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VIA FEDERAL EXPRESS

PUBLIC SERVICE COMMISSION

Darrell Nitschke, Executive Director
North Dakota Public Service Commission
State Capitol Building, Dept 408
600 East Boulevard
Bismarck, ND 59505-0480

Re: *Northern States Power Company, a Minnesota corporation*
Advance Determination of Prudence – Geronimo Wind Energy, LLC Application
Case No. PU-12-59

Dear Mr. Nitschke:

On behalf of Northern States Power Company, enclosed for filing with the North Dakota Public Service Commission in the above referenced case, please find an original and seven copies of Applicant's Proposed Findings of Fact, Conclusions of Law, and Order.

Sincerely,

BRIGGS AND MORGAN, P.A.

/s/ Zeviel Simpser

Zeviel Simpser

ZS/ts
Enclosures

cc: Mark Gruman (w/enc.)(via email)
Ilona Jeffcoat-Sacco (w/enc.)(via email)

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Applicant's Proposed Findings of Fact, Conclusions of Law, and Order

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Northern States Power Company
Advance Determination of Prudence
Geronimo Wind Application

Case No. PU-12-59

**APPLICANT'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

Appearances

Commissioners Brian P. Kalk, Kevin Cramer, and Bonny M. Fetch.

Elizabeth M. Brama and Zeviel T. Simpser, Briggs and Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402-2157, appearing on behalf of Northern States Power Company.

Mark Gruman, Public Service Commission, State Capitol, 600 E. Boulevard Ave., Bismarck, North Dakota 58505, on behalf of the Public Service Commission Advocacy Staff.

Illona Jeffcoat-Sacco, General Counsel, Public Service Commission, State Capitol, 600 E. Boulevard Av., Bismarck, North Dakota 58505, on behalf of Public Service Commission advisory staff.

Patrick J. Ward, Administrative Law Judge, Zuger Kirmis & Smith, 316 North Fifth Street, Provident Building, P.O. Box 1695, Bismarck, ND 58502-1695.

Preliminary Statement

On January 31, 2012, Applicant Northern States Power Company, a Minnesota corporation operating in North Dakota (NSP or the Company), submitted an application with the North Dakota Public Service Commission (Commission) seeking an Advance Determination of Prudence (ADP) for a Power Purchase Agreement (PPA) relating to the 200 MW Prairie Rose Wind LLC generation project (collectively, the Project).

On February 15, 2012, the Commission issued a Notice of Filing and Notice of Intervention deadline of April 27, 2012. No parties intervened in these proceedings.

On August 1, 2012, the Commission issued a Notice of Hearing for October 22, 2012. The Notice specified the issue to be considered was whether the proposed PPA is prudent.

The Commission held the hearing on the application on October 22, 2012 in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

On November 30, 2012, NSP and Advocacy Staff filed a Stipulation.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. NSP is an investor-owned utility headquartered in Minneapolis, Minnesota, authorized to provide public utility service in North Dakota.
2. On September 26, 2010, NSP issued a Request for Proposal (RFP) seeking up to 250 MW of wind generation. NSP did not impose any requirements in the 2010 RFP that would limit the location of the proposed project or whether it would be a PPA or Company-owned project. However, NSP did require that any proposed project must be in service by December 31, 2012, in order to capture the economic benefit of federal Production Tax Credits (PTC) currently scheduled to expire on December 31, 2012. The parties are in agreement that the RFP was fairly administered.
3. NSP received 143 proposals in the 2010 RFP process, including the Project. The Company narrowed the proposals to a "short list" of six projects, including the Prairie Rose Project. The Company selected the 200 MW Prairie Rose Wind Project as the most economic project that met the RFP requirements.
4. There is no dispute that the prices proposed in the RFP were historically low wind generation pricing for the region, nor whether NSP could have received a lower price from another bidder who met the requirements of the RFP.
5. On June 7, 2011, the Company entered into a 20-year PPA with Prairie Rose Wind, LLC, its successors and assigns, to purchase 200 MW of wind energy. The Project is located in Rock and Pipestone Counties, Minnesota.
6. The Project will interconnect at the same point of interconnection as NSP's Angus Anson plant (the Split Rock Substation) under a net zero interconnection (NZI) pursuant to which the Project will share the existing interconnection capacity of the Angus Anson plant under a Generator Interconnection Agreement between Prairie Rose Wind, LLC, the Company, and the Midwest Independent Transmission System Operator, Inc. (MISO).
7. Under an NZI configuration, it is possible that the generation output of the Project could be curtailed to provide interconnection capacity for the Angus Anson plant to generate electricity. The Company demonstrated that based on historical analysis of wind patterns and historical generation of the Angus Anson plant, this is unlikely to occur for any material amount of time during any given year.
8. As a result of utilizing the NZI configuration, the Project is not eligible for capacity accreditation from MISO. The Project would only be eligible to receive a twelve percent

(24 MW) capacity accreditation from MISO if the Project is converted from an NZI configuration to a standard interconnection under the MISO Tariff.

9. NSP also entered into an Option Agreement, which gives NSP the ability to purchase wind rights to an adjacent site and other assets necessary to develop an additional 100 MW project. NSP has not yet made any decision to exercise this Option Agreement, so the additional 100 MW is not at issue in this proceeding.

10. There is no dispute that the expected December 31, 2012 expiration of the PTC will have a material impact on wind generation pricing.

I. Standard for Determining Prudence

11. North Dakota Century Code § 49-05-16 provides that a public utility that intends to make a resource addition (including the purchase of energy and/or capacity through a PPA) may file an application with the Commission for an advance determination that the investment is prudent.

12. During the proceedings, NSP advocated that the prudence of the Project should be determined on the basis of facts known or available to NSP at the time it decided to enter the PPA. Witness for Advocacy Staff (Mr. Richard Hahn) suggested that the prudence of a project should be determined on the basis of the facts known as of the time the ADP application was filed, even if that time was some months after the utility made its decision to acquire the resource addition.

13. N.D.C.C. § 49-05-16(4) instructs that “[t]he commission’s order determining prudence of the resource addition is binding for ratemaking purposes.” Consequently, an ADP proceeding is much like any other rate proceeding before the Commission, and the Commission’s ratemaking standards apply. Pursuant to N.D.C.C. § 49-06-02, the ratemaking standard is the “honestly and prudently invested” standard.

14. NSP contends that assessing the prudence of a particular utility investment or resource addition, the Commission considers whether a utility’s actions were reasonable at the time the investment or purchase decision was made. NSP notes that this has been the Commission’s approach in North Dakota rate proceedings,¹ and has been the position taken by Commission Staff in other ADP proceedings.² NSP further argues that this standard is consistent with the concept that the Commission is assessing whether the utility made an honest, as well as prudent, investment.³ It is also consistent with the broad-based “prudent investment rule,” under which a utility is compensated for all prudent investments at their cost when made, regardless of

¹ See, e.g., *Montana Dakota Utilities Co. Electric Rate Increase Application*, ORDER ON SETTLEMENT, Case No. PU-10-124 (N.D. P.S.C. June 8, 2011) (adopting settlement where analysis of the reasonableness and prudence of a two wind resources was performed based on information known at the time the decision to invest in the wind resources was made and not some other future time even though resources were used and useful when rate case was filed).

² See *Otter Tail Corp. Advance Determination of Prudence Application*, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., Advance Determination of Prudence Application, Case Nos. PU-06-481, PU-06-482, Advocacy Staff Post Hearing Brief, pp. 3-6 (N.D. P.S.C. Aug. 3, 2007).

³ N.D.C.C. § 49-06-02.

whether they remain necessary in hindsight.⁴ Finally, this standard is consistent with the standard utilized by the Federal Energy Regulatory Commission (FERC) and in other states.⁵

15. Consequently, NSP argues the prudence of NSP’s decision to enter the Prairie Rose PPA should be assessed on the basis of facts NSP knew or should have known at the time it decided to enter into the PPA in early 2011.

16. Advocacy Staff argues that the Commission should consider all facts available at the time the application for an ADP was filed in January 2012, not the facts available to the utility at the time the decision to enter into the PPA was made.

17. Advocacy Staff witness Mr. Richard Hahn contends that based on his experience testifying in prudence and rate proceedings before other state regulatory Commissions the prudence standard advocated by Advocacy Staff is the correct standard in North Dakota and applicable to this proceeding.

II. Quantitative Considerations

A. NSP Position

18. NSP uses the Strategist modeling tool for its quantitative modeling efforts. The tool is widely used by both utilities and utility commissions in the United States.

19. All parties agree that the Strategist tool is an appropriate tool to model the economic impacts of the Project.

20. NSP’s modeling efforts indicate that the benefits of the Project on a Present Value of Revenue Requirement (PVRR) basis establish that it was a prudent resource addition. By capturing historically-low prices for wind energy, NSP established PVRR values for the Project within the following ranges:

Reasonable Range of Economic Analysis PVRR Impacts (\$millions)

	<u>As Filed Strategist Analysis</u>	<u>Updated Strategist Analysis</u>	<u>Updated Conservative Analysis</u>
Net Energy Savings	(\$5.7)	(\$5.7)	(\$5.7)
Capacity Credits	(\$17.7)	(\$13.5)	\$0.0
Wind Integration Costs	\$29.3	\$15.2	\$15.2
<u>SOx Value</u>	<u>(\$0.4)</u>	<u>(\$0.4)</u>	<u>(\$0.4)</u>

⁴ 73B C.J.S. Public Utilities § 44 (2012).

⁵ *New England Power Co.*, Opinion No. 231, 31 FERC ¶ 61,047, *reh. denied*, Opinion No. 231-A, 32 FERC ¶ 61,112 (1985), *aff’d sub nom. Violet v. FERC*, 800 F.2d 280 (1st Cir. 1986); *Re North Western Energy*, Docket No. D2007.5.46, 2008 WL 5987430 (Montana P.S.C. June 24, 2008); *See In Re Black Hills Power*, FINAL DECISION AND ORDER GRANTING JOINT MOTION FOR APPROVAL OF SETTLEMENT STIPULATION AND APPROVING RATES AND TARIFFS, Docket No. EL09-018, Conclusion of Law 14 (S.D. P.U.C. Aug. 11, 2010); *Re Consol. Edison Co. of New York, Inc.*, 45 P.U.R. 4th 325, 331 (N.Y. P.S.C. 1982) cited approvingly by *In Re Union Elec. Co.*, 257 P.U.R. 4th 259, 293 (Mo. P.S.C. June 1, 2007); *Re UNITIL Serv. Corp.*, 72 N.H. P.U.C. 467, 472 (N.H. P.U.C. 1987).

Total	\$5.4	(\$4.5)	\$9.0
<u>REC Value*</u>	<u>-NA-</u>	<u>(\$14.1)</u>	<u>(\$9.2)</u>
Total With RECs	\$5.4	(\$18.6)	(\$0.2)

* REC value estimate not included in typical Strategist modeling

21. Using the best information available to NSP at the time the Company decided to enter the Prairie Rose PPA, NSP's final analysis demonstrates that the possible PVRR results for the Prairie Rose PPA range from a savings of \$0.2 million to a savings of nearly \$19 million.

22. Utilizing the prudence standard advocated by NSP, NSP's analysis provided:

- a. The Project represents a net savings of approximately \$5.7 million (PVRR) in the cost of energy produced by the Project compared to the energy that the Project will displace.
- b. NSP initially suggested that the Project will be eligible for a MISO capacity credit upon going in service. In rebuttal, in response to Advocacy Staff's testimony, NSP refined its analysis to show the more reasonable assumption that the Project will earn a capacity credit beginning in 2018 due to the availability of new transmission upgrades expected to be in-service at that time; as a result, it will likely be feasible and relatively inexpensive to convert the Project from an NZI to a standard interconnection under the MISO Tariff eligible for a capacity credit. A capacity credit beginning in 2018 results in a capacity credit savings of \$13.5 million (PVRR).
- c. NSP initially included wind integration costs of \$29.3 million (PVRR). NSP subsequently refined that number to establish that forecasted wind integration costs at the time the PPA was executed were likely to be closer to \$15 million (PVRR). These outcomes used natural gas prices from early 2011 (when the decision to enter into the PPA was made) and are more accurate than the outdated gas prices from 2006 which were utilized in the initial analysis.
- d. NSP also incorporated the value of reduced Sulfur Dioxide (SO₂) emissions as a result of the Project, resulting in a \$0.4 million (PVRR) savings.
- e. In light of Advocacy Staff's suggestion that Renewable Energy Credits (RECs) allocated to North Dakota should not be used for compliance purposes, NSP monetized the value of these RECs in its analysis. The result is an additional \$9.2 - \$14.1 million (PVRR) savings attributable to the Project.

23. NSP believes that the overall projected savings of between \$0.2 million and nearly \$19 million on a PVRR basis is likely a conservative view of likely benefits of the Project.

24. NSP's analysis further demonstrates that even if the Project would result in modest costs to NSP's customers, those costs (\$9 million on a system wide, PVRR basis) are reasonable when viewed in light of NSP's overall system-wide yearly fuel and purchased energy costs (\$1.1 billion in system-wide yearly fuel and purchased energy costs) and given the qualitative benefits of the Project.

B. Advocacy Staff Position

25. Advocacy Staff believes that the Project will never be eligible for a MISO capacity credit, and therefore advocates for no consideration of a capacity credit for the Project. Elimination of any capacity credit for the Project results in additional costs of approximately \$13 million (PVRR).

26. Advocacy Staff further disputes the inclusion of REC values in Project modeling, because REC prices are presently uncertain.

27. Advocacy Staff advocates that NSP's Strategist modeling should account for natural gas price forecasts at the time the ADP application was filed rather than at the time NSP decided to make the resource addition.

28. Utilizing NSP's initial model but utilizing an input of natural gas prices at the time the Application was filed, Advocacy Staff's analysis indicated that the Project could impose NSP system costs of approximately \$40.8 million on a PVRR basis.

29. Advocacy Staff's analysis indicates that when utilizing Advocacy Staff's different natural gas price assumptions and the removal of the value of the capacity credit from the NSP analysis that the costs of the Project are approximately \$63.9 million (PVRR) higher with the PPA than without.

III. Qualitative Considerations

A. NSP Position

30. NSP states that a number of qualitative benefits further demonstrate the Project's prudence, including:

- a. The certainty of contracting for historically-low wind energy pricing for the next 20 years;
- b. Increased diversify of the Company's energy portfolio, which in itself reduces pricing volatility in the event commodity fuel (particularly natural gas) or MISO energy market prices change dramatically;

- c. Providing a hedge against future carbon, natural gas, or other environmental regulation that may increase the cost of producing or purchasing electricity. The record demonstrates that a significant change in the regulations governing hydraulic fracturing, could significantly increase natural gas prices almost immediately; and
- d. No additional fuel costs for the Project, which provides additional customer protections against the possibility of future gas price increases.

31. NSP also noted that the Project will provide additional energy when it is needed to serve NSP's system, starting in approximately 2017, and therefore will serve a defined energy need for 15 years of the 20-year PPA term.

32. Regardless of whether there is immediate need for energy to provide reliable electric service, on a daily or hourly basis NSP must decide what energy resource to deploy. The decision is based largely on what resource will be most cost effective for its customers. As a result, NSP invests in resource additions, like the Project, that will improve the value of energy over time.

33. NSP also explained that waiting to acquire resources until the reliability need is urgent tends to have an undesirable effect on pricing for those resources.

B. Advocacy Staff Position

34. Advocacy Staff argues that the Project must not be prudent because the Company is acquiring an energy resource it does not need for reliability purposes for the next five years.

35. Advocacy Staff further suggests that if the Company's customers do not need energy to ensure the reliable provision of electric service over the next five years, then no reliability need at all justifies the Project.

36. Advocacy Staff did not address NSP's other qualitative arguments, other than to note that Advocacy Staff does not believe the economic cost of the Project supports the proposed qualitative benefits.

IV. Renewable Energy Credits

37. Advocacy Staff initially recommended that the Company liquidate all RECs that accrue to its North Dakota customers immediately as they are generated, including but not limited to RECs accrued from the Project.

38. NSP argued that liquidating RECs in the presently-immature regional REC market would deprive its North Dakota customers of the opportunity to benefit from the Company's strategic management and efforts to maximize the value of its REC portfolio to North Dakota customers.

39. Advocacy Staff and the Company have agreed that the Company should continue to actively manage its REC portfolio and seek opportunities to liquidate RECs at premium prices.

40. Advocacy Staff and the Company have further agreed that NSP will provide information about monthly indicative REC market pricing, as well as any REC sales NSP made in the prior year, in the Company's annual Renewable Energy Objective filing.

V. Stipulation of the Parties

41. NSP and Advocacy Staff have stipulated that the record in this proceeding is insufficient to support any decision by the Commission with respect to the ratemaking effect of the Commission's determination in this proceeding if the Commission denies the requested ADP.

42. NSP and Advocacy Staff have stipulated that in the event the Commission denies the requested ADP and seeks to alter NSP's ability to recover the energy costs of the Project through the North Dakota Fuel Cost Rider (FCR) tariff, further proceedings will be required to establish a record to do so.

From the foregoing Findings of Fact, the Commission makes the following:

Conclusions of Law

1. The Commission has jurisdiction over this matter.
2. The appropriate standard for the Commission's review of the prudence of a project under the ADP statute is to assess whether the decision to make a resource addition was reasonable based on the information available at the time the resource addition was undertaken.
3. The record reflects a range of possible economic costs or benefits of the Project. Applying the standard NSP recommends, the Project is more likely to provide an economic benefit than an economic cost to NSP's ratepayers in North Dakota. If there is an incremental cost for the Project, the record establishes that the amount of that cost is reasonable due to its size and the offsetting qualitative benefits of the Project.
4. The record reflects several qualitative benefits of the Project, including providing cost certainty, resource diversity, and hedges against unknown future regulatory requirements and fuel commodity market uncertainty.
5. Given the possible economic benefits of the Project as well as the possible costs in light of the qualitative benefits of the Project, the resource addition is prudent.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes its:

Order

The Commission orders that the Applicant's request for an advance determination of prudence of its Power Purchase Agreement for the Prairie Rose Project is hereby GRANTED.

PUBLIC SERVICE COMMISSION

Kevin Cramer
Commissioner

Brian P. Kalk
Chairman

Bonny M. Fetch
Commissioner