

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

In the Matter of the Application of Northern States Power Company for Authority to
Increase Rates for Electric Service

Case No. PU-20-441

Surrebuttal Testimony of
WILLIAM H. MALCOLM

on behalf of

AARP

June 22, 2021

1

2 **Introduction**

3 Q. Please state your name and business address.

4 A. My name is William H. Malcolm. My business address is AARP, One N. Capitol,
5 Suite 1275, Indianapolis, Indiana 46204.

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

7 A. I am a senior legislative representative in the Government Affairs Department of
8 AARP National Office.

9 Q. Are you the same person who submitted testimony in this proceeding?

10 A. Yes.

11 Q. What is the purpose of your surrebuttal in this case?

12 A. I will respond to the rebuttal of Xcel NSP and re-iterate our position in the
13 proceeding.

14 Q. Why is AARP interested in the Xcel rate case?

15 A. Many AARP North Dakota members reside in the Xcel service territory. Some live
16 on low or fixed incomes, struggle to make ends meet, and would be severely
17 impacted by any significant electric rate increase. They do not have extra money
18 in their monthly budgets to pay for an upgrade the electric grid in Iowa or to pay
19 for an unwanted transmission line from Madison to Dubuque. They are concerned
20 that such excessive utility spending continues even though Xcel itself notes power

1 demands fell by almost 3% and are expected to increase by only 0.5% this year
2 (Chamberlin direct testimony, p. 11).

3 I am alarmed by a lack of concern on behalf of NSP, and of behalf of its grid
4 operator (MISO), regarding the rate impacts of its transmission plans that are
5 included in the utility's rate proposal. With flat or anemic load growth, there is
6 simply no need for such massive grid spending, absent an analysis of the rate
7 impact of these proposals, compared to less costly alternatives.

8 AARP supports affordable and reliable sustainable energy policies that ensure all
9 consumers can afford their essential energy needs. AARP advocates for
10 transparency in pricing, and robust public comment processes to ensure that rates
11 reflect the input of those responsible for paying them. AARP recognizes the
12 autonomy of each state's residents through a network of state AARP offices which
13 advocate at the state-level for policies and approaches that benefit their residents.

14 Q. What are your recommendations in this rate case?

15 A. AARP North Dakota represents and advocates for members in that state and
16 seeks to ensure that decisions made in other states should not negatively impact
17 residents of North Dakota. Therefore, my prime recommendation in this case is
18 that decisions made by another state not be allowed to raise electric rates in North
19 Dakota rates, absent a showing of a clear economic benefit to North Dakota
20 customers. I also have several recommendations to reduce the rate impact of
21 decisions made by regional grid operator MISO regarding transmission spending.
22 My recommendations are as follows:

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- 1 ▪ Xcel NSP's requested 10.3% ROE (allowable rate of return on
2 common equity) is out of line with decisions in other Midwestern
3 states, which is closer to an average of 9.3%. Therefore, NSP's
4 allowed ROE should be reduced to at least the more reasonable
5 level suggested by Staff witness Griffing of (9.5% ROE).
- 6 ▪ The accelerated depreciation for the Sherco plant's premature
7 retirement should be disallowed.
- 8 ▪ The 187 MW solar plants built to comply with Minnesota law should
9 be recovered only from Minnesota Xcel customers, and not charged
10 to Xcel NSP ratepayers in North Dakota.
- 11 ▪ The transmission rider—while permitted, but not mandated, under
12 North Dakota law – should be ended to give Xcel a stronger incentive
13 to manage the retail rate impacts of its proposed transmission lines
14 and to more aggressively participate in the MISO transmission
15 planning process.
- 16 ▪ The PSC should order Xcel to regularly report on the rate impact of
17 each and every transmission spending proposal made by any entity
18 that could affect retail electricity rates in North Dakota so that each

1 proposal will benefit from transparency and full disclosure before the
2 project is constructed.

3 ■ The PSC should open a new docket focused on interruptions and
4 outages to avoid a repeat of the February 15, 2021 blackout in the
5 state. It became clear, during the workshop the PSC held in May on
6 this topic, that communications and coordination between some
7 utilities and their RTOs were inadequate. This docket could better
8 clarify the respective roles and responsibilities for each entity, such
9 that a future outage of this nature could be avoided or at least the
10 disruption minimized.

11 ■ The PSC should also open a docket to review the possibility of
12 moving the entire state into the Southwest Power Pool (SPP), as
13 compared to other alternatives, including the current situation that
14 places seams between RTOs in North Dakota that result in higher
15 rate impacts and significant reliability challenges for the state as a
16 whole. While it may not be the preference for Xcel NSP, residents of
17 North Dakota as whole would be better off under one RTO umbrella.
18 It is clear that the current multiple RTO structure in this state is too
19 complicated and costly. Electric customers deserve one forum that

1 allows to have all of the costs and benefits for the alternatives to this
2 structure compared side-by-side.

3 Q. Please elaborate on why North Dakota customers should not pay higher rates due
4 to the premature retirement of the Sherco power plant, as proposed in the rebuttal
5 testimony of NSP witness Mr. Chamberlin (page 6).

6 A. AARP stands by its recommendation that North Dakota NSP customers should not
7 pay accelerated depreciation for the premature retirement of Sherco. This was a
8 decision made by the utility company and approved by Minnesota regulators.
9 AARP opposes Minnesota mandates being allowed to raise North Dakota electric
10 rates.

11 Q. Should the 187 MW Minnesota solar facility be included in rates charged to
12 North Dakota customers, as discussed by NSP witness Mr. Chamberlin on page
13 12 of his rebuttal testimony?

14 A. No. This solar facility was built to comply with Minnesota law, which requires 1.5%
15 of power come from solar in Minnesota. [See p. 82 of NSP witness Shaw's direct
16 testimony; Minnesota Stat. 216B.1692 subd.2(f)].

17 Therefore, this facility should be allocated to Minnesota customers only.
18 Notwithstanding the comments of witness D'Ascendis (p. 25 of his rebuttal
19 testimony) and his references to system benefits, AARP stands by its
20 recommendation that no costs of this facility be allocated to North Dakota, because
21 it was constructed to meet the requirements of the Minnesota law.

1 Q. Please respond to the arguments of NSP witness Ms. Wetterlin, opposing an end
2 to the utility's current transmission rider.

3 A. On page 6 of Ms. Wetterlin's rebuttal testimony, she argues that the current
4 transmission rider should not be ended; however, she does not rebut the reality
5 that, absent such a rider, the greater scrutiny would grant the utility greater
6 incentives to aggressively question whether specific transmission projects actually
7 benefit electric customers in North Dakota. Transmission projects are unlike fuel
8 costs, because they are not as volatile and are planned well in advance. Thus,
9 transmission costs can be reasonably reviewed in the traditional rate case review
10 process.

11 There is no legal or policy reason why a rider needs to pass through the enormous
12 cost of transmission projects. Witness Wetterlin notes that the current rider is
13 authorized by North Dakota statute. "Authorization" is not a mandate; the North
14 Dakota Public Service Commission (Commission) is given the discretion to judge
15 whether these projects deserve normal scrutiny, or whether they should simply be
16 passed through such a rider. Having such a rider makes it easier for Xcel to ignore
17 the cost recovery impacts on North Dakota for new expensive transmission
18 projects in faraway states like Mississippi and Louisiana (which are in the MISO
19 footprint). With cost recovery getting less rigorous scrutiny than in a traditional rate
20 case, there is less incentive to aggressively question proposed projects. Further,
21 MISO's shared socialization of transmission spending makes it awkward for one
22 utility to object to another utility's spending proposal. Nowhere in the multi-layered

1 RTO process is there a discussion of the retail rate impact of such spending on
2 each state. This is troubling given NSP's note that its loads are down in its North
3 Dakota service territory.(See Chamberlin direct page 11). It is unnecessary and
4 unreasonable to allow billions in spending for anemic load growth.

5
6 Q. Please comment on Ms. Wetterlin's rebuttal regarding the MISO transmission
7 planning process.

8 A. Ms. Wetterlin's rebuttal testimony notes that proposed transmission projects are
9 ensured to benefit the MISO transmission system itself (page 5), inadvertently
10 reinforces our position. She states at page 5 that "only projects that are beneficial
11 to the transmission system move forward". While this is nice, it is not the role of
12 the NSP, Xcel, the North Dakota Commission, or anyone else other than MISO to
13 ensure that MISO has a robust transmission system absent a benefit to retail
14 consumers. It is the Commission that has the responsibility to look out for retail
15 consumers in North Dakota. There are several problems with the MISO
16 transmission planning process that has led to a diffusion of responsibility and
17 caused spending to soar. Often the result is retail rates rising in a particular state,
18 without an offsetting benefit to that state.

19 Indeed, MISO apparently refused to do a "no-growth scenario" due to the
20 pandemic in its most recent transmission plan. This is even though loads Xcel
21 notes in its testimony that loads in its North Dakota system have fell almost 3%

1 last year and are only expected to increase .5% this year. (See Chamberlin direct
2 page 11).

3 With little new load to have to meet, the rate impact of massive new utility capital
4 and MISO transmission spending is substantial and the need for such spending is
5 questionable. Spending should be driven by need to serve load and be kept to a
6 minimum.

7 Despite Ms. Wetterlin's assertion on page 9 of her rebuttal testimony that such
8 modest growth as NSP is experiencing in North Dakota could not be met by more
9 robust deployment of local solutions, there is still no justification for such massive
10 transmission investment. There local solutions could include distributed
11 generation, roof top solar, community solar, local wind power, demand side
12 management, voluntary time of use rates, and other local solutions that do not
13 involve upgrading the Mississippi or Missouri transmission systems (which are
14 charged to North Dakota under MISO's socialization of costs program).

15 Ms. Weterlin's comment (rebuttal page 13, line 4) is that there are not less costly
16 ways to increase the use of renewable energy is most telling. It is **not** the objective
17 nor the mission of the North Dakota Commission "to increase the use of renewable
18 energy". Instead, the Commission is charged with approving just and reasonable
19 rates and ensuring that the state's regulated utilities have sufficient supply to meet
20 load.

21 With no or little load growth, there is simply need for so much transmission
22 spending to serve customers. The timing of such spending could be slowed down

1 to reflect the realities we have of a post-pandemic economy, and the lack of
2 evidence that there is any expected surge in demand. NSP has no mandate from
3 the PSC nor its customers to increase the use of renewable or any other type of
4 energy – especially without regard for its impact on electricity rates. Further, it is
5 obvious that Xcel stockholders, not ratepayers, benefit from such massive rate
6 base growth. So, there is an inherent conflict when Xcel NSP is reviewing MISO
7 plans. Further, because MISO gives each state a project to facilitate multi-state
8 acceptance, there is a disincentive to question the plans of other utilities. This adds
9 up to a lot of transmission spending without enough focus on costs, rate impacts,
10 needs, and more cost-effective alternatives.

11 Ms. Wetterlin references “studies” supporting MISO’s decision-making on
12 transmission projects, but has not offered any such studies into the record of this
13 rate case. The Commission requires evidence to support the inclusion of
14 transmission projects in the rates of NSP customers, and the transmission
15 proposals in this case are unsupported by evidence that these are just and
16 reasonable from a North Dakota perspective.

17 Q. Should the Commission open a docket to consider moving the entire state into
18 SPP, despite NSP’s objections?

19 A. Yes. While Xcel may believe it may be difficult or costly for their company, this
20 does not mean that the state of North Dakota would not benefit from such a move.
21 Indeed, during the SPP-induced black out of February 15 in the state, SPP
22 apparently ordered Montana-Dakota Utilities (MDU) to curtail load, according to

1 the recent PSC May workshop presentations on the topic) even though MDU is
2 included in the MISO. The confusion arises because much of MDU is served off
3 Basin and WAPA transmission lines which are in SPP not MISO. A small state like
4 North Dakota does not need to be in two RTOs. One RTO is challenging enough.
5 Ms. Weterlin's comment that moving to SPP would force North Dakotans to pay to
6 upgrade the grid in the South in states like Arkansas is irrelevant; MISO already
7 involves North Dakota in the policies of Mississippi and Louisiana. Upgrading the
8 grid in these states by being in MISO is no different than upgrading the grid in
9 SPP's southern states.

10 It is true that exit fees are a deterrent to RTO switching, it is not necessarily
11 uneconomic to do so, nor is such a calculation regarding exit fees unprecedented.
12 LG&E/KU, Com Ed, FirstEnergy, and Duke Ohio have all exited MISO, for
13 example, and presumably saved their ratepayers money overall by exiting an RTO.

14 Regarding the rebuttal referencing "rate pancaking", North Dakota could actually
15 see an end to such pancaking in MDU, if MDU switches to SPP, since most of its
16 load is already served by SPP members (WAPA and Basin). Indeed, Xcel is
17 already a member of SPP in Texas and New Mexico. Given the problems the
18 week of February 15, it cannot hurt to study consolidating the state into SPP. All
19 that AARP is asking is that all of the costs and all of the benefits to North Dakota
20 ratepayers as a whole for the various RTO alternatives be compared side-by-side.

1 Q. Should the PSC also open a docket to consider communication protocol reforms
2 considering the February 15 blackout?

3 A. Yes. AARP stands by this position, notwithstanding the testimony of Ms. Weterlin
4 (pages 10-11) and Mr. Chamberlin (page 27). The May PSC workshop at the State
5 Capitol demonstrated that no one is completely accountable for such events—not
6 the RTO (SPP), not the utilities, not the Commission, and not WAPA. Indeed, one
7 WAPA employee learned about the blackout when the stop light he was at lost
8 power. There was insufficient warning from SPP to the affected utilities and no
9 warning to the customers. Improved communication protocols are needed. AARP
10 members should not have to endure another surprise blackout on a Monday
11 morning at 8:30 am in the dead of winter when the temperature was -12 degrees.
12 It presents far too many risks to their health and well-being, especially for those
13 who are more medically fragile, and/or those who reside in critical care facilities.
14 The decentralized RTO model regarding who oversees resource adequacy and
15 how interruptions are handled needs improvement.

16 Q. Does this conclude your testimony?

17 A. Yes, it does.

