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March 1, 2019

- Via Email and Federal Express -

Steve Kahl, Interim 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 CUSTOMER CREDIT RELATED TO A
DEPARTMENT OF ENERGY (DOE) SETTLEMENT PAYMENT.
CASE NO. PU-19-___

Dear Mr. Nitschke:

Northern States Power Company, doing business as Xcel Energy, respectfully submits to the North Dakota Public Service Commission an original and 3 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

STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION

Brian Kroshus
Randy Christmann
Julie Fedorchak

Chair
Commissioner
Commissioner

IN THE MATTER OF THE PETITION OF
NORTHERN STATES POWER COMPANY
FOR APPROVAL OF A CUSTOMER CREDIT
RELATED TO A DEPARTMENT OF ENERGY
(DOE) SETTLEMENT PAYMENT.

Case No. PU-19-_____

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 customer credit for additional funds received pursuant to the 2011 Settlement Agreement with the United States Department of Energy (DOE) for the partial breach of its contract to take spent nuclear fuel. On November 13, 2018, a 9th payment was received in the amount of \$15,412,139 for the period January 1, 2017 to December 31, 2017 and we file this Petition for approval to pass on the North Dakota allocation of \$773,104 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 will include the interest received, net of bank fees, in calculating the amount of the credit. Our request to issue a customer credit for this most recent DOE payment is consistent with the Commission's previous Orders in Case Nos. PU-11-557 and PU-16-019. Specifically, we request returning the amount of this payment received for 2017 damages, to our current North Dakota electric customers in the form of a one-time bill credit based upon the customers' most recent twelve months of usage.

In support of this filing, Xcel Energy provides:

- Background of the DOE Settlement and previous credits;
- A description of the proposed credit mechanism;
- Alternative approaches for the Commission to consider; and
- Public interest benefits of the Settlement.

Also provided with this petition are the following attachments:

- Attachment A: Wire Transfer of DOE Payment (Redacted)
- Attachment B: Jurisdictional and Class Allocation Detail

A. Name, Address and Telephone Number of Utility Attorney

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B. Utility Employee Responsible for Filing

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I. BACKGROUND

A. 2011 DOE 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.

B. First Extension of Settlement Agreement

The Company and the U.S. Government reached an agreement on January 24, 2014, to extend the 2011 Settlement for the recovery of spent fuel storage damages for the three-year period of 2014 through 2016. On January 8, 2016, the Company submitted a petition in Case No. PU-16-019, notifying the Commission of the receipt of the first payment on November 5, 2015 (for the 2014 calendar year) under the extension and requesting approval of a customer credit. Similar filings for customer credits related to subsequent DOE payments for 2015 and 2016 damages were made in late 2016 and late 2017, respectively.

C. Customer Credits 2012 to 2017

Through 2017, the Company had received eight payments from the DOE, covering the period from January 31, 1998 through December 31, 2016, that ultimately reduced customer bills in North Dakota by approximately \$12.8 million. This was accomplished either in the form of one-time bill credits or a reduction in a previous annual base rate increase. The eight DOE payments and their disposition are summarized in the table below:

Payment Date	ND Allocation* and Credit Method	Period of Damages
1 st Payment Rec'd: Aug 1, 2011	\$4,673,813 issued with an interim rate refund (Case Nos. PU-10-657, PU-11-055, PU-11-557)	Jan 31, 1998 – Dec. 31, 2008
2 nd Payment Rec'd: Mar 15, 2012	\$878,748 used to reduce 2013 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2009 – Dec. 31, 2010
3 rd Payment Rec'd: Oct 16, 2012	\$997,149 used to reduce 2013 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2011 – Dec. 31, 2011
4 th Payment Rec'd: Nov. 7, 2013	\$2,060,803 used to reduce 2013 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2012 – Dec. 31, 2012
5 th Payment Rec'd: Dec 18, 2014	\$1,742,907 used to reduce 2014 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2013 – Dec. 31, 2013
6 th Payment Rec'd: Nov. 5, 2015	\$702,656 issued as one-time bill credit in May 2016 (Case No. PU-16-19)	Jan 1, 2014 – Dec. 31, 2014
7 th Payment Rec'd: Oct. 26, 2016	\$1,013,041 issued as one-time bill credit in Apr 2017 (Case No. PU-16-19)	Jan 1, 2015 – Dec. 31, 2015
8 th Payment Rec'd: Nov. 13, 2017	\$788,140 issued as a one-time bill credit in Dec 2018 (Case No. PU-16-19)	Jan 1, 2016 – Dec. 31, 2016

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

D. Second Extension of Settlement Agreement

On February 23, 2017, the Company and the U.S. Government agreed to again extend the Settlement another three years to allow for recovery of damages through December 31, 2019 (Payments 9, 10, and 11). The first payment under this second extension was received on November 13, 2018 in the amount of \$15.4 million on a total Company basis (see Attachment A), or approximately \$773,104 on a North Dakota jurisdictional basis (see Attachment B) and represents damages for costs incurred in 2017. 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 previous under the 2011 Settlement Agreement and Extended Settlement.

II. CREDIT MECHANISM

A. Previously Used Mechanisms

As can be seen in the table referenced earlier in this petition, the Company delivered the first 5 DOE settlement payments to customers through either an interim rate refund or as a reduction in a base rate increase. The last 3 DOE settlement payments (6, 7, and 8) were delivered as one-time bill credits based upon each customer's most recent 12 months of usage. The Commission's Orders relating to each of these past 3 payments (Case No. PU-16-019) have required that we implement the customer credits within 90 days of the Order date.

However, due to 1) multiple Tax Cuts and Jobs Act (TCJA) refunds and other billing credits already scheduled to occur in 2019 in various NSP state jurisdictions, and 2) the limitation of the Company's billing system to process only one refund at a time¹, the Company will not be able to implement the 9th DOE refund as a one-time bill credit within 90 days of an Order. In fact, with the current queue of refunds and credits, the earliest the 9th DOE refund implementation could begin as a one-time bill credit is in the first quarter of 2020.

In light of this, the Company offers a couple of ideas for the Commission to consider relating to delivering the credits to customers, as described below.

B. Combine the 9th and 10th Payments for a 2020 Credit

While the Company is unable to process the 9th payment until 2020, the Commission could approve, in this docket, a one-time billing credit for *both* the 9th and 10th payments. The Company expects the 10th payment to be of a similar magnitude and received near the end of this year. While this approach would not expedite processing of the 9th

¹ The billing system limitation applies to refunds/credits based upon 12 months of historical usage.

payment, it would avoid any delays in processing the 10th payment due to either - or both - the normal regulatory filing timeframe and the potential scheduling of additional jurisdictional credits by the Company. Interest would continue to accrue on the 9th payment, and combining it with another payment would produce a more meaningful credit for customers. Finally, this approach would also maintain consistency of method relative to the credit process established for the previous three payments. Upon receipt of the 10th payment, the Company would immediately submit a compliance filing with schedules similar to Attachments A and B provided with this submission showing the combined impacts of both payments along with information on implementation timing.

C. Use the Fuel Cost Rider to Issue the DOE Proceeds

If the Commission prefers that the proceeds of the 9th payment be credited to customers sooner than 2020, and within 90 days of its Order, the Company could implement the credit through the Fuel Cost Rider (FCR). While this would allow the DOE proceeds to be issued to customers much sooner from the Order date in the form of a lower FCR rate, the Commission should note that this approach entails a number of caveats:

- Unlike a one-time bill credit, the amount of the refund each customer will receive through an FCR credit is not a pre-determined, fixed amount based on historical energy use; it will depend instead on the customer's energy usage during the single month the FCR was impacted.
- Because the customer refund is based on a future month's actual usage that will vary from the forecasted usage used to set the refund rate, the total overall refund amount will deviate from the target refund; this will require an ongoing true-up of the remaining refund balance to ensure the targeted refund is eventually achieved. Reporting on the true-up results by class would likely be difficult as each class may hit the full refund amount in different months according to the differences in forecasted sales used to set the refund rates and actual sales through which the refund is applied. In addition, there will always be some small number of customer bills that require re-billing for a variety of reasons. These events could prolong the refund and reporting process.
- Unlike a one-time bill credit, an FCR-issued credit will not be visible on the bill as a separate line item. While a bill message will alert the customer that their bill has been decreased due to the DOE settlement credit, the message will not be able to quantify the impact for each customer.
- Since the FCR is set for each calendar month, the current and previous FCR rates are prorated on bills according to each customer's billing cycle; thus many customers will actually receive parts of the credit over two billing months.
- Using the FCR will require the Commission to approve a waiver of its Automatic Adjustment Clause rules (69-09-02-39).

In short, the use of the FCR would greatly expedite the issuing of the 9th payment to customers, but the impact on each customer bill would be different compared to the one-time billing credit method, there will be less transparency, and additional administrative work will be required to execute and report on an effective true-up process.

Should the Commission opt to pursue the FCR method, the Company respectfully requests a one-time variance of the Commission's Automatic Adjustment Clause rules (69-09-02-39) to allow for the inclusion of this one-time DOE settlement credit.

D. Compliance Filing

Regardless of the DOE settlement credit delivery method used, the Company will file a compliance report within 30 days after full completion of the customer credit issuance. The report will provide a summary of the settlement payment, interest credited, allocations to customer class (as applicable), and the actual average customer credit for each customer class as was done for the previous three DOE settlement payments.

E. Interest

The Company has placed the funds from the 9th payment 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 1.50% annually and the interest is posted daily. The Company proposes that the credit amount include the actual amount of interest earned by the Company, minus any bank fees or charges on these funds, as again was the case in the previous one-time DOE settlement credits. Placing the funds in a separate interest-bearing account is consistent with past treatment of DOE settlement payments.

III. JURISDICTIONAL AND CLASS ALLOCATIONS

The 9th DOE settlement payment (and 10th payment, if the Commission opts to approve a combined one-time bill credit) will first be allocated between the NSPM and NSP-Wisconsin operating Companies using the Interchange Agreement 36CP demand allocator. Then, unless the Commission's Order effectuates the DOE settlement credit through the monthly FCR mechanism, the NSPM portion will be further allocated to state jurisdiction (North Dakota, South Dakota, Minnesota) using actual 2017 (and 2018) jurisdictional demand data.

As with payments 6, 7, and 8, under the one-time bill credit method the 9th DOE settlement payment (and 10th payment, if the Commission approves a combined credit) would be allocated to customer classes using the applicable energy and capacity

allocators from the Company's most recent Class Cost of Service Study (Case No. PU-12-813). In that proceeding, the allocator used for nuclear plant investment was developed using a process to stratify investment drivers between energy and capacity. That process resulted in an allocation factor that was 81.26 percent energy-related and 18.74 percent capacity-related (see Attachment B).

As outlined in Attachment B, once the credit amounts have been allocated to each customer class, a credit "rate" or factor will be calculated for each customer class by dividing the targeted refund amount for the class by the total kWh energy sales for the class during the most recent historical 12 month period. This credit factor is then applied to each active customer's actual kWh usage for the same 12 month period to determine the credit amount for each customer. Using 12 months of usage avoids the problems inherent with selecting a particular month or quarter to base the credit allocation on (e.g. seasonal fluctuations in customers and energy usage).

IV. THE EXTENDED DOE SETTLEMENT IS IN THE PUBLIC INTEREST

As was similarly stated in our prior filings, the Company believes extending the DOE settlement for damages through December 31, 2019 (payments 9, 10, and 11) 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. Specifically, 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.²

² 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 Cost Rider.

V. MISCELLANEOUS INFORMATION

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

Ryan Long
Lead Assistant General Counsel
Xcel Energy
414 Nicollet Mall, 401-8
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Lynnette Sweet
Regulatory Administrator
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414 Nicollet Mall
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Regulatory.Records@xcelenergy.com

CONCLUSION

The Company respectfully requests the Commission approve its proposed plan for a one-time customer credit to provide the Company's North Dakota electric customers with the proceeds received as a result of the 9th DOE settlement payment, either by itself or in combination with the 10th payment to be received later in 2019.

In the event the Commission chooses instead to Order the Company to issue the credits from the 9th payment through the FCR mechanism, the Company respectfully requests the Commission approve a waiver of its Automatic Adjustment Clause rules to allow the Company to adjust the FCR rate in 2019 accordingly.

Dated: March 1, 2019

Northern States Power Company

Intraday Composite Report

Custom
As of 11/13/2018

Company: XCEL ENERGY INC.
User: [REDACTED]

11/13/2018 11:09 AM ET

Commercial Electronic Office®

Treasury Information Reporting

Currency: USD

Bank: [REDACTED]

Account [REDACTED]

[REDACTED] NSPMNDOE

Credit Transactions

11/13/2018	145 / ACH CONCENTRATION CREDIT Cust Ref: [REDACTED] Unique ID: [REDACTED] COMPANY NAME: BPD1 TREAS 310 ENTRY DESC: MISC PAY RECIPIENT ID: [REDACTED] RECIPIENT NAME: NSPMN FUEL STORA NORT COMPANY ID: [REDACTED] ENTRY CLASS CODE: CCD DISCRETIONARY DATA: 02 RMR*IV [REDACTED] **15412139.03*15412139.03* [REDACTED] TRANSACTION CODE: 22	Credit Amount: Bank Ref:	15,412,139.03
Account Net Amount			15,412,139.03

---- END OF REPORT ----

Northern States Power Company
DOE Settlement - 9th Payment
Customer Credits for North Dakota Jurisdiction

Case No. PU-19-____

Attachment B - Page 1 of 1

<u>Item</u>	<u>Total</u>	<u>NSPM</u>	<u>Retail</u>			<u>Minn Whlsle</u>
			<u>Minn</u>	<u>N. Dakota</u>	<u>S. Dakota</u>	
Actual 2017 12 CP Allocator		100.0000%	87.4350%	5.9542%	6.6108%	0.0000%
Overall Actual Allocator *	100.0000%	84.2464%	<u>73.6608%</u>	<u>5.0162%</u>	<u>5.5694%</u>	<u>0.0000%</u>

9th Credit	\$15,412,139	\$12,984,172	\$11,352,711	\$773,104	\$858,358	\$0
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* The NSPM/NSPW Co split uses a 36 CP allocator

<u>Item</u>	<u>NSPW</u>	<u>Retail</u>		<u>Wisc Whlsle</u>
		<u>Wisc</u>	<u>Mich</u>	
Actual 2017 12 CP Allocator	100.0000%	97.9699%	2.0301%	0.0000%
Overall Actual Allocator *	15.7536%	<u>15.4338%</u>	<u>0.3198%</u>	<u>0.0000%</u>
Total Credit	\$2,427,967	\$2,378,677	\$49,290	\$0

North Dakota (PU-12-813)						
Stratification Components	Weight **	Res	Sm Non Dm	C&I Demand	Lighting	Total
Capacity Component (D10C) ***	18.74%	32.43%	6.10%	61.17%	0.30%	100.00%
Energy Component (E8760) ***	81.26%	34.58%	5.74%	59.06%	0.63%	100.00%
Wtd Combination	100.00%	34.18%	5.80%	59.45%	0.57%	100.00%
[1] 9th Credit by Customer Class		\$264,215	\$44,878	\$459,633	\$4,377	\$773,104
[2] MWh Sales Jan 2018 - Dec 2018 ****		802,191	112,839	1,348,022	17,907	2,280,959
[3] Est. Credit / kWh, [3] = [1] / [2] / 1000		\$0.000329	\$0.000398	\$0.000341	\$0.000244	\$0.000339
[4] Customer Count Jan 2018 - Dec 2018		81,532	8,911	4,133	2,054	96,631
[5] Est. kWh / Cust, [5] = [2] x 1000 / [4]		9,839	12,663	326,161	8,716	23,605
[6] Est. Credit / Customer, [6] = [3] x [5]		\$3.24	\$5.04	\$111.21	\$2.13	\$8.00

** Nuclear Plant Stratification from Case No. PU-12-813.

*** Class Allocation Factors from Case No. PU-12-813.

**** Actual MWh sales. Most recent 12 months of actual sales will be used at the time of credit calculation for all active customers.