and reliable power. York County has the opportunity to effectively force OPPD to follow the rule of law by rejecting K-Junction Solar.

Respectfully submitted,

David D. Begley, Attorney