

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Northern States Power Company
Advance Prudence - 98.9 Mower Co. Wind Facility
Application**

PU-19-310

ORDER ON SETTLEMENT AGREEMENT

August 26, 2020

Appearances

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann.

Zeviel T. Simpser, Dorsey & Whitney LLP, 50 South 6th Street, Suite 1500, Minneapolis, Minnesota 55402, and Matthew B. Harris, Principal Attorney, Xcel Energy Services Inc., 401 Nicollet Mall, 8th Floor, Minneapolis, Minnesota 55401, on behalf of Northern States Power Company, a Minnesota corporation.

Brian Johnson, Special Assistant Attorney General, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505, on behalf of Public Service Commission Advocacy Staff.

John Schuh, General Counsel, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Hope L. Hogan, Administrative Law Judge, c/o Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On August 30, 2019, 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 regarding the purchase of a 98.9 megawatt (MW) resource addition.

On March 4, 2020, the Commission issued a Notice of Hearing, scheduling a Public Hearing on the application for May 22, 2020 at 9:00 a.m. CDT in the Commission Hearing Room. The Notice identified the issues to be determined as:

1. Whether NSP's proposed resource addition is prudent?
2. Whether the Commission should grant NSP an ADP?

On April 8, 2020, NSP and Commission Advocacy Staff jointly filed a Settlement Agreement.

On May 7, 2020, the Commission issued an Amended Notice of Hearing, providing for the public hearing to be held remotely.

On May 22, 2020, a public hearing was held as noticed.

On May 22, 2020, at the public hearing, a Joint Stipulation of Capital Expenditures was presented at the hearing as Exhibit 10 (redacted) and Exhibit 11 (protected).

Discussion

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.

NSP intends to purchase an upgraded 98.9 MW wind generation facility, known as the Mower County Wind Facility, located in Grand Meadow, Mower County, Minnesota (Facility). The Facility began commercial operation in 2006 and will be upgraded prior to purchase by NSP. The upgrade will increase the overall energy capacity factor of the Facility. The Facility will qualify for 100 percent of the existing federal renewable electricity Production Tax Credit.

NSP is currently purchasing all of the power generation output from the Facility pursuant to a Power Purchase Agreement (PPA) that will expire on December 2, 2026.

NSP's economic analyses indicate that, based on a 25-year life, the purchase of the Facility will produce between \$44 and \$49 million in future total system cost savings on a present value of revenue requirement (PVRR) basis when compared with continuation and replacement of the existing PPA with a generic wind PPA.

Advocacy Staff's economic analyses indicate that the proposed total system-wide savings of NSP's ownership of the Facility would be between \$1.8 million and \$78.8 million on a PVRR basis.

In the Settlement Agreement, NSP and Advocacy Staff agree that NSP's purchase of the Facility is prudent up to the capital expenditure amount identified as the Project Expenditure Cap in Exhibit 11, the Joint Stipulation of Capital Expenditures entered into by NSP and Advocacy Staff on April 8, 2020.

The Settlement Agreement includes provisions that protect customers should NSP fail to obtain 100 percent of the of the existing federal renewable electricity Production Tax Credits for the Facility.

Having considered this matter, the Commission finds the Settlement Agreement is appropriate and reasonable and should be approved. Therefore, the Commission issues its:

Order

The Commission Orders:

1. The Settlement Agreement entered into by NSP and Advocacy Staff on April 8, 2020, attached to and made a part of this Order, is APPROVED.
2. NSP's application for an ADP for its purchase of the Mower County Wind Facility is GRANTED, subject to the conditions specified in the April 8, 2020 Settlement Agreement.

PUBLIC SERVICE COMMISSION

		
Julie Fedorchak Commissioner	Brian Kroshus Chairman	Randy Christmann Commissioner

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

Northern States Power Company
Advance Prudence
98.9 MW Mower County Wind Facility Application

Case No. PU-19-310

SETTLEMENT AGREEMENT

This Settlement Agreement (this Settlement Agreement) is entered into on this 8th day of April, 2020 by and between Northern States Power Company, a Minnesota corporation with operations in North Dakota and doing business as Xcel Energy (Xcel Energy or the Company), and North Dakota Public Service Commission Advocacy Staff (Advocacy Staff, and each of Xcel Energy and Advocacy Staff a “Party” and together, the “Parties”). The Parties enter into this Settlement Agreement to resolve all issues in the above referenced case.

BACKGROUND

On August 30, 2019, in Case No. PU-19-310, Xcel Energy filed its Application for an Advanced Determination of Prudence (ADP) and supporting Direct Testimony with the North Dakota Public Service Commission (the Commission) for the Company’s acquisition, ownership, and operation of the repowered Mower County Wind Facility (Project). The Project is a 98.9 MW wind energy facility located near Grand Meadow, Minnesota, in Mower County, and currently owned by FPL Mower County, LLC (FPL). The Company currently buys the output of the Mower County Wind Facility pursuant to a 2005 Power Purchase Agreement (PPA) between the Company and FPL. The PPA has been included in the Company’s North Dakota Fuel Cost Rider (FCR) since it began commercial operation.

FPL is planning to repower the Mower County Wind Facility by replacing several key components, and then selling the repowered project to the Company. Recognizing that customers could benefit from the Company purchasing, owning, and operating the repowered Project, the Company negotiated and executed a Purchase and Sale Agreement (PSA) to acquire the Project. In support of its decision to acquire the Project, the Company’s economic analysis indicates that its ownership of the Project will result in savings of approximately \$48.8 million over the 25-year life of the Project.

On February 7, 2020, Advocacy Staff filed the Direct Testimony of Mr. Victor Schock. Mr. Schock undertook his own analysis of the Company's proposed purchase of the Project and concluded that it will result in lower costs to customers compared to the alternative of continuing to pay the existing PPA price through 2026 and replacing the resource with market purchases thereafter. Mr. Schock recommended that the Commission approve the ADP subject to the following conditions: (1) the Commission should cap the allowed total purchase price at the Company's expected cost; (2) the Company's shareholders should be responsible for any shortfalls as a result of not securing 100 percent of the production tax credit (PTC) for the Project; and (3) the Company should provide quarterly construction progress reports to the Commission until the Project is in service, indicating the development status.

In light of the material agreement between the Parties, Advocacy Staff and Xcel Energy engaged in settlement discussions. This Settlement Agreement is the result of those discussions. Consequently, for the mutual promises made to each other, and for other good and valuable consideration, the Parties agree as follows:

TERMS OF SETTLEMENT

A. Advanced Determination of Prudence.

1. The Parties agree that the Company's acquisition, ownership, and operation of the repowered Mower County Wind Facility is reasonable and prudent up to the capital expenditure amount identified as the *Project Expenditure Cap* in the *Joint Stipulation of Capital Expenditures*.
2. The foregoing finding meets the criteria for an ADP and an ADP is granted pursuant to the terms of this Settlement Agreement. Pursuant to N.D.C.C. §49-05-16, the ADP is binding for ratemaking purposes.
3. The foregoing finding of prudence up to the *Project Expenditure Cap* does not imply that any expenditures above the *Project Expenditure Cap* are imprudent.

B. Project Expenditure Cap and Ratemaking.

1. For purposes of ratemaking, the total Project purchase price and transaction-related expenditures will be capped at the amount of the *Project Expenditure Cap* identified in the *Joint Stipulation of Capital Expenditures* entered into by the Parties on a date even herewith.

2. Xcel Energy may reflect in its North Dakota rates the actual capital additions derived from the actual Project capital expenditures up to the amount of the *Project Expenditure Cap*.
3. In the event that the actual capital expenditures of the Project exceed the *Project Expenditure Cap*, Xcel Energy may seek approval from the Commission to include in rates the capital additions derived from the actual capital expenditures above the *Project Expenditure Cap* upon a showing to the Commission that such capital expenditures are reasonable and prudent. The burden of proof to demonstrate the reasonableness of capital expenditures above the *Project Expenditure Cap* shall be on Xcel Energy.
4. The revenue requirements generated by the Project capital additions may be reflected in rates through a general base rate application, the Renewable Energy Rider, or another available and applicable ratemaking mechanism.

C. Production Tax Credits.

1. North Dakota ratepayers will not pay any additional costs caused by the Company's failure to obtain the full amount of Production Tax Credits (PTCs) detailed in the Company's ADP application, unless failure to obtain the full amount of PTCs is attributable to pandemic-related factors outside of the Company's reasonable control.
2. In the event the full amount of PTCs is not obtained due to pandemic-related factors outside of the Company's reasonable control, the Company may seek recovery of the additional costs in a future proceeding. The Company shall bear the burden of proving the reason for not obtaining full PTCs is beyond its reasonable control, and that the additional costs are prudent.

D. Reports to the Commission.

1. The Company will provide quarterly construction progress reports until the Project is in service.
2. On at least an annual basis, Xcel Energy shall file a letter with the Commission advising whether the trade secret information in this case must henceforth remain trade secret.

E. Other Terms and Conditions.

1. Basis of Settlement. This Settlement Agreement is a negotiated settlement agreement subject to approval by the Commission. This Settlement Agreement does not establish any principle of precedent for this or any future proceeding.
2. 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 E.2. shall be binding on the Parties as of the date first written above.
3. Effect of Settlement Negotiations. All offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with this proceeding or otherwise, except as provided by law or by mutual agreement of the Parties. In the event that Commission does not adopt this Settlement Agreement, it shall not constitute part of the record in this proceeding and no part thereof may be used by any Party for any purpose in this Case or in any other.
4. Applicability and Scope. This Settlement Agreement shall be binding on the Parties, and their successors, assigns, agent, and representatives. Consistent with the Commission's settlement guidelines, this Settlement Agreement does not set policy or overturn precedent. This Settlement Agreement shall not constitute an agreement, admission, or determination by any of the Parties as to the merits of any specific allegation or contention made by the Parties in this Case.
5. Effective Date. This Settlement Agreement shall be effective on the date of the Commission order adopting or otherwise approving this Settlement Agreement.
6. Modifications. 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 business days of the date of such order stating that a condition or modification to this Settlement Agreement is unacceptable to such Party.
7. 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 for which together will constitute one and the same instrument.


CONCLUSION

The Parties have agreed to the foregoing terms to resolve all outstanding issues in the above captioned Case. These terms are a result of discussions between the Parties, are in the public interest, and will result in just and reasonable rates. For these reasons, the Parties urge the Commission to approve this Settlement Agreement.

[SIGNATURE PAGE FOLLOWS]

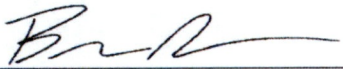
Authorized representatives of the Parties having caused this Settlement Agreement to be duly executed as of the date first set forth above:

Northern States Power Company, a Minnesota Corporation

By:  _____

Its: Regional V.P., Regulatory and Government Affairs

North Dakota Public Service Commission Advocacy Staff

By:  _____

Its: Special Assistant Attorney General Advocacy Staff Counsel

[SIGNATURE PAGE TO SETTLEMENT AGREEMENT CASE NO. PU-19-310]