STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Northern States Power Company **Advance Prudence – 200 MW Heartland Divide Wind II Application**	**Case No. PU-20-433**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

December 29, 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.

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

Timothy L. Dawson, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

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.

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On June 10, 2021, the public hearing was held as scheduled.

Having allowed all parties an opportunity to be heard and having heard, reviewed, 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 committed to file an application for an advanced determination of prudence for any proposed resource addition larger than 50 MW. 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. In Case No. PU-12-813, NSP committed to exclude renewable energy resources or purchases over 50 MW from its Fuel Cost Recovery rider until the Commission grants an ADP for the resource or purchase.

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 Midcontinent Independent System Operator (MISO) electric transmission 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 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.

7. The Commission previously approved, with conditions, 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, the Commission granted the ADP for the Dakota Range III PPA in Case No. PU-18-430.

8. 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.

9. 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.

10. 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 anticipates a reduction in the allocation of capacity costs to North Dakota because additional load will be in Minnesota, not North Dakota.

11. Advocacy Staff testified that "[b]ecause the peak demand of the data center may exceed the accredited capacity of newly added resources there may be additional capacity costs that will in-part be allocated to North Dakota."

12. 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.

13. 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.

14. 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.

15. Advocacy Staff performed its own analysis and testified that the savings to customers from the addition of the Heartland Divide Wind II PPA would be approximately $40 million less than what was estimated by NSP—*i.e.* closer to $57 million rather than $97.4 million. Advocacy Staff contended whether the project is prudent or not depends

on the weight placed on anticipated cost savings versus other concerns with the project. Advocacy Staff noted there is a range of reasonable results given the uncertainties surrounding fuel prices, generation additions, generation retirements, and load.

16. If the Commission determines the resource addition is prudent, 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. While Advocacy Staff testified there were minimal anticipated cost savings associated with the project, they also pointed out concerns. Those concerns included that the project is not needed to serve NSP's retail loads absent NSP's obligation under the Honeycrisp ESA to procure new renewable energy sources; the project is not needed for capacity; the project is located in Zone 3; NSP failed to incorporate capacity requirement costs into the estimated system savings; and allocating 50 MW to exclusively serve the Renewable*Connect program reduces the benefit of any potential cost savings and could create a precedent allowing a company to bifurcate a resource acquisition between a system resource and non-system resource.

19. The testimony at the hearing showed this project originated because Honeycrisp demanded new, green energy. NSP witnesses testified there is sufficient energy presently on its system to meet the customer demand, but it needs this project to meet Google's requirement that the energy be "new." NSP does not need the energy to serve the anticipated Honeycrisp ESA load in the near term. Instead, it needs the renewable energy credits to fulfill the Honeycrisp ESA.

20. NSP has indicated the Honeycrisp load may not materialize, and even if it does, the amount of the load is uncertain. As a result, NSP has evaluated the project's economic impact and asserted cost savings as a system resource. However, the anticipated cost savings are not certain to materialize, and the amount of the cost savings is not substantial. Further, the anticipated cost savings are based upon a belief that the cost of the PPA will be less than the price of energy in the market over the next 25 years. Given the lack of need for either the energy or capacity and the uncertainty that the Honeycrisp load will materialize, it is too speculative to base prudence solely on anticipated minimal cost savings based on anticipated market energy prices over the next 25 years. Resource planning should be made based on the needs of all customers and not the demands of a potential large customer.

21. Further, NSP witness Krug testified the primary basis for the prudence of this PPA is that it will result in customer savings. Yet, NSP specifically seeks to only apply 75% of

those savings to its system customers. If the project is beneficial and prudent without any established need for the energy or capacity, it is questionable why those benefits would not be passed to the entire system.

From the foregoing Findings of Fact, the Commission now makes the following:

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 not shown that the Heartland Divide Wind II PPA merits an advance determination of prudence at this time under NDCC § 49-05-16.

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

Order

NSP's application for an advanced determination of prudence for the power purchase agreement with Heartland Divide Wind II, LLC is DENIED without prejudice.

PUBLIC SERVICE COMMISSION

Randy Christmann **Commissioner**	**Julie Fedorchak** **Chair**	**Brian Kroshus** **Commissioner**