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 ATTORNEYS AT LAW

August 5, 2019

VIA HAND-DELIVERY

Public Service Commission
 Attention: Steve Kahl
 600 East Boulevard Avenue, Dept. 480
 Bismarck, ND 58505-0480

In re: Northern States Power Company
 Advanced Prudence – 151.2 MW Dakota Range III
 PU-18-430

Dear Mr. Kahl:

Enclosed for filing in the above-referenced matter please find Advocacy Staff's proposed Findings of Fact, Conclusions of Law, and Order along with the Affidavit of Service.

Respectfully,

MITCHELL D. ARMSTRONG
 Special Assistant Attorney General for
 Public Service Commission Advocacy Staff

- Sheldon A. Smith*
- Scott K. Porsborg***
- Suzanne M. Schweigert*
- Mitchell D. Armstrong**
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- David J. Smith**
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- Tyler J. Malm*
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- Austin T. Lafferty*
- Ian J. Arendt*

amh
 enclosures

cc: ALJ Ward (Via U.S. Mail, w/ enc.)
 Zachary Pelham (Via U.S. Mail, w/ enc.)
 Zeviel Simpser (Via U.S. Mail, w/ enc.)

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Proposed Findings of Fact, Conclusions of Law and Order

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Northern States Power Company
Advance Prudence – 151.2 MW Dakota Range III Wind Facility
Application**

Case No. PU-18-430

ADVOCACY STAFF'S PROPOSED

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

JULY 29, 2019

Appearances

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann.

Zeviel T. Simpser, Attorney, Dorsey & Whitney LLP, 50 South 6th Street, Suite 1500, Minneapolis, Minnesota 55402, and Matthew B. Harris, Principal Attorney, Xcel Energy Services Inc., 414 Nicollet Mall, Minneapolis, Minnesota 55401, on behalf of Northern States Power Company, a Minnesota corporation.

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

Zachary E. Pelham, Special Assistant Attorney General, 314 East Thayer Avenue, Bismarck, North Dakota 58502, on behalf of Public Service Commission Advisory Staff.

Patrick Ward, Administrative Law Judge, c/o Zuger Kirmis & Smith, P.O. Box 1695, Bismarck, North Dakota 58502-1695, as Procedural Hearing Officer.

Preliminary Statement

On December 27, 2018, Northern States Power Company (NSP), d/b/a 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 (N.D.C.C.) section 49-05-16 for a power purchase agreement (PPA) between NSP and Dakota Range III, LLP, for new wind energy generation from a 151.2 megawatt (MW) facility (Dakota Range III).

On May 29, 2019, the Commission issued a Notice of Hearing, scheduling a public hearing for July 15, 2019 at 9:00 a.m. in the Commission Hearing room, 12th Floor, State Capitol, Bismarck, North Dakota. The Notice specified the issue to be

whether NSP should be granted an advanced determination that is proposed resource addition is prudent.

On July 15, 2019, the public hearing was held as noticed.

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

Findings of Fact

1. NSP is an investor-owned electric utility headquartered in Minneapolis, Minnesota, authorized to provide public utility service in North Dakota under the regulatory jurisdiction of the Commission.
2. In NSP Electric Rate Case Application, Case No. PU-07-776, NSP agreed to file an application for an advanced determination of prudence for any proposed resource addition larger than 50 MW. In NSP Advance Prudence — Geronimo Wind Application, Case No. PU-12-59, NSP committed to file all advance determination of prudence applications within 14 days of seeking similar approvals in Minnesota.
3. NSP filed its petition seeking approval for the Dakota Range III PPA in Minnesota on December 13, 2018 (MPUC Docket No. E002/M-18-765).
4. Dakota Range III is a proposed 151.2 MW wind energy facility located in Grant and Roberts counties, South Dakota. NSP testified that Dakota Range III will be placed in-service in 2020.
5. NSP testified that it is procuring the Dakota Range III PPA to meet its obligations under an electric service agreement with Honeycrisp Power, LLC, a subsidiary of Google, LLC (Google), to provide electric service to Google's proposed data center to be located at NSP's Sherburne County Generation Station property in Becker, Minnesota (Google ESA).
6. The Minnesota Public Utilities Commission approved the Google ESA on May 14, 2019 (MPUC Docket No. E002/M-19-39).
7. NSP testified that the addition of Dakota Range III produces cost savings for North Dakota customers under all scenarios modeled, with or without the addition of the Google data center load to the NSP System, because the PPA provides power at below NSP's current fuel costs and thereby lowers NSP's average fuel and purchased power costs.
8. NSP testified that Dakota Range III produces \$22 million of savings on a present value of revenue requirements (PVRR) basis compared to its base case.

9. Advocacy Staff performed its own analysis and concurred with NSP that the addition of Dakota Range III will lower costs for customers in a range from \$31 million on a PVRR basis to \$48 million on a PVRR basis.

10. Advocacy Staff requested that NSP perform additional economic analysis to determine the cost impacts of adding Dakota Range III to the NSP System when the costs of the Google data center load were also added to the analysis.

11. NSP testified that when the addition of the Google data center load is included in its modeling, the cost savings produced by the Dakota Range III PPA increase for NSP customers system-wide on a PVRR basis.

12. NSP testified that the addition of the Google load to the NSP System will produce additional savings for North Dakota customers due to the shifting of system costs from North Dakota to Minnesota under various cost allocators.

13. In light of NSP's and Advocacy Staff's economic analyses, Advocacy Staff testified that it recommends the Commission approve the ADP for the Dakota Range III PPA, with two conditions: 1) a requirement that North Dakota customers receive financial compensation for their share of Renewable Energy Credits (RECs) associated with the project; and 2) a requirement that North Dakota customers be held harmless for any RECs that NSP may have to purchase to satisfy its commitments under the Google ESA.

14. NSP testified that it disagreed with Advocacy Staff's proposed conditions as inconsistent with the Dakota Range III PPA and unnecessary, and instead requests an ADP without conditions.

15. More specifically, NSP testified that Advocacy Staff's proposed conditions would be construed as adverse precedent with respect to NSP's economic development activities. NSP testified that the Google data center was the first of what it hopes to be many economic development projects throughout the NSP System.

16. NSP further testified that conditioning the ADP on a requirement that North Dakota customers receive financial compensation for their share of Renewable Energy Credits (RECs) associated with the project would likely result in a similar condition being placed on the Company by other state regulatory commissions thereby reducing the attractiveness of NSP's economic development efforts in North Dakota.

17. NSP further testified that conditioning the ADP on a requirement that North Dakota customers be held harmless for any RECs that NSP may have to purchase to satisfy its commitments under the Google ESA is moot. NSP believes it can manage this commitment under the ESA with preexisting RECs which will not incur costs to any NSP System customers. Consequently, NSP argues that imposing this condition will set adverse precedent when such a condition is not needed to protect North Dakota customers.

18. Advocacy Staff asserts NSP's concerns are overstated. As an initial matter, the conditions requested by Advocacy Staff with respect to the RECs are necessary only if the Google load materializes. Presently, RECs are shared with North Dakota customers as previously directed by the Commission. Consistent with the manner approved by the Commission in Case No. PU-10-19, NSP returns 90% of the net revenue from the sale of North Dakota customers' share of the RECs and passes those revenues back through the Fuel Cost Recovery bill rider. If the Google load does not materialize, both Advocacy Staff and NSP agree the RECs will be treated in this manner. In a sense, NSP is requesting an exception to this principle if the Google load materializes. Advocacy Staff asserts the RECs should be treated in the same manner whether the Google load materializes or not.

19. Advocacy Staff also asserts that the benefits of the RECs are part of what North Dakota customers will be paying for with respect to the project. Those benefits should not be removed to promote policy preferences of the potential customer, which may or may not match the policy preferences of the paying customers. Creating a situation where potential large customers can demand certain requirements, which remove part of what customers are paying for, is a slippery slope regardless of whether there are other benefits to ratepayers associated with obtaining the additional load. Advocacy Staff asserts such a position results in policy driven by large customers' preference rather than cost allocation principles associated with traditional ratemaking. Advocacy Staff asserts North Dakota customers should not have to be exposed to potentially obtaining additional RECs to help promote an economic development project in Minnesota, when the potential cost is caused by Minnesota. As the economic development project provides much greater benefit to Minnesota, the side effects of meeting the customers' policy goals should be borne by Minnesota ratepayers for those benefits. If an advance determination of prudence is granted, North Dakota ratepayers will be paying for the project and should receive the full benefit of the bargain whether the Google load materializes or not.

20. Advocacy Staff further asserts NSP's testimony revealed no specific economic development efforts in North Dakota. The evidence indicates the Google data center has the potential to be the largest customer on the NSP system. Advocacy Staff asserts it is improbable that such a similar situation with this potential impact will develop under similar circumstances. But, even if such a project would develop, Advocacy Staff asserts assigning costs based on traditional cost causation principles supports its recommendation that North Dakota customers should be held harmless from any costs associated with purchasing RECs in the future to satisfy terms of the Google ESA. Advocacy Staff argues traditional cost causation principles provide a stronger foundation to evaluate this case (and future projects) than NSP's expressed concerns that any North Dakota economic development efforts in the future may see some sort of retribution from other States' regulatory bodies. Further, Advocacy Staff asserts whether other States could place such a condition upon the project likewise is

uncertain, and could occur regardless of whether such a condition is ordered here. Advocacy Staff asserts such an argument is too uncertain for the Commission to rely upon as a basis to wander from traditional cost causation principles.

21. The Commission finds the requested conditions by Advocacy Staff to be reasonable, more consistent with traditional ratemaking concepts, and consistent with the manner RECs have been addressed by the Commission.

Conclusions of Law

1. The Commission has jurisdiction in this matter.
2. NSP has complied with the provisions of N.D.C.C. section 49-05-16 as well as the Settlement Agreement in Case No. PU-07-776 and NSP's commitments in Case No. PU-12-59.
3. NSP has demonstrated the prudence of the 151.2MW Dakota Range III PPA. However, we conclude the requested conditions by Advocacy Staff should be applied for the reasons stated above.

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

Order

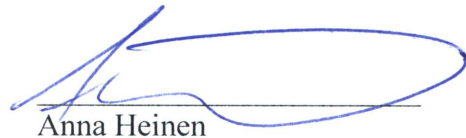
1. NSP's application for an advanced determination of prudence for its power purchase agreement with Dakota Range III, LLP is GRANTED with the following conditions
 - a. North Dakota customers shall receive financial compensation for their share of RECs associated with the project in the same manner and form as North Dakota customers receive financial compensation for their share of RECs for other NSP projects; and
 - b. North Dakota customers be held harmless and not pay for any costs associated with procuring RECs that NSP may have to purchase to satisfy its commitments under the Google ESA.

PUBLIC SERVICE COMMISSION

Julie Fedorchak
Commissioner

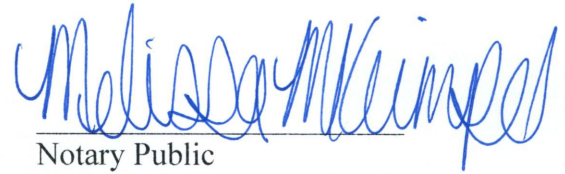
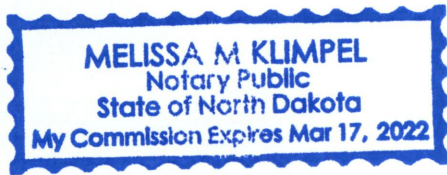
Brian Kroshus
Chairman

Randy Christmann
Commissioner



Anna Heinen

Subscribed and sworn before me this 5th day of August, 2019.



Notary Public
Burleigh County, North Dakota