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January 8, 2016

- Via Email and Federal Express -

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

RE: PETITION FOR APPROVAL OF A CREDIT MECHANISM FOR A DOE
SETTLEMENT PAYMENT
CASE NO. PU-16-____

Dear Mr. Nitschke:

Northern States Power Company, doing business as Xcel Energy, respectfully submits to the North Dakota Public Service Commission an original and 10 copies of a Petition requesting approval of a bill credit to pass on to our North Dakota electric customers additional funds received from an extension of the 2011 Settlement with the United States Department of Energy (DOE) for the DOE's partial breach of its contract to take spent nuclear fuel.

Please contact me if you have any questions regarding this filing.

Sincerely,

A handwritten signature in blue ink that reads 'David H. Sederquist'.

DAVID H. SEDERQUIST
Sr. Consultant, Regulation & Finance

Enclosures

cc: Mike Diller
John Hamre
Laura McCarten

STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION

Julie Fedorchak
Brian P. Kalk
Randy Christmann

Chair
Commissioner
Commissioner

IN THE MATTER OF THE PETITION OF
NORTHERN STATES POWER COMPANY
FOR APPROVAL OF A CREDIT MECHANISM
TO RETURN TO CUSTOMERS DEPARTMENT
OF ENERGY (DOE) SETTLEMENT
PAYMENTS.

Case No. PU-16-____

PETITION

INTRODUCTION

Pursuant to ND Century Code § 49-02-03, Northern States Power Company, doing business as Xcel Energy, operating in North Dakota, petitions the North Dakota Public Service Commission (Commission) for approval of a credit mechanism for additional funds received pursuant to a 2011 Settlement Agreement with the United States Department of Energy (DOE) for the partial breach of its contract to take spent nuclear fuel. The Company and the Government reached an agreement in January 2014 to extend the 2011 Settlement to recover spent fuel storage damages for an additional three-year period, 2014 through 2016. On November 5, 2015, a payment was received in the amount of \$13,126,958 for the period January 1, 2014 to December 31, 2014 and we file this Petition for approval to return the North Dakota allocation of \$702,656 to our North Dakota electric customers in the form of a one-time bill credit.

The Company has placed these funds into a separate external interest bearing account and has included the interest received, net of bank fees, in calculating the amount of the credit. Consistent with the Commission's February 29, 2012 Order in a prior DOE credit petition,¹ our goal is to once again seek an administratively efficient and timely return of the funds to our customers as they are received. Specifically, we request returning the amount of this *and* future payments, received for 2014-2016 damages, to our current North Dakota electric customers in the form of one-time bill credits based upon the customers' most recent twelve months of usage.

¹ The Commission approved our request to issue a customer credit (Case No. PU-11-557) in the overall settlement of the electric rate case pending at that time (Case Nos. PU-10-657 and PU-11-55). See *In the Matter of the Petition for Approval of a Customer Credit Mechanism for a Department of Energy Settlement Payment*, Case No. PU-11-557, ORDER ON SETTLEMENT at 6 (Feb. 29, 2012).

In support of this filing, Xcel Energy provides:

- History of the case and background;
- A description of the proposed credit mechanism; and
- Public interest benefits of the Settlement.

A. Name, Address and Telephone Number of Utility Attorney

Alison C. Archer
Assistant General Counsel
Xcel Energy Services Inc.
414 Nicollet Mall, 5th Floor
Minneapolis, Minnesota 55401
(612) 215-4662

B. Utility Employee Responsible for Filing

David Sederquist
Sr. Consultant, Regulatory and Finance
Xcel Energy
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I. HISTORY OF THE CASE AND BACKGROUND

A. 2011 Settlement

Under the Nuclear Waste Policy Act, utilities such as Xcel Energy were required to enter into contracts for the disposal of spent nuclear fuel; utilities contributed 1.0 mil for every kilowatt-hour of electricity generated by their nuclear power plants. In exchange, the DOE committed to transport and dispose of the spent nuclear fuel beginning no later than January 31, 1998. However, the DOE has not accepted any spent nuclear fuel to date.

In 1998, the Company filed the first of two suits against the DOE seeking to recover damages associated with storage of spent nuclear fuel at our Prairie Island and Monticello nuclear generating plants. The Company's claims were for partial breach of the Standard Contract for Disposal of Spent Nuclear Fuel for failing to take title to, transport, and dispose of spent nuclear fuel beginning no later than January 31, 1998.

The first lawsuit sought damages through 2004; the second sought damages through 2008.

The Company reached a settlement with the U.S. Government on these suits on July 7, 2011. The settlement provided a mechanism for the Company to recover its spent nuclear fuel storage damages through December 31, 2013.

On August 11, 2011, Xcel Energy submitted a petition with the Commission requesting approval of a credit mechanism for funds received from the 2011 DOE settlement (Case No. PU-11-557). As part of the conclusion of an electric rate case also pending at the time (Case Nos. PU-10-657 and PU-11-055), the North Dakota jurisdictional portion of the first DOE payment was incorporated into the rate case settlement such that customers were provided both an interim rate refund and a DOE payment credit at the same time.

Similarly, in the most recent electric rate case filed by the Company (Case No. PU-12-813), the disposition of DOE payments 2 through 5 was resolved as part of the rate case settlement agreement approved by the Commission.²

Thus, to date the Company has received five payments from the DOE that ultimately reduced customer bills in North Dakota by approximately \$10.4 million, either in the form of a one-time bill credit or a reduction in an annual base rate increase. In summary, the five DOE payments and their disposition are as follows:

Payment Date	ND Allocated Amount* & Credit Method	Period of Damages
1 st Payment Rec'd: Aug 1, 2011	\$4,673,813 one-time credit issued in conjunction with an interim rate refund (Case Nos. PU-10-657, PU-11-055)	Jan 31, 1998 – Dec. 31, 2008
2 nd Payment Rec'd: Mar 15, 2012	\$878,748 used to reduce a 2013 base rate increase (Case No. PU-12-813)	Jan 1, 2009 – Dec. 31, 2010
3 rd Payment Rec'd: Oct 16, 2012	\$997,149 used to reduce a 2013 base rate increase (Case No. PU-12-813)	Jan 1, 2011 – Dec. 31, 2011
4 th Payment Rec'd: Nov. 7, 2013	\$2,060,803 used to reduce a 2013 base rate increase (Case No. PU-12-813)	Jan 1, 2012 – Dec. 31, 2012
5 th Payment Rec'd: Dec 18, 2014	\$1,742,907 used to reduce a 2014 base rate increase (Case No. PU-12-813)	Jan 1, 2013 – Dec. 31, 2013

*NOTE: All amounts noted above do not include interest or bank fees.

B. Extended Settlement Agreement

The Company and the Government reached an agreement on January 24, 2014, to extend the term of the July 11, 2011 DOE Settlement to include spent fuel storage

² Payments 2-5 were retained by the Company to reduce the amounts of the annual base rate increases required in each of 2013 and 2014 as part of a multi-year rate plan approved by the Commission on February 26, 2014.

damages for the three-year period from 2014 through 2016. On December 1, 2014, the Company made a compliance filing to the Commission (see Attachment A) which notified the Commission of this extension and that future DOE payments would be based on the submission of damage claims and subsequent negotiations between the Company and the DOE.

On November 5, 2015, a sixth DOE payment was received in the amount of \$13,126,958 (see Attachment B), or approximately \$702,656 on a North Dakota jurisdictional basis (Attachment C). The payment represented compensation for 2014 damages. This payment was placed into a segregated bank account established specifically and solely for the settlement proceeds similar to the Company's treatment of the first payments under the 2011 DOE settlement.

We currently do not have any specific information as to the payment amounts or timing that will be negotiated between the parties for future damage payments expected to be received in 2016 and 2017. However, as each future DOE payment is received, the Company will make a Compliance filing within 30 days following the receipt of the payment and will provide documentation consistent with that presented in this petition.

II. PROPOSED CREDIT MECHANISM

A. One-time Bill Credit

The Company proposes that future settlement payments from the DOE related to spent nuclear fuel storage costs be credited to customers at the time that the amount is known. We believe the one-time bill credit is consistent with Commission precedent as it was the approved method (as part of a larger interim rate refund) for the first payment. With this approach, the DOE payment would be allocated to customer classes using the applicable allocator from the Class Cost of Service Study (CCOSS) approved in our most recent rate case (Case No. PU-12-813). In that proceeding, the allocator used for nuclear plant investment costs was developed using a stratification process. That process resulted in an allocation factor that was 81.3% "energy-related" and 18.7% "capacity-related" (see Attachment C). Future credits would be allocated using the most recently approved nuclear plant cost allocator at that time.

As outlined in Attachment C, once the credit amounts have been allocated to each customer class, a credit factor will be calculated for each customer class based on the most recent 12 months of actual kWh usage (for active customers). The appropriate credit factor will then be applied to each active customer's actual kWh usage for that time period to determine the credit amount for each customer. Using 12-months of usage avoids the problems inherent with selecting a particular point in time to calculate the credit (e.g. the fluctuating usage of seasonal customers).

B. Interest

The Company has placed the funds in a separate interest-bearing account to protect both customers and the Company and to ensure the funds are accurately accounted for pending the actual bill credit. The interest bearing sweep account earns 0.12% annually and the interest is posted daily. The Company requests that the credit amount include the actual amount of interest earned by the Company, minus any bank fees or charges on these funds. Placing the funds in a separate interest-bearing account is consistent with treatment of the funds from the 2011 DOE settlement.

Rather than setting up the funds in a separate account, the Company could have included the funds in our operations, as if the funds had been used to reduce short-term debt. However, such action would increase the difficulty of managing the credit. Accordingly, we deposited the funds in the separate interest bearing account as the preferable alternative.

C. Compliance Filings

If the Commission approves the Company's proposed one-time bill credit methodology, we will begin implementation of the initial \$702,656 credit within 90 days of the Commission's Order. The Company will also file a compliance report within 30 days after completion of this bill credit providing a summary of the settlement payment, interest credited, class allocations, and the actual average customer credit per customer class.

Also, we propose providing the same compliance filing within 30 days after receipt of each future payment, and to include documentation consistent with Attachments B and C in this filing for Commission Staff review. We would begin implementation of the customer bill credit within 90 days of the DOE payment receipt with a compliance report within 30 days after completion of the bill credit.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

As was similarly stated in our prior filing, the Company believes the extended DOE settlement is in the public interest. The DOE settlement continues to fairly represent the status of current federal law on this issue and, in addition, holds the DOE to higher standards than the DOE had accepted in litigation. In particular, the DOE's obligations are not limited to a certain level of spent nuclear fuel per year and the DOE agrees to damages covering O&M, overhead, and other operating costs.³

³ The proceeds from the Settlement will be in the form of one-time payments for capital and O&M costs recovered in past and current base rates. These costs were not recovered through the fuel clause adjustment.

VI. JURISDICTIONAL ALLOCATIONS

The DOE payments will first be allocated between NSPM and NSP-Wisconsin Companies. The NSPM portion will be further allocated to state jurisdiction (North Dakota, South Dakota, Minnesota) and then to each customer class within those states. Finally, they will be credited to individual customers. Consistent with past practice, we propose using allocators for the same year the damages were incurred. Thus, for the sixth payment we would use the appropriate vintage jurisdictional allocator for 2014 to assign the payment between North Dakota, South Dakota, and Minnesota.

V. MISCELLANEOUS INFORMATION

Xcel Energy requests that the following persons be placed on the Commission's official service list for this matter:

Alison C. Archer
Assistant General Counsel
Xcel Energy
414 Nicollet Mall, 5th Floor
Minneapolis, MN 55401
alison.c.archer@xcelenergy.com

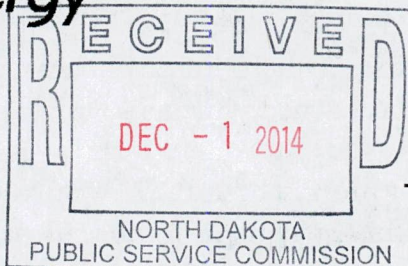
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CONCLUSION

The Company respectfully requests the Commission approve our requested credit mechanism to provide the Company's North Dakota electric customers with the proceeds received as a result of the extended DOE settlement. The mechanism will credit customers this initial and future payments under the extended terms in the form of one-time bill credits based upon the customers' most recent twelve months of usage. When received by the Company, the payments will be deposited in a separate interest-bearing bank account and if approved by the Commission, the actual interest earned minus bank fees will be included with the corresponding credit provided to customers.

Dated: January 8, 2016

Northern States Power Company



414 Nicollet Mall
Minneapolis, Minnesota 55401

~~Via Email & U.S. Mail~~

December 1, 2014

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

RE: COMPLIANCE FILING
CASE NO. PU-11-557

Dear Mr. Nitschke:

In 1998, Northern States Power Company (Xcel Energy or the Company) filed the first of two lawsuits against the United States Department of Energy (DOE) for failing to take title to, transport, and dispose of spent nuclear fuel by January 31, 1998. The first lawsuit sought damages through 2004 and the second sought damages through 2008.

The Company reached a settlement with the DOE on these suits in 2011. The 2011 settlement compensated the Company for its spent nuclear fuel storage damages through December 31, 2013.

In 2012, approximately \$4.7 million received from DOE was credited to North Dakota customer bills through a one-time bill credit as part of the interim rate refund in Case No. PU-10-657. The Settlement Agreement approved by the Commission in the Company's most recent rate case, Case No. PU-12-813 used the payments received in 2013 and 2014 to offset base rate increases by \$5.2 million.

This year the Company and the DOE agreed to extend the Settlement Agreement to allow for the recovery of spent fuel storage damages through December 31,

Northern States Power Company

Darrell Nitschke
December 1, 2014
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2016. We expect the first payment for 2014 damages to be received in late 2015 or early 2016, with the subsequent payments following a similar schedule.

The Company does not propose that the Commission take any action at this time on how best to return these payments to our customers. Rather, the Company will submit a proposal for review in late 2015, at which time the 2014 payment may be known. This will allow the Commission to review the amount at issue and, given the circumstances present next year, determine how best to return the funds to customers.

If the Company receives any payments under the extension of the Settlement Agreement prior to a Commission determination of how to apply the funds, the Company will deposit the funds into a segregated bank account established specifically and solely for the settlement proceeds similar to the Company's treatment of the first payments under the 2011 settlement.

Please contact me at 701-241-8632 with any questions regarding this matter.

Sincerely,

/s/

DAVID H. SEDERQUIST
SR. REGULATORY CONSULTANT

cc: Mike Diller

Payment Amount: \$13,126,958

Allocation to NSPM State Jurisdictions

	<u>NSPM</u>	<u>Minn</u>	<u>N. Dakota</u>	<u>S. Dakota</u>
12 CP Allocation of NSPM ¹	100.0000%	87.5284%	6.3128%	6.1588%
Allocation of NSP System ²	84.7923%	<u>74.2173%</u>	<u>5.3528%</u>	<u>5.2222%</u>
Customer Credits	\$11,130,650	\$9,742,480	\$702,656	\$685,514

Allocation to NSPW State Jurisdictions

	<u>NSPW</u>	<u>Wisc</u>	<u>Mich</u>
12 CP Allocation of NSPW ¹	100.0000%	97.9103%	2.0897%
Allocation of NSP System ²	15.2077%	<u>14.8899%</u>	<u>0.3178%</u>
Customer Credits	\$1,996,308	\$1,954,592	\$41,717

Allocation to North Dakota Customer Classes

<u>Stratification Components</u>	<u>Weight³</u>	<u>Res</u>	<u>Sm Non Dm</u>	<u>C&I Demand</u>	<u>Lighting</u>	<u>Total</u>
Capacity Component (D10C) ⁴	18.74%	32.43%	6.10%	61.17%	0.30%	100.00%
Energy Component (E8760) ⁴	81.26%	34.58%	5.74%	59.06%	0.63%	100.00%
Weighted Combination	100.00%	34.18%	5.80%	59.45%	0.57%	100.00%
[1] Sixth Credit, by Customer Class		\$240,139	\$40,788	\$417,750	\$3,978	\$702,656
[2] MWh Sales (Nov 2014 - Oct 2015)		<u>789,804</u>	<u>118,374</u>	<u>1,345,030</u>	<u>15,454</u>	<u>2,268,661</u>
[3] Credit / kWh, [3] = [1] / [2] / 1000		\$0.000304	\$0.000345	\$0.000311	\$0.000257	\$0.000310
[4] Avg. Cust. Count (Nov 2014 - Oct 2015)		80,484	10,105	3,903	154	94,646
[5] Est. Ann'l kWh / Cust, [5] = [2] x 1000 / [4]		<u>9,813</u>	<u>11,715</u>	<u>344,658</u>	<u>100,187</u>	<u>466,373</u>
[6] Est. Credit / Customer, [6] = [3] x [5]		\$2.98	\$4.04	\$107.05	\$25.79	\$144.45

¹ Based on demand data for 2014, the year the claims reflected in this payment are related to

² A 36 CP allocator is used to allocate amounts between NSPM and NSPW operating companies

³ Nuclear plant stratification of capacity and energy from Case No. PU-12-813 (Test Year 2013)

⁴ Class allocation factors from Case No. PU-12-813 (Test Year 2013)