

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Northern States Power Company  
Advance Prudence – 345 MW Mankato Energy Center  
Application**

**Case No. PU-15-96**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**March 23, 2016**

**Appearances**

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

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

Blaine T. Johnson, Crowley Fleck PLLP, 100 W. Broadway, Suite 250, Bismarck, ND 58502-2798, on behalf of Calpine Corporation, Intervenor.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, ND 58501, on behalf of the Public Service Commission, Advocacy Staff.

Illona Jeffcoat-Sacco, General Counsel, Public Service Commission, State Capitol, 600 E. Boulevard Ave., Bismarck, ND 58505, on behalf of the Public Service Commission.

Janet Demarais Seaworth, Administrative Law Judge, P.O. Box 7127, Bismarck, ND 58502-7127.

**Preliminary Statement**

On February 13, 2015, Northern States Power Company (NSP), dba Xcel Energy, filed an application with the North Dakota Public Service Commission (Commission) seeking an advance determination of prudence (ADP) under North Dakota Century Code section 49-05-16 for 345 MW of capacity and associated energy to be added to the NSP System through a 20-year power purchase agreement with Mankato Energy Center, LLC, an affiliate of Calpine Corporation. (Calpine PPA)

On July 8, 2015, the Commission issued a Notice of Hearing, scheduling a public hearing to begin at 8:00 a.m. on October 15, 2015 in the Commission Hearing Room, 12<sup>th</sup> floor, State Capitol, Bismarck, North Dakota. The notice

identified the issue to be considered as whether NSP's power purchase agreement should receive an advance determination of prudence from the Commission.

On October 13, 2015, The Administrative Law Judge granted Calpine Corporation's request to intervene.

On October 15, 2015 the public hearing was held as scheduled.

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

### **Findings of Fact**

1. NSP is an investor-owned electric utility headquartered in Minneapolis, Minnesota authorized to provide public utility service in North Dakota.
2. In a previous NSP general electric rate increase proceeding, Case No. PU-07-776, NSP agreed to file an application for an advance determination of prudence for any proposed resource addition larger than 50 MW. In NSP's application for an advance determination of prudence for the Geronimo wind project, Case No. PU-12-59, NSP agreed to file all advance determination of prudence applications in a timely manner. In NSP's most recent general electric rate proceeding, Case No. PU-12-813, NSP agreed to obtain an advance determination of prudence for power purchase agreements greater than 50 MW before recovering the costs of associated energy through its Fuel Cost Rider (FCR).
3. NSP selected the proposed Calpine PPA through the Minnesota Competitive Acquisition Process (CAP).
4. The proposed Calpine PPA is comprised of up to 345 MW of capacity and associated energy from the construction of a new combined cycle natural gas unit to be added to Calpine's existing 375 MW Mankato Energy Center located in Mankato, MN.
5. NSP's application states that the Calpine PPA will help meet a potential need of 150-500 MW on its system in the 2017-2019 time period that was identified in its 2010 Resource Plan.
6. NSP testified that newer projections show the timeframe of potential need is now not expected until at least 2023 or 2024. NSP testified that the Calpine PPA remains prudent because of advantageous pricing and enhanced optionality

that allows NSP to accelerate retirement of some of its oldest and least-efficient peaking generation, and allows flexibility to react to evolving circumstances.

7. NSP testified that, when viewed under the totality of the circumstances, the Calpine PPA is a prudent resource addition.

8. Based on review of NSP's application and assumptions, inputs, and analysis, Advocacy Staff testified that the Calpine PPA is not prudent.

9. Advocacy Staff testified that the Calpine PPA is not prudent because it is not designed to meet an identified need in the near future. Advocacy Staff testified it is not prudent to invest in this resource when the anticipated need is not until 2023 or 2024. Advocacy Staff testified that waiting is more prudent given the various uncertainties relied upon by NSP as justification for approval of the Calpine PPA.

10. Advocacy Staff compared NSP's most recent load and generating capacity forecasts, and testified that NSP expects to have sufficient generating capability to meet its reserve margin obligations through 2023 without the proposed Calpine PPA. This conclusion is supported by NSP's testimony.

11. Advocacy Staff testified that the capacity to be provided by the proposed resource addition is in excess of what is necessary to ensure reliability and meet customer load, and that the Calpine PPA will cause increased costs to North Dakota customers without corresponding benefits.

12. Testimony regarding relevant underlying facts such as the need, timing, and price did not materially differ between Advocacy Staff, NSP, and the Intervenor Calpine. However, the dispute is whether the underlying facts support a conclusion that the Calpine PPA is prudent at this time. NSP and Calpine asserts the facts do support such a conclusion, Advocacy Staff asserts they do not. NSP does agree the timing of the Calpine PPA is not ideal and there is not an expected need for the project until 2023 or 2024.

13. NSP's identified potential need in 2023 originates with its October 2, 2015, Resource Plan Update. In the Supplemental Rebuttal Testimony of Kurtis Haeger, he describes "significant changes" to NSP's long-term resource planning activities intended to achieve a 60 percent reduction in carbon emissions by 2030. NSP proposes to cease coal operations at Sherco Unit 2 in 2023 and Sherco Unit 1 in 2026, construct a gas combined cycle facility at Sherco by 2026, construct a gas combustion turbine in eastern North Dakota in the 2023 to 2025 timeframe, and accelerate the addition of renewable energy to the 2018 to 2020 timeframe. The 2015 Resource Plan Update is not final and remains subject to change.

14. NSP's generation resource needs from 2023 and beyond are largely driven by its plan to accelerate retirement of the 1,500 MW Sherco coal units. NSP has not shown prudence of early Sherco retirements.

15. After considering all of the testimony and other evidence, the Commission finds NSP has not established the Calpine PPA is prudent. There is little or no dispute that there is not a need for this project until at least 2023 and the potential need at that time is largely based on NSP ceasing coal operations at Sherco. Approval of this project now would require customers to pay for unneeded capacity for a significant portion of the 20-year contract term. However, load forecasts and other assumptions underlying NSP's integrated resource plan are continually subject to change. The conclusions about prudence on which NSP relies to support this application may or may not occur. It is premature for the Commission to base an advance determination of prudence on such evidence.

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

#### **Conclusions of Law**

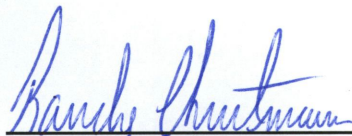
1. The Commission has jurisdiction in this matter.
2. NSP has not shown that the Calpine PPA merits an advance determination of prudence at this time under N.D.C.C. § 49-05-16.

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

#### **Order**

The Commission orders NSP's application for an advance determination of prudence for the Calpine PPA DISMISSED without prejudice.

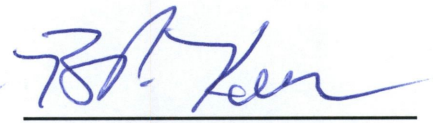
#### **PUBLIC SERVICE COMMISSION**



**Randy Christmann**  
Commissioner



**Julie Fedorchak**  
Chairman



**Brian P. Kalk**  
Commissioner