

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Rate Impact and Accounting Treatment  
Investigation

Case No. PU-17-490

Northern States Power Company  
Tax Reform Effects – Electric Utility  
Rates

Case No. PU-18-155

AFFIDAVIT OF SERVICE BY REGULAR AND ELECTRONIC MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Geralyn R. Schmaltz** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **2nd** day of **October, 2018**, she deposited in the United States Mail, Bismarck, North Dakota, **two** envelopes by first class mail, containing a copy of:

- **Settlement Agreement**

The envelopes were addressed as follows:

Zeviel T. Simpser  
Attorney for Northern States Power Co.  
Briggs and Morgan, P. A.  
220 IDS Center  
80 South 8<sup>th</sup> Street  
Minneapolis, MN 55402

Dave Sederquist  
Sr. Consultant, Regulation & Finance  
Xcel Energy  
PO Box 2747  
Fargo, ND 58102

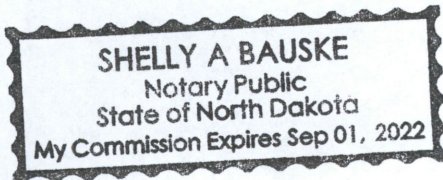
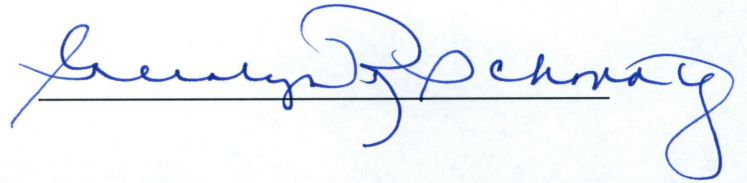
**Geralyn R. Schmaltz** further deposes and says that on the **2nd day of October, 2018**, she electronically mailed **one** copy of the same.

The electronic mail was addressed as follows:

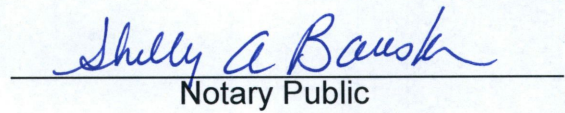
[regulatory.records@excelenergy.com](mailto:regulatory.records@excelenergy.com)

The addresses shown are the respective addressee's last reasonably ascertainable post office and electronic mail addresses.

Subscribed and sworn to before me  
this **2nd day of October, 2018.**



SEAL



Shelly A Bauske  
Notary Public

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

NORTHERN STATES POWER COMPANY

CASE NOS. **PU-17-490**  
**PU-18-155**

INVESTIGATION OF THE ELECTRIC RATE  
IMPACT OF AND ACCOUNTING  
TREATMENT FOR  
THE TAX CUTS AND JOBS ACT OF 2017

**SETTLEMENT AGREEMENT**

This Settlement Agreement is entered into this 1st day of October 2018 by and between the North Dakota Public Service Commission Advocacy Staff (Advocacy Staff), and Northern States Power Company, a Minnesota corporation with operations in North Dakota (Xcel Energy or the Company) (collectively, the Parties). The Settlement resolves the issue of how the benefits of the Tax Cuts and Jobs Act of 2017 will be provided to the Company's electric customers.

**I. BACKGROUND**

The above-referenced Cases involve the Commission's investigation, ordered on January 10, 2018 in Case No. PU-17-490, into the rate impacts of, and accounting treatment for, H.R. 1, the Tax Cuts and Jobs Act of 2017 (TCJA). The TCJA amends the Internal Revenue Code and results in reduced tax rates and other tax policy modifications effective January 1, 2018.

As part of its January 10 Order, the Commission directed the investor-owned electric and natural gas utilities operating in the state of North Dakota to: (a) apply the appropriate regulatory accounting treatment, including the use of regulatory asset

and liability accounts, to record the impacts of the TCJA beginning January 1, 2018; and (b) submit, by February 15, 2018, their estimates of the impacts of the TCJA on their respective costs of service. Xcel Energy submitted comments on February 15<sup>th</sup> which highlighted the various aspects of tax law that were affected by the TCJA and emphasized the complexity in determining the implications of the many subparts of the more than 400-page TCJA.

In complying with the Commission's January 10 Order, the Company found itself in the unique position of having to determine how to effectively estimate the impacts of the TCJA at a North Dakota jurisdictional level without the benefit of any recent general rate case filings<sup>1</sup> (and related test year data) for its electric operations.<sup>2</sup> In its February 15 submission, the Company therefore provided to the Commission an estimate of the TCJA impacts on a five-year jurisdictional financial forecast that, while not "rate case quality," reflected current economic assumptions, resource plans, and other financial data. Importantly, this information calculated the TCJA impacts based on the Company's forecasted costs of service and not on the basis of how present rates are affected. The analysis sought to generally capture the future cost of service impacts of not only the federal tax rate change, but other provisions of the TCJA such as the elimination of certain deductions and the normalized flow-back of deferred tax assets and liabilities.

In its February 15, 2018 filing, the Company estimated that, all things being equal, the annual costs of service (i.e., revenue requirements) for its electric operations would decrease by approximately \$11-\$13 million, or roughly 5 percent, compared to previous tax law if the Company's cost of service was updated for 2018 and beyond.

---

<sup>1</sup> The most recent electric rate case, PU-12-813, was filed in December 2012 with a 2013 Test Year. The multi-year plan approved in that case provided a fixed annual increase in each of 2013, 2014, and 2015.

<sup>2</sup> The impact of the TCJA on the Company's natural gas operations is the subject of a separate proceeding (Case No. PU-18-156).

The Company noted, however, that this estimate did not represent the appropriate amounts to account for any potential deferral (i.e., accrual for potential refund) amounts as they did not appropriately take into account the revenue requirements approved in the Company's most recent electric rate case. In addition, the Company's February 15, 2018 filing noted that in refunding the full cost of service amounts calculated, the Company would be projecting material revenue deficiencies in 2019 and 2020.

Subsequent to opening the broader TCJA impact investigation (Case No. PU-17-490), the Commission opened Case No. PU-18-155 to specifically evaluate the impact of the TCJA on the Company's electric operations. Both Advocacy Staff and the Company filed comments in Case No. PU-18-155 and Advocacy Staff engaged in discovery in that case as well. Additionally, the Company and Advocacy Staff participated in several conferences to further discuss how best to capture the benefits of the TCJA for the Company's North Dakota customers.

Accordingly, to accelerate the passing of TCJA benefits to customers, avoid an interim base rate increase on January 1, 2019, and minimize regulatory costs, and in consideration of the mutual promises of the Parties to each other, the Parties agree as follows:

## **II. TERMS OF SETTLEMENT**

### **A. 2018 TCJA REFUND.**

The Company and Advocacy Staff agree that a reasonable estimate of the TCJA benefits reflected in the Company's rates currently in effect in 2018, as determined in accordance with the Test Year cost of service calculated in PU-12-813, is \$9,763,400 (2018 Amount). The 2018 Amount will be refunded to all Xcel Energy customers of record in 2018 as provided for in this Settlement Agreement. The Parties acknowledge that this refund will have no impact on the Company's base rates.

The refund of the 2018 Amount will be made by the Company in a single payment following approval of this Agreement by the Commission. The refund of the 2018 Amount will be allocated to customer classes based on each class' share of the Commission's last-approved revenue allocation. The resulting class allocation of the refund is provided in Attachment A to this Settlement Agreement. The Company will make a compliance filing within 30 days of the Commission Order approving this Agreement detailing the calculations that will be used to determine individual customer refunds.

**B. JUST AND REASONABLE RATES.**

The Parties acknowledge that but for this Settlement, the Company would be positioned to file a general rate case in 2018 given its currently-forecasted 2019 revenue deficiency. The Company's last rate case was filed in 2012 with a 2013 test year and resulted in a multi-year rate plan ending with a rate moratorium in 2016. The rate moratorium was extended an additional year (2017) through the Negotiated Agreement. Upon reasonable analysis of the Company's financial forecasts, the Parties have determined that it is in the best interest of North Dakota customers to avoid a 2019 base rate increase (including an interim rate increase on January 1, 2019) contemplated by the Company at this time. Instead, the Parties agree to utilize the TCJA savings beyond 2018 to offset 2019 and 2020 revenue deficiencies and thereby avoid the need for a rate case. Consistent with this approach, the Parties have also determined that it is equitable to allow the Company to recover the costs of certain wind projects going into service in the near future in light of the forecasted cost savings such projects will bring to the Company's North Dakota customers. To that end, the Parties agree as follows:

*1. Base Rate Moratorium*

In lieu of the Company making additional TCJA-related refunds in subsequent years beyond 2018, the Company agrees to a rate case moratorium for two years (2019 and 2020, hereinafter referred to as the Moratorium Period). More specifically, the Company may not file another general rate case prior to November 2020, so that new base rates (including interim rates) may not be effective prior to January 1, 2021.

In the Company's next general rate case, the Test Year costs of service will reflect the impacts of the TCJA. The Parties acknowledge that for the purposes of the Company's books and records, as well as the next general rate case, excess plant-

related Accumulated Deferred Income Taxes (ADIT) and the excess Net Operating Loss (NOL) ADIT will be amortized over the average rate assumption method (ARAM) lives, and excess non-plant-related ADIT will be amortized over periods ranging from five years or fifteen years, each commencing January 1, 2018.

2. *Expansion of Renewable Energy Rider*

The Parties recognize that the Company's currently-effective base rates are insufficient to provide Xcel Energy an opportunity to earn a reasonable rate of return without the ability to recover the costs of Xcel Energy's investment in the wind projects for which the Company has requested Advanced Determinations of Prudence (ADP) in Case Nos. PU-17-120 and PU-17-372 (Pending ADP Cases). Additionally, the Parties believe it to be fair and equitable for the Company to recover the costs of these wind investments when they are placed in service given the fuel cost savings that these projects will provide to the Company's customers in North Dakota. To that end, the Parties agree that Xcel Energy's existing Renewable Energy Rider (RER) will be expanded to include renewable energy resources located outside of North Dakota for which the Company has received an ADP from the Commission. Should the Commission grant the ADPs requested in the aforementioned Pending ADP Cases, the Company may recover the costs of those wind investments (as well as other future renewable energy investments which receive an ADP from the Commission) in the RER as of their in-service date. The Parties further agree that Xcel Energy can include the wind investments contemplated in the Pending ADP cases in its upcoming RER application and that Xcel Energy will update and/or amend that application in the event the Commission does not approve either this Agreement or the ADPs requested in the Pending ADP cases. Xcel Energy will make a compliance filing to effectuate this tariff change within 30 days of Commission approval of this Settlement Agreement.

### *3. Earnings Sharing*

The Parties recognize that it is necessary to protect customers from uncertainties inherent in the Company's forecasts. Additionally, the Parties recognize today's significantly different financial environment from that when the Company's current authorized return on equity (ROE) was approved by the Commission. Therefore, the Parties agree to establish an earnings sharing mechanism at a materially lower ROE to ensure rates remain just and reasonable during the Moratorium Period.

Specifically, in the event the Company's annual weather normalized earnings during any of the fiscal years during the Moratorium Period exceed an ROE of 9.85 percent (40 basis points below the current Commission-authorized ROE), the Company will refund to customers 100 percent of the weather-normalized revenue contributing to the excess earnings. The earnings sharing framework is asymmetrical; customers will not be charged for weather-normalized earnings below 9.85 percent. Earnings sharing refunds will be executed in July of the following year.

### *4. Preservation of Intent*

To preserve the intent of the Parties to ensure just and reasonable rates, the provisions of Sections II.B.1, II.B.2, and II.B.3 of this Settlement Agreement are expressly subject to the Commission granting the ADPs requested in the Pending ADP Cases. In the event that the Commission does not grant the ADPs requested in the Pending ADP Cases within 90 days of the hearing in those dockets, the Company is free to file a rate case at whatever time it chooses; provided, however, that in the event that the Company does not file a rate case at any time before the Rate Moratorium Period ends, the Company will refund the 2018 Amount within 120 days

after the close of each Rate Moratorium year. In the event that the Company files a rate case, the test year will reflect the impacts of the TCJA on its cost of service.

### **III. MISCELLANEOUS PROVISIONS**

**A. Non-Precedential.** This Settlement Agreement will have no precedential effect on any existing or future tax law changes, and the Company reserves any rights under state and federal law or equity not specifically addressed in this Settlement Agreement.

**B. Basis of Settlement Agreement.** It is agreed this Settlement Agreement is a negotiated settlement agreement subject to approval by the Commission.

**C. Effect of the Settlement Negotiations.** It is understood and agreed that all offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, the Settlement Agreement will not be admissible as evidence in this or any other proceeding and no part thereof may be used for any purpose in this case or in any other.

**D. Applicability and Scope.** This Settlement Agreement is binding on the Company and Advocacy Staff, and their successors, assigns, agents, and representatives. This Settlement Agreement does not in any respect constitute an agreement, admission, or determination by the Company or Advocacy Staff as to the merits of any specific allegation or contention made by the Company and Advocacy Staff in this proceeding.

**E. Effective Date.** This Settlement Agreement is effective on the date of the Commission Order approving the Settlement Agreement.

**F. Support for Settlement.** The Parties agree to affirmatively support and advocate for the Commission's adoption of this Settlement Agreement without modification. Notwithstanding any other provision of this Settlement Agreement, this Section III.F shall be binding on the Parties as of the date first written above.

**G. Modification.** If the Commission modifies or conditions approval of this Settlement Agreement, it shall be deemed terminated if either Party files a letter with the Commission within three (3) business days of the date of such order stating that a condition or modification to this Settlement Agreement is unacceptable to such Party.

**H. Counterparts.** This Settlement Agreement may be executed in counterparts by Xcel Energy and Advocacy Staff, each of which when so executed will be an original, but all of which together will constitute one and the same instrument.

### **CONCLUSION**

The Company and Advocacy Staff agree to the forgoing terms to bring closure to the Commission investigation of the impacts of the TCJA on the Company's costs of providing electric service and timely deliver the benefits of the TCJA to North Dakota customers. For these reasons, the Company and Advocacy Staff respectfully urge the Commission to approve this Settlement Agreement.

**[Signature Pages Follow]**

**Northern States Power Company, a Minnesota Corporation**

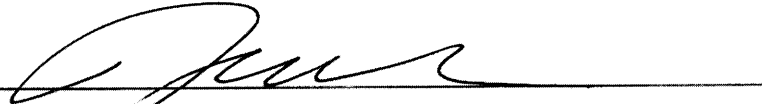
By:  \_\_\_\_\_

Its: President

Dated this 1st day of October, 2018.

**[SIGNATURE PAGE TO SETTLEMENT AGREEMENT  
CASE NOS. PU-17-490, PU-18-155]**

North Dakota Public Service Commission Advocacy Staff

By: 

Its: Staff Counsel

Dated this 1<sup>st</sup> day of October, 2018.

**[SIGNATURE PAGE TO SETTLEMENT AGREEMENT  
CASE NOS. PU-17-490; PU-18-155]**