

August 26, 2021

**VIA ELECTRONIC MAIL and
FEDERAL EXPRESS**

North Dakota Public Service Commission
Attention: Steven M. Kahl, Executive Secretary
600 East Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Re: Proposed Findings of Fact, Conclusions of Law, and Order
Northern States Power Company
Advance Determination of Prudence
200 MW Heartland Divide Wind II Facility
Case No. PU-20-433
OAH File No. 20200421

Dear Mr. Kahl:

Northern States Power Company, doing business as Xcel Energy, respectfully submits on its own behalf the enclosed Proposed Findings of Fact, Conclusions of Law, and Order for the above-noted Case.

Please feel free to contact me with any questions or concerns.

Sincerely,

DORSEY & WHITNEY LLP



Zev Simpser

ZS/tjb

Enclosure

cc: Via Email and Certified Mail -
Timothy J. Dawson, Administrative Law Judge (w/encl.)
John M. Schuh, Advisory Counsel, Public Service Commission (w/encl.)
Mitchell D. Armstrong, Special Assistant Attorney General (w/encl.)
Jon C. Lengowski, Special Assistant Attorney General (w/encl.)
Brian Johnson, Advocacy Staff, Public Service Commission (w/encl.)
Adam Renfandt, Advocacy Staff, Public Service Commission (w/encl.)
Victor Schock, Advocacy Staff, Public Service Commission (w/encl.)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advanced Prudence –
200 MW Heartland Divide Wind II Application**

**Case No. PU-20-433
OAH File No. 20200421**

**APPLICANT'S PROPOSED
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

August 26, 2021

Appearances

Commissioners Julie Fedorchak, Randy Christmann, and Brian Kroshus.

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

Mitchell D. Armstrong and Jon C. Lengowski, Special Assistant Attorneys General, 122 East Broadway Avenue, Bismarck, North Dakota 58501, on behalf of Public Service Commission Advocacy Staff; Jon C. Lengowski, Associate.

John M. Shuh, General Counsel, Public Service Commission, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505, on behalf of the Public Service Commission Advisory Staff.

Timothy J. Dawson, Administrative Law Judge. Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503.

Preliminary Statement

On October 30, 2020, 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 Heartland Divide Wind II, LLC, for wind energy from a 200 megawatt (MW) facility (Heartland Divide Wind II).

On May 5, 2021, the Commission issued a Notice of Public Hearing, scheduling a public hearing for June 10, 2021 at 8:15 a.m. in the Commission Hearing room, 12th Floor, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505. The Notice

specified that the issue to be considered was whether NSP should be granted an advanced determination that its proposed resource addition is prudent.

On June 10, 2021, 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 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. Later in Case No. PU-12-59, NSP committed to file all advance determination of prudence applications within 14 days of seeking similar approvals in Minnesota. Moreover, pursuant to the Commission's February 26, 2014 Order Adopting Settlement in Case No. PU-12-813, NSP has committed not to include renewable energy resources or purchases over 50 MW in the Fuel Cost Recovery rider unless and until the Commission grants an ADP for the resource.¹
3. NSP filed its petition seeking approval for the Heartland Divide II PPA in Minnesota on October 29, 2020 (MPUC Docket No. E002/M-20-806).
4. Heartland Divide Wind II is a proposed 200 MW wind energy facility located in Audubon County, Iowa with a targeted Commercial Operation Date of December 31, 2021 and a PPA term of 25 years. The project will interconnect to the MISO system at MidAmerican Energy's Fallow Avenue 345 kV substation in Adair County, Iowa, which is in MISO's Local Resource Zone 3.
5. NSP testified that it is procuring the Heartland Divide II PPA to meet its obligations under a Retail Electric Service Agreement (ESA) with Honeycrisp LLC (Honeycrisp), a subsidiary of Google, LLC, to provide electric service in connection with a proposed data center to be located at NSP's Sherco generating plant site in Sherburne County, Minnesota.
6. NSP entered into the Honeycrisp ESA and sought to have the new data center located within its service territory because of the advantages such customers bring to the system. Customers across the system benefit when the system costs can

¹ Recently, the Settlement Agreement in Case No. PU-20-441, which was adopted in the Commission's August 18, 2021 Order, provided further guidance regarding treatment of those generation resources not approved by the Commission.

be spread across a greater volume of sales, and large data center projects are particularly desirable because their demand for energy is so steady.

7. NSP testified that a critical component of the Honeycrisp ESA is the obligation to procure sufficient incremental renewable generation to match the data center's expected annual energy use. NSP testified that at the time it signed the Honeycrisp ESA, it estimated that it would need to procure an initial 300 MW of incremental wind generation, prior to the data center's commercial operation date, to capture federal production tax credit (PTC) pricing, cover anticipated initial future load growth, and otherwise fulfill its obligations under the ESA in a planned and prudent manner.
8. This Commission previously approved the power purchase agreement between NSP and Dakota Range III, LLP (Dakota Range III PPA) to fill approximately half of this commitment—*i.e.* the first 150 MW nameplate of wind energy forecast to be needed for the data center. Specifically, on December 3, 2019, this Commission granted the ADP for the Dakota Range III PPA in Case No. PU-18-430.
9. NSP testified that the Heartland Divide II PPA will procure the remaining 150 MW to comply with its obligations under the Honeycrisp ESA. NSP further testified that the Heartland Divide II PPA represents one of the last opportunities for incremental wind generation NSP can pursue in the near future because MISO's generator interconnection queue study process continues to be oversubscribed and behind schedule and because, even when studies are completed, new wind generation resources are often assigned high transmission upgrade costs which may result in withdrawal from the queue.
10. As to the remaining 50 MW, NSP testified that it would be assigned to the "Renewable*Connect" program in Minnesota which offers Minnesota customers the option to voluntarily purchase blocks of renewable energy and, as such, those energy costs will be borne directly by the participants in that Minnesota program.
11. NSP testified that the addition of the Heartland Divide Wind II not only satisfies obligations under the Honeycrisp ESA, but will also provide cost reduction benefits to NSP's customers, including those in North Dakota. NSP testified that it sought approval of the PPA as a system energy resource as the attractive price of energy under the PPA would lower NSP's overall fuel costs and result in significant benefits for NSP's customers, while facilitating the addition of the data center load to the NSP System.
12. NSP testified that its EnCompass modeling estimates that the entire 200 MW project would result in customer benefits on a system-wide basis of \$97.4 million, on a present value of revenue requirements (PVRR) basis.
13. NSP testified that even if the data center was not driving the need for the resource addition the PPA would still benefit customers as a system resource because the fixed energy pricing from the PPA will lower the Company's overall fuel costs and

result in lower costs for customers. Accordingly, NSP testified that the PPA will generate savings for customers even if the data center load does not materialize.

14. Advocacy Staff performed its own analysis and concurred with NSP that the addition of the Heartland Divide Wind II will lower costs for customers and testified that NSP was reasonable to assume the PPA would provide energy cost savings for North Dakota customers, admitting that there were expected cost benefits. However, Advocacy Staff estimated that the savings would be approximately \$40 million less than what was estimated by NSP—*i.e.* closer to \$57 million rather than \$97.4 million.
15. Advocacy Staff did not opine as to whether the Commission should grant the ADP. However, the Commission notes that in the earlier Dakota Range II PPA proceeding, Advocacy Staff recommended approval because that project was expected to lower the Company's system average cost. The same rationale applies in this matter; Advocacy Staff agrees that savings are also expected from Heartland Divide II.
16. Advocacy Staff recommended that four conditions be placed on an approval of the ADP: 1) a limitation of total PPA costs to what NSP identified in its Application; 2) the requirement that NSP provide North Dakota customers with their share of the Project's Renewable Energy Credits (RECs); 3) the insulation of North Dakota customers from potential costs associated with NSP's need to purchase RECs; and, 4) a requirement to treat the full 200 MW as a system resource
17. NSP testified that it disagreed with the conditions proposed by Advocacy Staff and requested that the ADP be approved without conditions.
18. As to the first proposed condition, that there be an express limitation placed on the total PPA costs, the PPA is structured to protect the interests of customers through various safeguards—including specific milestone dates, penalties for failing to meet those dates, default provisions, security fund requirements, and insurance requirements. Accordingly, NSP testified that no material changes to costs will be borne by North Dakota customers, and that NSP plans to seek additional Commission review of any contract modification. Given the provisions of the PPA, the Commission agrees that this condition is not necessary.
19. As to the second proposed condition, that North Dakota customers be provided their share of the Project's RECs, NSP testified that the RECs are needed to meet its obligations under the Honeycrisp ESA and NSP should not, therefore, be required to allocate the RECs generated by the project to each retail jurisdiction. NSP testified that it would be inequitable for North Dakota customers to enjoy the cost-sharing benefits of the data center load through the demand and energy allocators if North Dakota customers are not also paying their share of the renewable resource costs needed to attract the data center to the NSP System service area. In that same way, NSP testified that it would be inequitable for North Dakota customers to be compensated for a share of the RECs generated by the

Project that are needed to match the annual anticipated data center load. The RECs are necessary to meet the requirements of the Honeycrisp ESA and North Dakota customers are still receiving the benefits of the Project via cost savings. NSP explained that if not all of the RECs are needed for the data center project, those RECs that are not needed will be allocated to North Dakota customers. While this proposed condition was placed on the Dakota Range III PPA, the Commission does not deem it necessary in this matter.

20. As to the third proposed condition, that North Dakota customers be insulated from potential costs associated with NSP's need to purchase RECs, Advocacy Staff testified that Dakota Range III alone will produce a sufficient number of RECs until at least 2031 and that the expected average load of the data center between 2024-230 is 393 GWH/year while Dakota Range III is expected to generate 569 GWH/year during that same time period. While this proposed condition was placed on the Dakota Range III PPA, the Commission does not deem it necessary in this matter.
21. Finally, with respect to the last condition, that NSP be required to treat the entire 200 MW as a system resource, Advocacy Staff contended such a condition would be appropriate because allocating 50 MW to serve the Renewable*Connect program would reduce the benefit of the Project to North Dakota customers. As an initial matter, that argument highlights Advocacy Staff's opinion that the PPA will benefit North Dakota customers. However, the proposed condition is not necessary because the cost of the Renewable*Connect Program is not being borne by North Dakota customers and should not be treated as a system resource.
22. The Commission finds that the proposed Heartland Divide II PPA is prudent as it represents an opportunity to lower customers' fuel costs while facilitating the addition of the data center load to the NSP System. The Commission also finds that it does not meaningfully differ from the Dakota Range III PPA for which the Commission previously issued an ADP.

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

Conclusions of Law

1. The Commission has jurisdiction in this matter.
2. NSP has complied with the provision of N.D.C.C. section 49-05-16 as well as the Settlement Agreements in Case Nos. PU-07-776 and PU-12-813. Additionally, NSP has complied with its commitments in Case No. PU-12-59.
3. NSP has demonstrated the prudence of the 200 MW Heartland Divide Wind II PPA. We conclude that the requested conditions by Advocacy are not necessary and will not 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 Heartland Divide Wind II, LLC is GRANTED.

PUBLIC SERVICE COMMISSION

Randy Christmann
Commissioner

Julie Fedorchak
Chair

Brian Kroshus
Commissioner

<p>Brian Johnson Special Assistant Attorney General North Dakota Public Service Commission 600 E Boulevard Ave. Dept 408 Bismarck, ND 58505-0060</p>	<p>Adam Renfandt Public Utility Analyst North Dakota Public Service Commission 600 E Boulevard Ave, Dept 408 Bismarck, ND 58505-0408</p>
<p>Victor Schock Public Utility Analyst North Dakota Public Service Commission 600 E Boulevard Ave, Dept 408 Bismarck, ND 58505-0408</p>	


Lanai Alexander

Subscribed and sworn before me this 26th day of August, 2021.


Notary Public
Hennepin County, Minnesota

