

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

**Northern States Power Company  
Advanced Prudence – 151.2 MW Dakota Range III  
Application**

**Case No. PU-18-430**

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

**December 3, 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.

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 wind energy 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 58505. The Notice specified the issue to be considered is whether NSP should be granted an advanced determination that its proposed PPA 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 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 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 (ESA) 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. The proposed Google data center has the potential to be the largest customer on the NSP system.
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. 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.

11. NSP testified that the addition of the Google load to the NSP System will produce additional savings for North Dakota customers due to the resulting changes to various jurisdictional cost allocators.

12. 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.

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

14. 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 is the first of what it hopes to be many economic development projects throughout the NSP System.

15. 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.

16. 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 without purchasing additional RECs. NSP argues that imposing this condition will set adverse precedent when such a condition is not needed to protect North Dakota customers.

17. Presently, RECs are allocated to North Dakota customers using traditional cost causation principles as previously directed by the Commission in Case No. PU-10-19 and modified by the Commission's March 9, 2018 Order Approving Settlement in Case Nos. PU-12-813 et. al. NSP returns 100% of the net revenue from the sale of North Dakota customers' share of the RECs and passes those revenues back to customers through the Fuel Cost Recovery (FCR) bill rider. If the Google load does not materialize, both Advocacy Staff and NSP agree the RECs from the project should be treated in this manner.

18. Advocacy Staff asserts the RECs should be treated in the same manner whether the Google load materializes or not. Advocacy Staff asserts that the benefits of the RECs from the project are part of what North Dakota customers will be paying for and they should receive their full benefit of the bargain whether the Google load materializes or not.

19. Advocacy Staff further 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 asserts traditional cost causation principles provide a strong foundation to evaluate this case and future projects. Advocacy Staff asserts potential economic development benefits are too uncertain for the Commission to rely upon as a basis to wander from traditional cost causation principles.

20. 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. If RECs allocated to North Dakota from this project or other sources are used to meet Google ESA obligations then 100 percent of the market value of those RECs should be credited to North Dakota customers through the FCR as previously directed by the Commission in Case Nos. PU-10-19 and PU-12-813 et. al.

Based on the foregoing Finding of Fact, the Commission makes its:

### **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 151.2 MW 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 its:

### **Order**

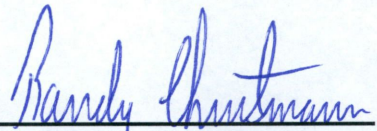
1. NSP's application for an advanced determination of prudence for its power purchase agreement with Dakota Range III, LLP is GRANTED with the following conditions:

- 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**

  
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**Julie Fedorchak**  
Commissioner

  
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**Brian Kroshus**  
Chairman

  
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**Randy Christmann**  
Commissioner