

State of Nebraska

Accountability and Disclosure Commission

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Lincoln, Nebraska 68509
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Centre Terrace, 1225 L St. #400
Phone (402) 471-2522
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April 26, 2023

Joshua Dack
107 W. 4th Street
Paxton, NE 69155

Re: C-2A Potential Conflict of Interest Statement

Dear Mr. Dack,

This will acknowledge receipt of a C-2A, Potential Conflict of Interest Statement ("Statement"), which you filed with the Nebraska Accountability and Disclosure Commission ("NADC") on April 25, 2023. On Monday, April 24th, we spoke with you on the telephone about some of the facts which led you to file the Statement.

In the Statement, you have stated that you are a Board Member of the Village of Paxton Board of Trustees ("Board").

In your Statement, you note that: The Village of Paxton Board is considering a Proposal from the Nebraska Public Power District ("NPPD") for an Electrical Service Agreement for the Village of Paxton's electrical service." You believe that action may be taken on this Proposal as early as the May 10, 2023 meeting of the Board.

You further note that you are currently employed by NPPD as an Engineer II-Production. This employment is with NPPD's Water Systems/Renewable Energy Group, which is, "responsible for the operation and maintenance of NPPD's network of irrigation canals, dams, reservoirs, and hydroelectric plants."

The Proposal from NPPD which will be considered by the Board is being made by another section of NPPD with which you are not associated. This section is NPPD's Retail or Wholesale Customer Services Section.

Under the terms of Section 49-1499.03 of the Nebraska Political Accountability and Disclosure Act ("NPADA") you would have a potential conflict of interest in those circumstances where you are: "...required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to [you] or..., a member of [your] immediate family, or a business with which [you..are] associated.."

The term "immediate family member" is defined in Section 49-1424 of the NPADA. The term is defined as follows: "Immediate family shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes." As I understand the facts, neither you nor your immediate family would be financially affected by any action which you might take with respect to the Proposal.

The terms "business" and "business with which you are associated" are terms which are defined in Sections 49-1407 and 49-1408, respectively, of the NPADA. However, NPPD does not fall within the meaning of the term "business" because it is a political subdivision of the State of Nebraska. Consequently, although you are employed by NPPD, it is not a "business" or "business with which you are associated," as defined by the Statutes noted above.

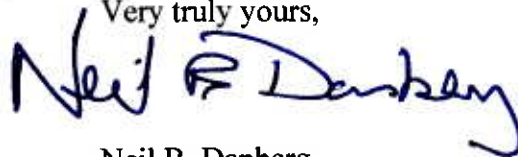
Based upon the information which you have provided to us in your Statement and in the supplementary telephone call, we conclude that under the terms of the NPADA, you do not have a financial interest in the Proposal that will be coming before the Board. Consequently, you may participate in the discussion and the vote with respect to that Proposal.

As we discussed in our telephone conference referenced above, the NPADA does not address the concept of "appearance of conflict." We note that some public officials elect to abstain or recuse themselves from votes concerning entities with which they have some relationship—even though that recusal or abstention is not required by the NPADA. This would be a matter for your own judgment and discretion.

In preparing this opinion, we are relying upon the accuracy of the facts, as we have expressed them in the letter. If our expressed understanding of these facts is incorrect or incomplete, please advise us immediately.

Thank you for your timely filing of the subject Statement. Please contact me directly if you have any questions concerning this opinion.

Very truly yours,

A handwritten signature in blue ink that reads "Neil B. Danberg". The signature is written in a cursive, flowing style.

Neil B. Danberg
General Counsel