



# City of Grand Island

Tuesday, April 13, 2021

Council Session

## Item G-6

**#2021-75 - Approving Authorization to Join and Participate as an Associate Member of the Municipal Energy Agency of Nebraska (MEAN)**

Staff Contact: Tim Luchsinger, Stacy Nonhof

# Council Agenda Memo

**From:** Timothy Luchsinger, Utilities Director  
Stacy Nonhof, Interim City Attorney

**Meeting:** April 13, 2021

**Subject:** Authorization to Join and Participate as an Associate Member of the Municipal Energy Agency of Nebraska (MEAN)

**Presenter(s):** Timothy Luchsinger, Utilities Director

## Background

The Municipal Energy Agency of Nebraska (MEAN) is the not-for-profit wholesale electricity supply organization of NMPP Energy. Created in 1981, MEAN provides cost-based power supply, transmission, and related services to 69 participating communities in four states: Colorado, Iowa, Nebraska, and Wyoming. Grand Island is a participant of MEAN and has a representative serving on the Management Committee. The MEAN board of directors has undertaken an initiative to modernize and streamline MEAN's governance and is transitioning from a 2-body governance structure to a single body by eliminating the Management Committee. As part of this new initiative, an Associate level of participation was created to replace the current level of participation by certain communities, which includes Grand Island.

## Discussion

For Grand Island to continue involvement with various subcommittees, Grand Island is required to participate at this new Associate level. Grand Island is also required to designate a representative for the purposes associated with the Associate level. Travis Burdett, Assistant Utilities Director–Transmission and Distribution, has been representing the City on the Management Committee as is recommended to continue as the representative at the Associate level.

## Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve

2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the City of Grand Island to join and participate in the non-member Associate Class of the Municipal Energy Agency of Nebraska, and the designation of Travis Burdett as the City's representative for purposes of non-member Associate Class participation, by separate resolutions.

### **Sample Motion**

Move to approve the City of Grand Island to join and participate in the non-member Associate Class of the Municipal Energy Agency of Nebraska, and the designation of Travis Burdett as the City's representative for purposes of non-member Associate Class participation, by separate resolutions.

**MEAN By-Law Provisions regarding Associate Class of Participation**

**ARTICLE XI. ASSOCIATE CLASS**

Section 1. A nonvoting Associate class of participation in MEAN will be available to those entities who are not participating municipalities in MEAN's Charter and who meet the following requirements:

- A. An Associate must be approved by the Board;
- B. An Associate must qualify under one of the following methods:
  - (i) enter into an agreement with MEAN under which the Associate receives power supply, marketing agent, transmission agent or other power-related services from MEAN ("Participation Agreement") and receive approval from the Board to become an Associate; or
  - (ii) transition from participating municipality status to Associate status under Section C. below; or
  - (iii) accept an invitation from the Board to become an Associate;
- C. A participating municipality may transition to the status of Associate by completing the following:
  - (i) requesting and receiving approval from the Nebraska Power Review Board to withdraw as a participating municipality in MEAN's Charter, and
  - (ii) requesting and receiving approval of the Board to become an Associate;
- D. Participation as an Associate is valid until terminated. Termination shall be effective upon the earlier of (i) thirty (30) days advance written notice from the Associate or MEAN, or (ii) termination of the initial Participation Agreement and any successor Participation Agreement. Termination shall not relieve the Associate from any contractual obligations it may have with the Agency or from the Associate's liability to pay any dues, assessments, or fees incurred or commitments made prior to such termination;
- E. An Associate will not join MEAN's Charter;
- F. An Associate shall not constitute a participating municipality under these by-laws or the Charter;
- G. An Associate will not have representation on the Board nor have any voting privileges;
- H. An Associate will be eligible to receive agendas and packets for public meetings of the Board and certain subcommittees upon request;
- I. An Associate must join and maintain full membership in the NMPP; and
- J. Associate status is not transferable.

**ARTICLE X. MEDIATION**

The Board, the Agency's participating municipalities, and Associates, mutually agree that providing the opportunity for communication and review of certain limited grievances, issues or disputes that may arise is in the best interest of the Agency and all of its participating municipalities and Associates. Grievances, disputes or disagreements (other than matters addressed by other provisions of these by-laws or any contract between MEAN and any participating municipality or any Associate) shall be subject to the Dispute Resolution procedure set forth in this Article; provided, however, that the following matters are excluded and exempt from such Dispute Resolution procedure: (i) breach or failure to comply with any contract between the Agency and any participating municipality or any Associate, (ii) non-payment, (iii) failure to take scheduled power by a participating municipality power purchaser or an Associate, (iv) expulsion or termination of a participating municipality or an Associate, or (v) a continuing failure to meet or perform obligations under these

by-laws. The first step to resolve any dispute subject to this procedure shall be initiated by a written statement from the complaining party, with a request for discussion between the representative designated by the chairperson of the Board and the representative of the participating municipality or Associate. Such meeting shall occur within thirty (30) days following the receipt of the written statement setting forth the issue in dispute. In the event such meeting does not produce a resolution of the dispute, then either party may within sixty (60) days following the date of the written statement require non-binding mediation. The parties shall select a mutually acceptable mediator, and two representatives (one representative designated by the chairperson of the Board and one representative designated by the participating municipality or Associate), shall then meet with the mediator to review the issues in dispute. The mediator shall provide a written report to the parties. The parties shall use their best efforts in good faith to provide for such meeting on an expedited basis. The mediator shall provide the mediation report to the parties within ninety (90) days following the date of the written statement setting forth the dispute. In the event the report of the mediator is not accepted by all the parties, then the parties shall report the status of any unresolved issues to the Board.

#### ARTICLE XII. PROPRIETARY INFORMATION

Section 1. All Associates and all participating municipalities of MEAN, and the representatives of all Associates and all participating municipalities shall maintain the confidentiality of all proprietary information. Proprietary information shall include, but not be limited to, the following:

- A. The content of any closed session;
- B. All trade secrets, pricing processes, or other confidential or intellectual property;
- C. Information or data developed for MEAN by its officers, directors, employees, and agents which may be subject to patent or copyright application; and
- D. Information or data designated as proprietary or confidential by the Board.

RESOLUTION 2020-75 (A)

WHEREAS, the challenges in the energy industry and those relating to the operation of utility systems and/or to the supply of energy to the City of Grand Island are challenges shared by numerous other incorporated municipalities within and without the State of Nebraska; and

WHEREAS, it being for a public purpose and indispensable to the best interest of the City of Grand Island and such other municipalities to combine their economic and technical resources necessary to address such challenges on a basis consistent with the common interest of such similarly situated municipalities, and to preserve to the extent possible their autonomy and freedom of choice as municipal entities engaged in the municipal utility business as authorized by the laws of the State of Nebraska; and

WHEREAS, the Municipal Energy Agency of Nebraska, a political subdivision and public corporation, organized under the laws of the State of Nebraska, assists its municipal membership and participants in addressing the challenges set forth hereinabove; and it further appearing that participation in the non-member Associate Class of the Municipal Energy Agency of Nebraska by the City of Grand Island and the resulting benefits to the City to be realized from such participation will be material importance and assistance to the City of Grand Island in dealing with challenges in the energy industry, the operation of utility systems and the supply of energy.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA that:

The City of Grand Island be and hereby is authorized to join and participate in the non-member Associate Class of the Municipal Energy Agency of Nebraska and to do all things necessary and proper to such participation.

The City of Grand Island does hereby accept and agree to comply with the By-Laws of the Municipal Energy Agency of Nebraska.

The City of Grand Island will designate by separate resolution a representative for purposed of non-member Associate Class participation in the Municipal Energy Agency of Nebraska.

The City of Grand Island acknowledges that acceptance of the City of Grand Island as a non-member Associate Class participant is subject to approval of the Board of Directors of the Municipal Energy Agency of Nebraska.

Approved as to Form	by _____
April 9, 2021	City Attorney

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Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2021.

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Roger G. Steele, Mayor

Attest:

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RaNae Edwards, City Clerk

- 2 -

RESOLUTION 2021-75 (B)

WHEREAS, the City of Grand Island, Nebraska, is a participant non-member Associate Class of the Municipal Energy Agency of Nebraska; and pursuant to the terms of such participation, it is the responsibility of the City/Village to designate a representative of the City of Grand Island for purposes of non-member Associate Class participation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the designation of Travis Burdett as the City's representative for purposes of non-member Associate Class participation.

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Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2021

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form    ☒ \_\_\_\_\_  
April 9, 2021            ☒ City Attorney