



# Sales Tax Audit Resolution 2013-2015

October 19, 2021



# Issue: State assessment on Pole Attachment / Leases

- In May 2018, following an audit, the Nebraska Department of Revenue (NDOR) assessed the District for uncollected sales tax, interest and penalty on pole attachment revenue, in the sum of \$489,056.60 for the Audit Period 1/1/13-12/31/15.
- The majority of this assessment was due to a change of interpretation by NDOR of the taxability of pole attachment revenue. OPPD has been protesting this assessment.
- The District sponsored a legislative bill that was passed unanimously to exclude electric utility property from this taxation as of May 2019 (LB218).
- The NDOR refuses to waive the assessment for the 2013-2015 audit period and would also assess OPPD for 2016 and 2017. In January of 2018 OPPD began to collect sales tax on these fees from lessees after we were notified of their interpretation.

# Settlement Detail

- The original assessment by the NDOR including penalties and interest was \$489,057.
- The settlement amount of \$228,008.56 is 47% of the original amount.
- The settlement states that the NDOR will not assess the District for the 2016 and 2017 pole attachment revenues, which are yet to be audited. The estimated amount of tax that would be assessed for these years is \$293,323.
- The settlement is 29% of the original assessment plus the estimate for 2016-2017.

# Summary

- The District paid the NDOR \$228,008.56 which is 47% of the original assessment and 29% of the original assessment plus the estimated tax liability for the pre-LB218 revenue.
- This settlement prevents a lengthy legal challenge process.
- Management concluded, with the advice of counsel, that it was in the District's best interest to settle the audit protest.