

**STATE NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Northern States Power Company 2013 Electric Rate Increase Application	Case No. PU-12-813
Northern States Power Company Advanced Determination of Prudence — Courtenay Wind Project Application	Case No. PU-13-706
Northern States Power Company Advanced Determination of Prudence — Odell Wind Project Application	Case No. PU-13-707
Northern States Power Company Advanced Determination of Prudence — Pleasant Valley Wind Project Application	Case No. PU-13-708
Northern States Power Company Advanced Determination of Prudence — Border Winds Project Application	Case No. PU-13-742
Northern States Power Company 150 MW Border Winds Project — Rolette County Public Convenience And Necessity	Case No. PU-13-743
Northern States Power Company Advance Determination of Prudence — NG Generators Application	Case No. PU-13-194
Northern States Power Company Red River Valley NG Units 1 & 2 — Hankinson, ND Public Convenience And Necessity	Case No. PU-13-195
Northern States Power Company Advance Determination of Prudence — 345 Mankato Energy Center Application	Case No. PU-15-96

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

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Appearances

Commissioners Julie Fedorchak, Brian P. Kalk, and Randy Christmann.

Alison C. Archer, Xcel Energy Services Inc., 414 Nicollet Mall, 5th Floor, Minneapolis, Minnesota 55401-1993, and Zeviel T. Simpser, Briggs and Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402-2157, appearing on behalf of Northern States Power Company.

John Schuh, Legal Counsel, North Dakota 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, North Dakota Public Service Commission, State Capitol, 600 E. Boulevard Ave., Bismarck, North Dakota 58505, on behalf of the Public Service Commission Advisory Staff.

Wade C. Mann, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street - Suite 303, Bismarck, North Dakota 58507.

Preliminary Statement

On December 18, 2012, Northern States Power Company (NSP) filed a Notice of Change in Rates for Electric Service to increase electric rates by \$16.9 million or 9.25 percent. Along with the Notice, the Company filed an Alternative Petition for interim rate relief of \$14.7 million or 8.05 percent, to be effective February 16, 2013. This application is Case No. PU-12-813.

On December 21, 2012, the Commission suspended NSP's general rate increase application.

On January 30, 2013, the Commission ordered that NSP's interim rate schedules be effective for service rendered on or after February 16, 2013.

On February 13, 2013, the Commission issued a Notice of Hearing, Notice of Intervention Deadline, and Notice of Public Input Sessions in Case No. PU-12-813, scheduling the formal hearing to begin August 27, 2013 in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota. The Notice set forth the following issues to be considered:

1. What is the value of NSP's property, used and useful, for the service and convenience of the public in North Dakota?
2. What is NSP's rate of return on its property, used and useful, for the service and convenience of the public in North Dakota?

3. What is the just and reasonable rate of return on NSP's property, used and useful, for the service and convenience of the public in North Dakota?
4. What rates and charges are necessary to provide a just and reasonable rate of return on NSP's property, used and useful, for the service and convenience of the public in North Dakota?
5. Are NSP's rate schedules designed in such a manner that they result in a basis of charge to its customers that is just and reasonable without discrimination?
6. Other relevant information or proposals concerning the proceeding.

The Notice also scheduled two public input sessions to be held on April 15 and 16, 2013, via interactive television at locations in Fargo, Grand Forks and Minot, North Dakota.

The hearing and public input sessions were held as noticed.

On April 26, 2013, NSP filed an Application seeking an advance determination of prudence (ADP) for its proposal to add three 215 MW natural gas fired, simple cycle, combustion turbine generators to its system; one at the Company's existing Black Dog generating site (Black Dog Unit 6) and two at a site near Hankinson, North Dakota (Red River Valley Units 1 and 2). This application is Case No. PU-13-194.

Also on April 26, 2013, NSP filed an Application for a Certificate of Public Convenience and Necessity (PC&N) for the construction of Red River Valley Units 1 and 2. This application is Case No. PU-13-195.

On July 26, 2013, NSP filed an application seeking an ADP for three wind generation projects: a proposed power purchase agreement (PPA) for the 200 MW Courtenay Wind Project (Courtenay Project), to be located in Stutsman County, North Dakota; a proposed PPA for the 200 MW Odell Wind Project (Odell Project) to be located near Mountain Lake, Minnesota; and the proposed 200 MW Pleasant Valley Wind Project (Pleasant Valley Project) to be located in southeastern Minnesota and owned by NSP. The applications for these projects are Case No. PU-13-706, Case No. PU-13-707, and Case No. PU-13-708, respectively.

On August 13, 2013, NSP filed an application seeking an ADP for the proposed 150 MW Border Winds Project (Border Winds) to be located in Rolette County North Dakota and owned by NSP. This application is Case No. PU-13-742.

Also on August 13, 2013, NSP filed an application for a PC&N for its ownership of the Border Winds Project. This application is Case No. PU-13-743.

On September 25, 2013, the Commission issued a Notice of Consolidated Hearing for Case No. PU-13-706, Case No. PU-13-707, Case No. PU-13-708, Case No. PU-13-

742, and Case No. PU-13-743 scheduling a hearing on all five cases to begin October 31, 2013 in the Commission Hearing Room, 12th Floor, State Capital, Bismarck, North Dakota. The Notice specified the issues to be considered were:

1. Are the PPAs reasonable and prudent and in the best interests of customers?
2. Is NSP's proposed investment in the Pleasant Valley Wind Project and the Border Winds Project prudent?
3. Whether the public convenience and necessity will be served by the purchase and operation of the facilities.
4. Whether the applicant is fit, willing, and able to provide service.

The hearing was held as noticed.

On October 9, 2013, the Commission issued a Notice of Consolidated Hearing for Case No. PU-13-194 and Case No. PU-13-195, scheduling a hearing on these two cases for November 26, 2013, in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota. The Notice specified the issues to be considered:

1. Whether NSP's proposed investment in the three CTs is prudent.
2. Whether the public convenience and necessity will be served by NSP's construction and operation of the three CTs.
3. Whether NSP is fit, willing and able to provide service.

The hearing was held as noticed.

On December 13, 2013, the Company and Advocacy Staff entered into and filed with the Commission a Comprehensive Settlement Agreement resolving all open issues in all the captioned cases.

On December 16, 2013, the Commission issued a Notice of Hearing in all the captioned cases scheduling a hearing for January 23, 2014, in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota. The Notice of Hearing provided that the issue to be considered is whether the settlement is reasonable and should be adopted by the Commission. The hearing was held as noticed.

On February 3, 2014, NSP and Advocacy Staff filed an Amended Settlement Agreement. The Amended Settlement Agreement modified the original Comprehensive Settlement Agreement by providing additional terms and conditions with respect to the conduct of the demand allocator study.

On February 18, 2014, NSP and Advocacy Staff filed the Second Amended Settlement Agreement. The Second Amended Settlement Agreement modified the multi-year rate

plan provided for in the Comprehensive Settlement Agreement by lowering the five percent base rate increases in 2013, 2014, and 2015 to a 4.9 percent base rate increase in each of those years.

On February 25, 2014, NSP and Advocacy Staff filed a Revised Second Amended Settlement Agreement to revise terms in the Second Amended Settlement and to correct typographical errors.

The Revised Second Amended Settlement Agreement provides for, among other things:

- A multi-year rate plan with 4.9 percent rate increases in each of 2013, 2014 and 2015 and a base rate increase moratorium in 2016.
- Authorized return on equity of 9.75 percent, 10.0 percent, 10.0 percent, and 10.25 percent in 2013, 2014, 2015, and 2016, respectively.
- An earnings sharing mechanism through which NSP will refund to customers fifty percent of any earnings above the authorized ROE during the term of the rate plan.
- Reforms to NSP's Fuel Cost Rider (FCR).
- Implementation of Transmission Cost Rider (TCR) and Renewable Energy Rider (RER) tariffs.
- A negotiating framework for the virtual modification or "restack" of NSP's electric supply resources serving North Dakota. Through this restack NSP will adjust rates in North Dakota to reflect a resource mix more consistent with North Dakota energy priorities. If such a framework cannot be developed to suitably address existing and future resources, the Settlement Agreement will provide financial penalties for NSP.
- A commitment by NSP to build up to 400 MW of thermal generation in the Red River Valley of North Dakota by 2036, consistent with prudent resource planning principles.
- The performance of a study to analyze the contribution of NSP's North Dakota jurisdiction toward NSP's overall system-wide production and transmission costs, and the available demand allocation methodologies which may be implemented to reflect such cost causation.
- Finding that NSP's proposal in Case Nos. PU-13-194 is reasonable and prudent.
- NSP's proposals in Case Nos. PU-13-706, PU-13-742 and PU-13-743 have a rebuttable presumption of prudence as resource additions located within the State of North Dakota and are prudent resource additions to NSP's integrated system.
- The disposition of NSP's requests in Case Nos. PU-13-707 and PU-13-708 will be addressed as part of the "restack" or the penalty provisions thereof.
- Acceptance by NSP of all proposed test year adjustments in Case No PU-12-813 specifically related to: pension loss amortization, annual

- incentive plan, charitable donations and economic development contributions, and asset-based margins on wholesale sales.
- NSP will retain remaining Department of Energy (DOE) proceeds to offset the need for additional revenues in 2013 and 2014.
 - Rate Design:
 - Implementation of the multi-year rate plan consistent with NSP's originally proposed class apportionment;
 - Instituting single customer charges for several rate classes;
 - Elimination of account history charge; and
 - Performance of a study with respect to Time-of-Day rates.
 - NSP will return one hundred percent of all proceeds from the sale of renewable energy credits to customers.
 - Amounts over collected through interim rates will be refunded to customers.
 - Additional reliability improvement commitments.

On February 26, 2014, the Commission issued an Order approving the Revised Second Amended Settlement Agreement. This February 26, 2014 Order also took no action on NSP's requests for ADPs in Case No. PU-13-707 and Case No. PU-13-708 and those applications were dismissed without prejudice. The February 26, 2014 Order granted NSP's applications for ADP in Case No. PU-13-194, Case No. PU-13-706, and Case No. PU-13-742 consistent with the Revised Second Amended Settlement.

On June 6, 2014, NSP filed a request with the Commission to dismiss its application for a PC&N for Red River Valley Units 1 and 2 without prejudice in Case No. PU-13-195.

On August 20, 2014, the Commission issued an Order dismissing without prejudice NSP's application for a PC&N for Red River Valley Units 1 and 2 in Case No. PU-13-195.

On February 13, 2015, NSP filed an Application for an ADP for 345 MW of capacity and associated energy through a 20-year power purchase agreement with Mankato Energy, LLC, an affiliate of Calpine Corporation. This application is Case No. PU-15-96.

On May 11, 2015, NSP filed an Application for an ADP for a determination of prudence to discontinue the power purchase agreement for the 200 MW Courtenay Project. This application is Case No. PU-15-183. The Commission had granted NSP's requested ADP for purchasing the output of the Courtenay Project through a power purchase agreement in Case No. PU-13-706 on February 26, 2014. NSP sought to discontinue the power purchase agreement due to changed circumstances since approval of this ADP which resulted in NSP proposing to develop, construct, own, and operate the Courtenay Project. NSP also sought an ADP for its ownership and operation of the Courtenay Project, a transfer of the Site Certificate Siting Application, and a PC&N from the Commission in Case Nos. PU-15-174, PU-15-175, and PU-15-181.

On June 17, 2015, the Commission granted NSP's request for a 90-day extension from June 30, 2015 to September 30, 2015 for the filing date of a North Dakota policy based

generation mix required under section II. A. of the Revised Second Amended Comprehensive Settlement Agreement adopted by the Commission's February 26, 2014 Order Adopting Settlement in Case Nos. PU-12-813, PU-13-194, PU-13-195, PU-13-706, PU-13-707, PU-13-708, PU-13-742, and PU-13-743.

On July 8, 2015, the Commission issued a Notice of Hearing in Case No. PU-15-96 scheduling a hearing for October 15, 2015, in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota. The Notice of Hearing provided that the issue to be considered is whether NSP's power purchase agreement with Mankato Energy, LLC should receive an ADP from the Commission. The hearing was held as noticed.

On August 24, 2015, the Commission issued an Order granting NSP's request to discontinue the ADP related to the power purchase agreement for the output of the Courtenay Project granted by the Commission's February 26, 2014 Order in Case No. PU-13-706.

On September 30, 2015, NSP and Public Service Commission Advocacy Staff filed a Negotiated Agreement to address electric generation resource policy differences that exist between NSP's North Dakota and Minnesota jurisdictions.

The Negotiated Agreement provides an opportunity to address North Dakota's energy policy goals and other matters, such as:

- Accelerating NSP's commitment to locate thermal electric generation in North Dakota from 2036 to 2025, subject to a potential refund of an estimated \$25 million if NSP fails to achieve its generation commitment by the end of 2025.
- Excluding the costs and volumes of 17 existing Community Based Energy Development and small solar purchased power agreements from the calculation of the North Dakota Fuel Cost Rider (FCR).
- Extending the current electric rate moratorium through 2017.
- Allowing cost recovery for NSP's existing biomass purchase power agreements.
- Continuing to use the 12 coincident peaks method for assigning generation and transmission costs among the states served by NSP through 2025.
- Development of a Resource Treatment Framework (RTF) due on or before January 1, 2017 to address the issue of divergent state energy policies.

On November 4, 2015, the Commission issued a Notice of Consolidated Hearing for the Negotiated Agreement filed on September 30, 2015 and nine captioned cases, 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, and PU-15-96, to begin on December 15, 2015 in the Commission Hearing Room, 12th Floor, State Capital, Bismarck, North Dakota. The Notice specified

the issue to be considered is whether the Negotiated Agreement is reasonable and should be adopted by the Commission.

The hearing was held as noticed.

On January 15, 2016, NSP filed late-filed exhibits and its brief.

Findings of Fact

Background

1. NSP is an investor-owned electric utility authorized to provide public utility service in North Dakota subject to the jurisdiction of the Commission.
2. NSP, along with its affiliate Northern States Power Company, a Wisconsin corporation (NSPW), plan for and operate an integrated generation and transmission system serving the states of North Dakota, South Dakota, Minnesota Wisconsin, and Michigan (the NSP System).
3. NSP provides retail electric service in North Dakota, South Dakota, and Minnesota, and NSPW provides retail electric service in Wisconsin and Michigan. In North Dakota, NSP serves retail electric customers in and around Fargo, West Fargo, Grand Forks, and Minot, North Dakota.
4. The integrated NSP System has nearly 10,000 MW of load that is served through the Company's nuclear, large fossil, hydroelectric, and renewable generation resources. NSP's North Dakota load is approximately 500 MW.
5. NSP System costs are incurred by NSP and NSPW to ensure power is supplied reliably across the system and customers in each state benefit from the economies of scale provided by the large shared generation and transmission assets and operations located in all five states.
6. To allocate costs between NSP and NSPW, NSP and NSPW entered into an Interchange Agreement for the sharing of all production and transmission costs incurred and revenues received to support the system, including capital costs such as the costs of building power plants and transmission infrastructure as well as for PPAs to procure generation to serve the system. The Interchange Agreement is a FERC-filed tariff and all generation and transmission costs incurred and revenues received to support the integrated NSP System is accounted for through this agreement.
7. Allocations between the states served by NSP and NSPW, as well as the rates and terms and conditions of service for customers are regulated by the utility commissions in each of the states. For purposes of establishing those rates, the costs of the integrated system that are incurred are generally allocated to each state in a manner that reflects the share of each states' use of the integrated system. The

costs of the integrated NSP System are generally allocated to the states served by NSP utilizing a 12 coincident peak demand allocation methodology.

8. The record reflects that in the event that a state agrees to absorb a specific cost that is historically allocated through the Interchange Agreement, NSP and NSPW have filed an amendment to the Interchange Agreement at FERC to reflect this agreement. However, this change is subject to ratification by FERC. The record also reflects that a decision to not recover the costs of a resource in a specific jurisdiction is difficult to address in the same manner without the full agreement of all five states.
9. While the integrated nature of the NSP System provides benefits to customers in all five states, it also requires management of the NSP System in a way that complies with all mandates and requirements of each of the five states served by the NSP System.
10. NSP has been able to manage the NSP System in a way that meets the needs of all of the states it serves for many years, however, in recent years the divergent state energy policies of the states served by the integrated NSP System have begun to result in the disallowance of the cost of certain generating resources in North Dakota that were acquired by NSP to meet the policy goals and requirements of other states served by the integrated NSP System.
11. In light of this, NSP and Advocacy Staff have entered into the Negotiated Agreement to address the impact of these energy policy differences.

Rate Settlement

12. The Negotiated Agreement stems from NSP's and Commission Advocacy Staff's agreement reflected in the Revised Second Amended Comprehensive Settlement Agreement (Rate Settlement) in Case Nos. PU-12-813, PU-13-706, PU-707, PU-13-708, PU-13-742, PU-13-743, PU-13-194, and PU-13-195 adopted by the Commission on February 26, 2014.
13. The Rate Settlement sought to address divergent state energy policies in the states within the NSP System by repricing in North Dakota certain generation resources that were selected primarily on the basis of meeting Minnesota requirements or commitments.
14. Specifically, the Rate Settlement set a June 30, 2015 deadline for the development of the repricing scheme (often referred to as the "Restack") so that existing resources deemed inconsistent with North Dakota energy policies would be repriced based with "like" replacements using real or proxy pricing and that any future resources would be priced to reflect marginal pricing for a similar resource. The Rate Settlement also required Commission Staff to consider the financial impact to NSP of the Restack including reasonable and mutually agreeable implementation schedules and deadlines. Finally, the Rate Settlement included a commitment by

NSP to build “up to 400 MW” of thermal generation in North Dakota no later than 2036.

15. Once the Commission approved the Rate Settlement, NSP and Commission Staff worked in earnest to explore options for the Restack to address the impact of divergent state energy policies.

16. As explained by NSP witness Mr. David Sederquist, the options that were given the most serious consideration were the following:

(a) States ensure full cost recovery for resources that they direct NSP to acquire and/or otherwise approve. This would entail a process whereby there is assurance at the front end of the resource approval process that the full capacity, energy, any environmental attributes, and related cost recovery of prospective resources being approved or directed in certain states be assigned and accepted only in those approving states for planning, accounting, and ratemaking purposes;

(b) Uneconomic resources are repriced in those states relying on least-cost selection criteria. In this approach, NSP would use a “least cost proxy” to reprice, for ratemaking, future resource additions whose selection is not approved by the reviewing state commission;

(c) Employ a Pricing Zone concept. This would entail establishing separate pricing zones for North Dakota and the remainder of the integrated NSP System;

(d) Restructure NSP to facilitate more state autonomy in selecting resources. Under this approach, a separate operating company subsidiary of Xcel Energy would be established to serve North Dakota loads and better facilitate separate regulatory processes and power contracting that would comply with each state’s energy preferences.

17. Mr. Sederquist explained that none of these approaches advanced much past the conceptual stages during negotiations with Advocacy Staff.

Negotiated Agreement

18. Given the difficulties in developing and implementing these options, NSP and Advocacy Staff agreed to the current terms of the Negotiated Agreement which, in part, allowed additional time for development of these concepts by NSP, in collaboration with the Commission and Staff, of potential solutions to the issue of divergence energy policies through the development of a RTF.

19. The Negotiated Agreement has six key terms:

a. By the end of 2025, NSP will build or have located in eastern North Dakota a natural gas-fired electric generation facility with a capacity of at

least 200 MW. The combustion turbine will be treated as an NSP System resource and its costs will be allocated to all states and customers served by the NSP System. If the combustion turbine is not in-service by December 31, 2025, NSP will refund to its North Dakota customers 50 percent of the excess costs of the six biomass PPAs identified in the Negotiated Agreement;

- b. The costs and volumes of 15 Community-Based Energy Development (C-BED) and two small solar PPAs will be excluded from the calculation of NSP's North Dakota Fuel Cost Recovery (FCR) Rider;
 - c. The costs of six key biomass PPAs and the Odell and Pleasant Valley wind projects will be recovered in North Dakota. The biomass resources provide approximately 145 MW of baseload-type capacity and energy for the entire NSP System and allow for continued fuel storage for NSP's nuclear fleet. The two wind projects provide low cost energy to the NSP System thereby reducing overall system costs;
 - d. NSP's current rate case moratorium will be extended an additional year, or through 2017. In the Revised Second Amended Comprehensive Settlement Agreement, a four year rate plan was approved which included annual base rate increases of 4.9 percent in 2013, 2014, and 2015, and a rate freeze in 2016. The Negotiated Agreement extends this rate freeze through 2017. NSP will not be allowed to increase base electric rates (on an interim or final level) before January 1, 2018;
 - e. Commission Staff will support NSP's continued use of a 12 Coincident-Peak system allocator through 2025 for the purpose of assigning production and transmission costs to its three NSP operating company jurisdictions;
 - f. Development of an RTF due on or before January 1, 2017 to address the issue of divergent state energy policies. The Commission will conduct review of this RTF for 8 to 10 months in 2017 and the RTF is proposed to be implemented on January 1, 2018.
20. The Negotiated Agreement represents a reasonable exchange of value to address the impacts of past resource decisions, further a key Commission policy goal, and provide a path to address the impact of divergent energy policies on NSP's future resource decisions.
21. The effect of the Negotiated Agreement will be to decrease overall electric rates by approximately \$1.6 million in 2016. The Negotiated Agreement will also prohibit an electric base rate increase until at least 2018.
22. The terms of the Negotiated Agreement are reasonable and will provide benefits to North Dakota.

23. Developing thermal generation in eastern North Dakota is a key policy goal of the Commission.
24. As Advocacy Staff witness, Mike Diller, testified, NSP's commitment to add at least 200 MW of thermal generation in eastern North Dakota by 2025 combined with NSP's future ownership of 350 MW of North Dakota wind generation, is a "reasonable start towards providing local generation." Mr. Diller further noted that the thermal generation addition "will continue to promote local grid stability and reliability and provide a platform for future generation development in North Dakota." Moreover, as explained by NSP witness, Mr. Sederquist, "a generating plant of this type and the enhanced reliability it brings is an enticement to national businesses looking to locate new and large manufacturing, data processing, or food processing facilities in North Dakota."
25. The exclusion of 15 C-BED projects and two smaller solar PPAs from the monthly North Dakota FCR reflects NSP's recognition that these projects were selected primarily to fulfill obligations in Minnesota and, in the case of C-BED projects, were required to be located in Minnesota. As described by NSP witness Mr. Kurtis Haeger, excluding the costs and volumes of these 17 PPAs will reduce North Dakota customer energy costs starting at approximately \$1.6 million in 2016 and a total of approximately \$19 million through 2030.
26. The continued recovery of the six biomass PPAs through the North Dakota FCR will not result in future incremental increase in North Dakota electric rates as these costs are already included in the FCR given that these resources went into production on various dates between 1994 and 2009. As explained by NSP's witness, Mr. Sederquist, these resources represent approximately 145 MW of baseload power and were developed so that NSP could comply with legislation enacted in Minnesota in the early 1990s that also allowed the Company to continue to operate its nuclear facilities in Minnesota. The Commission has supported NSP's nuclear plants as they provide reliable, low-cost, and clean sources of power for the NSP System. NSP witness Mr. Haeger explained that forgoing recovery of these six biomass PPAs is not sustainable as it results in lost revenue of \$5.6 million in 2016 and a total of approximately \$50 million through 2025.
27. As explained by Advocacy Staff witness, Mr. Diller, the inclusion of the Pleasant Valley and Odell wind farms in North Dakota rates are a benefit to North Dakota ratepayers and will result in lower total system costs. Consequently, inclusion of these resources in NSP's North Dakota rates will help to mitigate the financial impacts of the biomass PPAs while allowing NSP the ability to recover the full costs of those resource additions.
28. While it is difficult to value the addition of one year to the rate moratorium, Advocacy Staff witness Mr. Diller testified that "a \$10 million value is not unrealistic given NSP's recent multi-year rate increases" and that "it gives ratepayers assurance, outside of some unforeseen or extraordinary event, that NSP's base rates will remain stable through 2017."

29. The Negotiated Agreement provides that Commission Advocacy Staff and NSP will support use of the 12 CP method in any future rate filings through 2025. The Allocation Study filed by NSP on April 27, 2015 in Case No. PU-12-813 evaluated 12 jurisdictional allocation methods and the current 12 CP method was determined by Commission Staff and NSP to be reasonably adequate for ensuring that North Dakota customers were paying their fair share of NSP's system generation and transmission costs. The Commission notes that this provision of the Negotiated Agreement does not bind the Commission with respect to demand allocation methodologies to be utilized in setting NSP's North Dakota rates.
30. The Negotiated Agreement requires NSP, in collaboration and consultation with the Commission and its staff, to develop an RTF in 2016 and file a future-looking proposal with the Commission by January 1, 2017. This additional time is necessary given the complex issues involved with an RTF and to provide parties with time to achieve additional clarity with respect to uncertainty in the utility industry, especially the uncertainty related to the Clean Power Plan.
31. As explained by NSP witness Mr. Christopher Clark, an RTF is necessary because the current status quo is not a workable long-term solution given the divergent state energy policies within the NSP System. The accounting mechanisms and regulatory structures that are in place under the status quo do not provide for a simple way for NSP to separate the North Dakota portion of a specific resource from the rest of the system. Instead, under the current regulatory mechanisms of the integrated NSP System it is assumed that all jurisdictions will enjoy the benefits and pay the costs of all resources that are used to serve the integrated system. An RTF is necessary so that there is a long-term solution in place to adjust the regulatory mechanisms for resource additions that are not fully shared by each jurisdiction within the NSP System.
32. Without an RTF, there is a reasonable likelihood Xcel Energy's North Dakota rates could become unjust and unreasonable.
33. Importantly, the Negotiated Agreement leaves the current status quo in place unless and until the Commission adopts an RTF. Thus, NSP has the incentive to develop an RTF that meets with Commission approval. Should the Commission not adopt a proposed RTF, the current status quo will remain in place.

Based on the foregoing Findings of Fact, the Commission makes the following:

Conclusions of Law

1. The Commission is a constitutionally established body with its powers delegated to it by the legislature.¹
2. A key power delegated to the Commission by the legislature is the authority to ensure that the rates charged by a public utility are just and reasonable.²
3. The Commission has jurisdiction in this matter.
4. The Commission has authority to adopt the Negotiated Agreement.
5. The Commission finds that the Negotiated Agreement is reasonable and provides a reasonable resolution to all of the pending issues in all the captioned Cases.
6. The Commission finds that the Negotiated Agreement achieves outcomes which provide greater benefits to NSP's North Dakota customers than those possible merely by Commission Order.
7. The Commission finds that NSP's commitment to build at least 200 MW of thermal generation in North Dakota by December 31, 2025 and the provision for refund for non-compliance provided for in the Negotiated Agreement is reasonable, meets a key Commission policy goal, promotes local grid stability and reliability, and provides a platform for future generation development in North Dakota.
8. The Commission finds that the Negotiated Agreement's exclusion of the costs and volumes of 15 C-BED and two small solar PPAs from the calculation of NSP's North Dakota FCR is reasonable.
9. The Commission finds that the Negotiated Agreement's provision allowing continued recovery of the six biomass PPAs in the FCR is reasonable and that the exchange of value related to continued recovery of these generating resources and the development of North Dakota based generation provides greater benefits than merely disallowing these costs from NSP's FCR.
10. The Commission finds that the Negotiated Agreement's provision requiring Advocacy Staff to support the use of the 12 CP jurisdictional allocation method for purposes of allocating generation and transmission costs through December 31, 2025 is reasonable and does not bind the Commission.

¹ N.D. Cent. Code Ch. 49-01 (2014) (providing the general rules concerning the Public Service Commission); see generally N.D. Cent. Code title 49 (providing the general rules concerning public utilities).

² N.D. Cent. Code 49-02-03 (2014) ("The commission shall supervise the rates of all public utilities . . . [T]he commission by order shall fix reasonable rates . . .").

11. The Commission finds that the moratorium on base rate increases through the end of 2017 provided for in the Negotiated Agreement is reasonable.
12. The Commission finds that the additional time to develop a long-term RTF to address energy policy differences among the states served by the NSP System provided for in the Negotiated Agreement is reasonable.

Based on the foregoing Findings of Fact and Conclusions of Law, the Commission issues the following:

Order

The Commission Orders:

1. The September 30, 2015 Negotiated Agreement, a copy of which is attached to this Order and made a part of this Order, is APPROVED.
2. NSP shall file the RTF for the Commission's consideration no later than January 1, 2017.
3. NSP shall make all necessary filings in consultation with Commission Advocacy Staff and Advisory Staff as required by this Order and the Negotiated Agreement.
4. The Advanced Determination of Prudence requested by NSP in Case No. PU-13-708 for the Pleasant Valley Wind Farm is GRANTED.
5. The Advanced Determination of Prudence requested by NSP in Case No. PU-13-707 for the Odell Wind Farm is GRANTED.

PUBLIC SERVICE COMMISSION

Randy Christmann
Commissioner

Julie Fedorchak
Chairman

Brian P. Kalk
Commissioner