

BEFORE THE NORTH DAKOTA PUBLIC SERVICE COMMISSION

**Northern States Power Company 2021)
Electric Rate Increase Application)**

Case No. PU-20-441



**Direct Testimony of
WILLIAM H. MALCOLM**

**on behalf of
AARP**

April 23, 2021

1

Introduction

2 **Q., Please state your name and business address.**

3 A. My name is William H. Malcolm. My address is AARP, One North Capitol, Indianapolis,
4 Indiana 46204.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by AARP as a Senior Legislative Representative. In this capacity, I work
7 with AARP state offices on utility interventions and advocacy where we advocate for fair
8 and affordable rates and charges (and reliable service) for residential customers.

9 **Q. What is AARP's interest in this case?**

10 A. AARP advocates for the over-50 population of residential customers. We urge the adoption
11 of fair and affordable utility rates and reliable service. Many of our approximately 84,000
12 members in the state of North Dakota live on fixed incomes. Others struggle to make ends
13 meet. Still others have been adversely affected by the pandemic. A sizeable proposed
14 increase to their electric bill is of great concern—especially if such an increase is based
15 upon upgrades to the power grid in another state, expensive new generation and
16 transmission costs that are actually not needed to keep the lights on in Fargo.

17 **Q. What is the purpose of your testimony in this case?**

18 A. My testimony addresses concerns with certain Xcel Northern States Power (“NSP”, “Xcel
19 NSP”, or “Company”) proposals in this general rate case.

1 **Q. What are your qualifications to provide this testimony in this case?**

2 A. My 44-year career in the utility industry started as an intern economist at Seattle City Light.
3 I then moved to Pacific Power as a cost-of-service analyst preparing rate case filings. For
4 12 years after that I worked at PG&E in the areas of rates and government relations. For 6
5 years, I was the manager of state regulatory affairs at ANR Pipeline covering Midwest PSC
6 regulatory matters. After that, I was a founding employee at the Midwest Independent
7 System Operator (“MISO”) and worked for MISO for 12 years, creating the state
8 regulatory affairs program, which included working with utilities and regulators in North
9 Dakota. After 2 years as an energy consultant, I joined AARP in 2014 where I continue to
10 work with AARP state offices on utility matters.

11 **Q. Do you have any experience that is particularly relevant to the issues in this case?**

12 A. Yes. I have supervised AARP’s rate case activities in several MDU rate cases at this
13 Commission, as well as supervising numerous similar proceedings in other states,
14 including testimony and other filings in proceedings at the Minnesota Public Utility
15 Commission concerning the electric companies Xcel Minnesota and Minnesota Power. I
16 have supervised AARP testimony and other filings in the most recent Xcel gas rate case at
17 the Colorado Public Utility Commission (“Colorado PUC”), as well as several other
18 proceedings in Colorado involving the regulation of rates and services for the Xcel affiliate
19 in that state.

1 **Q. Have you prepared an exhibit summarizing your work experience?**

2 A. Yes. My resume is attached to this testimony as Attachment A.

3

4 **Summary**

5 **Q. What is the primary focus of your direct testimony and recommendations?**

6 A. AARP views NSP's proposed electric rate increase with concern. I have several
7 recommendations to lower the proposed increase:

8 (a) NSP's request for an allowed return on equity ("ROE") of 10.2% is excessive
9 and out of line with regulatory trends nationally and regionally. I urge the
10 Commission to review recent decisions in other states, including the recent
11 Colorado PUC order in the Xcel PSCO gas rate case (Case No. 20AL-0049G)
12 which allowed an ROE of 9.2% for that Xcel subsidiary, and to make a decision in
13 this case that falls in line with investment expectations in this region of the country.

14 (b) I propose disallowance of the Sherco accelerated depreciation costs from this
15 rate case because North Dakota stakeholders were not involved in the decision to
16 prematurely retire that Minnesota power plant,

17 (c) I propose disallowance of costs related to the 187 MW solar portfolio required
18 only to comply with Minnesota law,

19 (d) I propose discontinuance of NSP's transmission cost rider,

20 (e) I propose disallowance of NSP's expenditures for economic development,
21 Chamber dues and other charitable donations which should be voluntarily funded,
22 rather than involuntarily paid by ratepayers,

23 (f) Xcel NSP should be ordered to object to proposed MISO projects of limited or
24 no benefit to NSP's North Dakota ratepayers.

1 AARP raises these issues because, as Xcel NSP acknowledges, its North Dakota energy
2 load has fallen. Accordingly, AARP does not believe that it is prudent and reasonable for
3 Xcel NSP to recover costs for expenditures from its North Dakota customers which are not
4 needed to serve its North Dakota load.

5 **Q. Please elaborate on the apparent disconnect between the resources needed to serve**
6 **NSP load and Xcel NSP's spending.**

7 A. NSP says in its prepared testimony that it has spending approximately \$10 billion on
8 additional capital expenditures and \$1.8 billion on new transmission. This does not include
9 the spending by other MISO utilities for which North Dakota customers are being charged.
10 However, Xcel NSP notes in its testimony, sales are declining and have been since 2013.
11 Indeed, sales are down 2.6% in 2020, as compared with 2019 (See the Direct Testimony
12 of Greg Chamberlin at pages 8-11 and the Direct Testimony of Jannell Marks at page 12).
13 It is my opinion that much of this spending is not needed to meet load requirements in
14 North Dakota and is excessive.

15

16 While Xcel NSP may not be able to influence previously approved projects at MISO, but
17 the Commission could order the utility to question the new \$4 billion plan for new
18 transmission spending at MISO, to divulge the estimated retail rate impact of such MISO
19 spending proposals, and to perform a no-load growth or low-load growth scenario, in order

1 to develop proposals that would trim the transmission expansion plans to reflect current
2 realities.

3

4 Finally, the PSC should reduce the requested rate of return (10.2%) on its capital spending.

5 In the pending North Dakota MDU gas rate case that utility agreed in a proposed settlement
6 agreement to a 9.3% ROE (Docket PU-20-379). A request for a 10.2% ROE is clearly

7 excessive and out of line with current regulatory trends nationally and regionally. I urge

8 the Commission to review recent decisions in other states. For example, the recent

9 Colorado PUC order in the Xcel PSCO gas rate case (Case No. 20AL-0049G) allowed an

10 ROE of 9.2% for that Xcel subsidiary. Good regulatory policy supports an ROE decision

11 in this rate case that falls in line with investment expectations in this region of the country.

12

13 **Q. Please elaborate on your recommended disallowance of accelerated depreciation costs**
14 **of the Minnesota Sherco power plant, which is being retired prematurely at the**
15 **recommendation of a Minnesota stakeholder group.**

16 A. The decision by Xcel to prematurely retire Sherco Units 1 and 2 in 2023 and 2026,
17 respectively, and to seek accelerated depreciation from ratepayers, is objectionable and will
18 cost North Dakota ratepayers \$3.7 million, according to NSP witness Mark Moeller at
19 pages 2-3 of his direct testimony. The plants provided 30% of the NSP's baseload power.

20 While NSP witness Chris Shaw mentions a stakeholder group that supported this decision,

1 there is no evidence presented that this stakeholder group consisted of any North Dakota
2 stakeholders. Indeed, North Dakota stakeholders do not appear to have been consulted or
3 involved in this retirement decision. Further, the company now claims it will need new
4 capacity in the mid-2020s, which if true will make the retirement decision even more costly
5 to consumers. Prematurely retiring existing baseload power plants and replacing them with
6 new plants (and possibly intermittent ones which would also need expensive new
7 transmission) is not something North Dakota ratepayers should be asked to fund.
8 Accordingly, all such costs (\$3.7 million) should be removed from the rate case
9 calculations in this proceeding.

10 **Q. Should North Dakota ratepayers pay for a 187 MW solar portfolio required to comply**
11 **with Minnesota law?**

12 A. No. The Minnesota legislature and the Minnesota PUC are free to order Xcel NSP to do
13 whatever they please in that state. In this instance, they mandated that Xcel NSP get 1.5%
14 of their power from solar. We think it is unfair that Fargo area electric rates should be
15 raised to comply with a Minnesota legal mandate. This is reinforced by the testimony of
16 NSP witnesses Marks and Chamberlin, showing that the utility's loads are generally flat or
17 falling. The cost to North Dakota customers is \$2.58 million (in the "low gas cost"
18 scenario; See the Direct Testimony of Chris Shaw, page 88). In my opinion, North Dakota
19 ratepayers should be are under no obligation to subsidize compliance with Minnesota legal
20 mandates.

1 **Q. Please elaborate on your proposal to discontinue NSP's transmission cost rider?**

2 A. There is no necessity for this rider.

3 The current NSP transmission rider is poor regulatory policy because it makes the utility
4 indifferent to MISO-imposed transmission costs, including the \$1.8 billion that NSP says
5 it is spending on new transmission, which is in addition to the \$1.3 billion already spent on
6 the CAPX project. MISO-related transmission costs (including transmission developments
7 in its many other states) are passed through to captive ratepayers without the thorough
8 review that such costs would receive in a general rate case.

9 While some of the costs passed through this transmission cost rider are jurisdictional to the
10 Federal Energy Regulatory Commission ("FERC"), I believe that such costs should not
11 even be presented to FERC for its review and approval in the first place. Xcel NSP should
12 be given an incentive to be more cost efficient by challenging transmission expansion
13 proposals at MISO, knowing that cost recovery is not, and should not be, automatic. It is
14 my understanding that MISO is now proposing a \$4 billion transmission spending plan.
15 One MISO executive was even quoted as saying he thinks the figure for new transmission
16 costs could be as high as \$30 to even \$100 billion ("MISO Execs Defend Need for Long
17 Range TX", RTO Insider, March 28, 2021). This new spending plan includes a stunning
18 number (58) of new costly high voltage transmission projects of questionable benefit to
19 Xcel NSP North Dakota ratepayers, such as the Madison to Dubuque line (aka Cardinal
20 Hickory Creek transmission line. Worse, the retail rate impact of such extra projects is

1 never discussed in the testimony of Xcel NSP, even while many customers are still
2 suffering due to the economic side effects of the pandemic.

3 While AARP supports sustainable energy policies, there may be more cost-effective
4 methods of pursuing those goals than new massive MISO-inspired long distance
5 transmission lines (i.e., close in renewable generation plants that do not need expensive
6 long-distance transmission, more roof top solar, more energy efficiency and more demand
7 side management programs). We urge the Commission to order Xcel to challenge MISO
8 proposals that would force North Dakota customers to pay for excessive investments going
9 forward. Making cost recovery subject to traditional regulatory scrutiny will incentivize
10 prudent and reasonable planning behavior.

11 **Q. What is AARP's position on ratepayer funding of Chamber of Commerce dues and**
12 **economic development spending requested by NSP?**

13 A. Xcel NSP requests that ratepayers pay 50% of the cost of charitable contributions, 100%
14 of the cost of local and state economic development spending, and 50% of the cost of
15 Chamber of Commerce dues. AARP believes instead shareholders should fund all such
16 activities. We urge the PSC to look closely at such questionable requests. North Dakota's
17 lower electricity rates are incentive enough for economic development. Ratepayers
18 similarly should not be forced to fund the company's charitable contributions. Charity
19 should be voluntarily funded by shareholders, rather than involuntarily paid by ratepayers.

1

2 **Q. What is AARP's view of NSP's request for a 10.2% ROE?**

3 A. AARP urges the Commission to review recent decisions in other states as a check on the
4 reasonableness of allowed ROEs, as the request in this case is far out of line with what we
5 are seeing nationally and regionally. For example, the Public Utility Commission of
6 Colorado recently granted just 9.2% ROE for the Xcel PSCO in its gas rate case (Case No.
7 20AL-0049G).

8

9 **Q. Does AARP have any additional comments?**

10 A. Yes, we urge the PSC to open an investigation into North Dakota's regional transmission
11 organizations ("RTOs"). Both MISO and the Southwest Power Pool ("SPP") interrupted
12 customers the week of February 15, 2021. It is our understanding that some of the
13 interruptions occurred with no notice in North Dakota, even though temperatures were as
14 low as 12 degrees below zero. This cannot go by unnoticed and should never happen
15 again. Customers should be given more notice of such outages, since extremely cold
16 weather is a matter of life and death, particularly for many older consumers. Hospitals and
17 other critical needs customers should be spared from interruption if at all possible.

18 We also urge the state to consider moving its electric utilities to the Southwest Power Pool
19 ("SPP"), because of the benefits to having just one RTO in the state. This move would

1 eliminate the need for the Commission to participate in two RTOs. Both of the current
2 RTOs have hundreds of stakeholder meetings that require a lot of Commissioner time and
3 staff time, and each has different procedures and different policy goals with which to
4 contend. RTOs are complex enough without state regulators having to navigate the
5 demands of two such organizations.

6 Further, MDU is surrounded by and takes service off the Western Area Power
7 Administration (“WAPA”) which is in SPP. The company would pay lower transmission
8 rates as a member of SPP.

9 RTOs are complicated and require an enormous amount of time and energy to properly
10 manage. Having a seam in the state makes a difficult situation worse. If the North Dakota
11 Commission only had to participate in one RTO, it would eliminate the “seams issue”.

12

13 Indeed, Xcel in Colorado is currently opposing state legislation (SB 72) which would force
14 the utility to join an RTO. The Colorado legislature has previously failed to pass such a
15 proposal that would have had the state join SPP three years ago and many officials have
16 cited a lack of benefit to the ratepayers in its state as a reason to reject the legislative
17 proposal.

18

19

1 **Q. Please review your recommendations.**

2 A. AARP recommends the rate increase request be trimmed as follows:

- 3 • Reject NSP's requested 10.2% ROE, and approve an ROE commensurate
4 with other recently approved decisions in the region.
- 5 • Disallowance of accelerated depreciation for Sherco plant.
- 6 • Disallowance for costs of 187 MW solar portfolio needed to comply with
7 Minnesota statute.
- 8 • Discontinuance of NSP's transmission cost rider.
- 9 • Require Xcel NSP to report on MISO transmission cost plans and proposals
10 that could raise retail rates—including projects outside the state of North
11 Dakota.
- 12 • Open a new docket to consider the interruptions by SPP and MISO during
13 the week of February 15, 2021, in order to provide better notice to customers
14 and determine what caused the power shortage
- 15 • Opening a docket to consider moving all regulated electric companies in the
16 entire state into SPP.
- 17 • Ordering Xcel NSP to trim all unnecessary spending during the continuing
18 pandemic, given that there is no need for new generation and transmission
19 based upon declining loads in the service area.

20

21 **Q. Does this conclude your prepared testimony?**

22 A. Yes, it does.

