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State of North Dakota

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May 8, 2018

Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 E. Blvd. Ave. Dept. 408  
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*via hand delivery*

Re: PU-12-813  
Northern States Power Company  
2013 Electric Rate Increase  
Application

PU-13-706  
Northern States Power Company  
Advance Prudence – Courtney Wind  
Application

PU-13-707  
Northern States Power Company  
Advance Prudence – Odell Wind Pjc  
Application

PU-13-708  
Northern States Power Company  
Advance Prudence – Pleasant Valley  
Application

PU-13-742  
Northern States Power Company  
Advance prudence – Border Winds  
Application

PU-13-743  
Northern States Power Company  
150 MW Border Winds Project – Rolette County, ND  
Public Convenience & Necessity

PU-13-194  
Northern States Power Company  
Advance Prudence – NG Generators  
Application

PU-13-195  
Northern States Power Company  
Red River Valley NG units 1 & 2 –Hankinson, ND  
Public Convenience & Necessity

Dear Mr. Nitschke:

Enclosed is the Staff Comments Regarding Notice Of Intent To Close Proceedings to be filed in the above captioned cases.

Best Regards,

John Schuh  
Legal Counsel

Enclosure

- 223 PU-13-743 Filed 05/08/2018 Pages: 5  
Staff Comments Regarding Notice of Intent to Close Proceedings
- 211 PU-13-742 Filed 05/08/2018 Pages: 5  
Staff Comments Regarding Notice of Intent to Close Proceedings
- 207 PU-13-708 Filed 05/08/2018 Pages: 5  
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- 208 PU-13-707 Filed 05/08/2018 Pages: 5  
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- 208 PU-13-706 Filed 05/08/2018 Pages: 5  
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- 229 PU-13-195 Filed 05/08/2018 Pages: 5  
Staff Comments Regarding Notice of Intent to Close Proceedings
- 212 PU-13-194 Filed 05/08/2018 Pages: 5  
Staff Comments Regarding Notice of Intent to Close Proceedings
- 367 PU-12-813 Filed 05/08/2018 Pages: 5  
Staff Comments Regarding Notice of Intent to Close Proceedings

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF NORTH DAKOTA**

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**Public Service Commission  
Resource Treatment Framework  
Application**

**Case Nos. PU-12-813, PU-13-706,  
PU-13-707, PU-13-708, PU-13-742,  
PU-13-743, PU-13-194, PU-13-195**

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**STAFF COMMENTS REGARDING  
NOTICE OF INTENT TO CLOSE PROCEEDINGS**

**BACKGROUND**

On March 9, 2016, the North Dakota Public Service Commission (Commission) issued an Order Approving Settlement which, among other things, provided that Northern States Power Company (NSP) would file a Resource Treatment Framework (RTF) no later than January 1, 2017 with the intention to implement by January 1, 2018. The basis for the RTF was “a period of significant uncertainty” from potential federal environmental regulations on carbon emissions, NSP entering a 20-year period in which it anticipated significant portions of its generating fleet being retired and replaced, and varying state energy policies within the NSP system footprint.

The RTF’s purpose was to provide careful consideration as to how NSP should best proceed to ensure future generation resources are in place — and the costs properly assigned — to meet the energy and capacity needs of its customers consistent with each state’s approach to generation resource development. On January 3, 2017, NSP filed a RTF in compliance with the Commission’s Order that proposed legal separation as the preferred solution. Advocacy Staff (Staff) responded in opposition to the NSP’s proposal for legal separation.

On February 8, 2018, the Commission held an informal hearing, which provided candid discussion about Company's proposal for legal separation and a number of other regulatory framework options. Based upon this discussion, the Commission issued the March 29, 2018 Notice of Intent to Close Proceedings. The Notice of Intent to Close Proceedings invited comments from those interested. At the request of Commission Advisory Staff, Staff provides these comments.

### COMMENTS

Staff's interest in this proceeding extends as far as the Commission's. Staff agrees that fundamental disagreements have persisted between the Commission and NSP regarding resource needs, generation resources and ratemaking structures such as depreciation and demand allocations. However, these are not unfamiliar to ratemaking. Staff also understands that fundamental differences between jurisdictional philosophies have led to misalignment between states, uncertainty around future resource selection, and mismatched rate recovery for resources. In the past, the Commission has addressed these issues during rate cases largely through prescriptive ratemaking. During the informal hearing, Staff reiterated its opinion that the Commission is able to continue to address these issues at this time without changes.

That being stated, throughout the proceeding and during the informal hearing, Staff commented that there might be value to a forward-looking resource planning process if it is achievable using current ratemaking mechanisms. Staff's recollection and understanding of the RTF based upon a review of the cases extending back to PU-07-776 is that it is intended to prospectively address the philosophical differences and the costs associated with them. Many other states take a more active role in driving generation resource decisions through mandates, providing values effecting levelized cost of new generation, and approving integrated resource

plans. *If* the Commission finds there is merit to continuing the creation of a framework for resource selection and cost allocation, Staff provides the following comments:

- a. A clear direction must be provided by the Commission – This proceeding is overly broad and has resulted in an unclear path. Narrowing the scope of this proceeding and specifying the issues will be beneficial to the record and administratively for the Commission.
- b. Proposals must provide particularity – In conjunction with a narrowed scope, a great degree of particularity should be provided to better equip and provide clarity for the Commission in determining whether a proposal is in the public interest. This may also incentivize the balancing of shareholder and customer interests as part of the proposal at the risk of dismissal.
- c. A proposal should not erode jurisdiction and create legal ambiguity – The commission is vested with broad jurisdiction over regulation of investor-owned utilities within the State. The Commission should not entertain a proposal that creates barriers to protecting the public interest, erodes its authority, or creates legal ambiguity.
- d. Proposed changes should be incremental – The Commission should make it clear that a proposal should provide an incremental approach to establishing the framework to reduce exposure and mitigate shortcomings in the process. A proposed framework should provide flexibility to the Commission.
- e. Consider whether this will improve Commission regulation – Will a change in regulatory procedures or framework provide an opportunity to improve rate and quality of service regulation? Does the Commission have the resources available to implement a change in framework? What value is created for North Dakota customers?

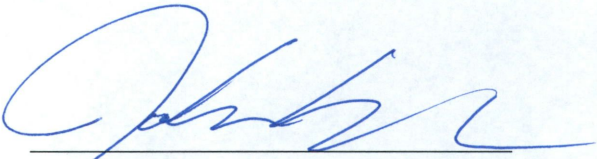


- f. Consider whether the issue is ripe. Market changes, federal regulations, and resource mixes continue to change. NSP anticipates significant turnover of energy resources beginning within the next 10 years, with the possibility of more than 2500 MWs of additional system resources being retired in the 2030s. If a new framework is ultimately needed to improve regulatory alignment or provide more opportunity for Commission resource selection in the future, will the Commission have an opportunity to consider a proposal and implement it prior to these changes?

### CONCLUSION

Staff appreciates the opportunity to provide Comments regarding the Notice of Intent to Close Proceedings. If the Commission believes that there may be merit to continuing the creation of a framework for resource selection and cost allocation, Staff respectfully requests that its comments be taken under consideration.

Date: May 8, 2018



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John M. Schuh  
Staff counsel



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Victor Schock  
Public Utility Analyst