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July 1, 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: Northern States Power Company  
2021 Electric Rate Increase  
Case No. PU-20-441  
OAH File No. 20200422

Dear Mr. Kahl:

Northern States Power Company, doing business as Xcel Energy, is pleased to present for filing and the Commission's consideration the enclosed Settlement Agreement, which has been agreed to by all the parties in this matter: the North Dakota Public Service Commission Advocacy Staff, Xcel Energy, AARP, and Walmart Inc. This Settlement Agreement settles all open issues in this case and provides for just and reasonable rates.

The Company respectfully requests that the Commission consider whether to approve the Settlement Agreement during the hearings already scheduled for July 22 and July 23, 2021. The Company anticipates filing supplemental testimony in support of the Settlement Agreement in the near future.

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

Sincerely,

DORSEY & WHITNEY LLP



Zev Simpson

169 PU-20-441 Filed: 7/26/2021 Pages: 21  
Exhibit 39 – Settlement Agreement

Enclosure

Northern States Power Company



July 1, 2021

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cc: Via Email and Certified Mail -  
Hope L. Hogan, 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.)  
Victor Schock, Advocacy Staff, Public Service Commission (w/encl.)  
John B. Coffman, Attorney for AARP (w/encl.)  
David A. Tschider, Attorney for AARP (w/encl.)  
Julie A. Clark, Attorney for Walmart Inc. (w/encl.)

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

Northern States Power Company  
2021 Electric Rate Increase  
Application

Case No. PU-20-441

**SETTLEMENT AGREEMENT**

This Settlement Agreement (Settlement) is entered into this 1st day of July 2021, by and between the North Dakota Public Service Commission Advocacy Staff (Advocacy Staff); Northern States Power Company (Xcel Energy or the Company), AARP, and Walmart Inc. (Walmart) (each a Party, and collectively, the Parties). This Settlement will result in just and reasonable rates for the Company's retail electric operations in North Dakota for 2021. Through this Settlement, the Parties have resolved all issues in the above captioned Case.

**PRELIMINARY STATEMENT**

On November 6, 2020, the Company filed its application and supporting testimony in the above captioned Case requesting a \$22.2 million or 10.8 percent retail revenue increase for its provision of electric service in North Dakota. On March 26, 2021, the Company revised its request to reflect a \$19.2 million or 9.3 percent retail revenue increase. On April 23, 2021, Advocacy Staff, Walmart, and AARP filed Direct Testimony in this case identifying proposed adjustments to the Company's rate request. Advocacy Staff recommended a total rate increase of \$3.6 million.

Recognizing the positions of the Parties, and the Company's need for additional revenue to have an opportunity to earn a reasonable rate of return on the capital

invested to serve North Dakota customers, the Parties have conferred and agreed to this Settlement.

The revenue requirement and rate design agreed to in this Settlement reflect efforts of the Parties to ensure just and reasonable rates for the Company's provision of retail electric service to its North Dakota customers. The Parties agree that the implementation of the terms of this Settlement will accomplish that goal.

## **SETTLEMENT TERMS**

The Parties agree to the provisions provided below:

### **I. REVENUE REQUIREMENTS**

The Parties agree to an overall test year revenue requirement of \$213.5 million, representing a revenue requirement increase of \$7.1 million. The revenue requirement utilizes a weighted average cost of capital (WACC) of 6.97 percent, comprised of a Capital Structure of 52.50 percent equity and 47.50 percent debt (46.72 percent long-term debt; 0.78 percent short-term debt). The return on equity (ROE) is 9.50 percent, the cost of long-term debt is 4.22 percent, and the cost of short-term debt is 1.00 percent. Noted below are adjustments to the Company's \$19.2 million rate-increase request to arrive at the revenue requirement provided for in this Settlement. The revenue requirement agreed to in this Settlement includes the Company's rider roll-in proposal as well as the Company's implementation of the commission-ordered level of tax credits thru the Company's Levelized Cost Method. (LCM) for implementing the Commission-approved levelization of Production Tax Credits (PTC).<sup>1</sup>

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<sup>1</sup> Case No. PU-19-329

## A. Test Year Adjustments

For purposes of resolving issues in this proceeding only, and without prejudice to positions the Parties may otherwise take in other proceedings, the Parties agree to a series of test year adjustments as summarized in Table 1, below, and discussed further herein.

**Table 1 - Revenue Requirement Adjustments**

Settlement Adjustments (000's)	Base Rate Rev Adj.	Rider Rev Adj.
<b>Revised Filed Rate Increase .....</b>	<b>\$19,197</b>	
1. Lower authorized ROE 70 bps (to 9.50 percent)	(\$3,319)	
2. Maintain current depreciation rate for Sherco I&II	(\$2,684)	
3. Defer Advanced Grid Intelligence & Security <sup>2</sup>	(\$1,615)	
4. Remove MEC II demand costs <sup>3</sup>	(\$1,425)	
5. Agreed-to O&M and Other Revenue adjustments	(\$1,407)	
6. Maintain current rate treatment for CWN/Jeffers in FCR <sup>4</sup>	(\$689)	\$338
7. Exclude Misc. Expenses and Adjustments to Amortizations	(\$484)	
8. Exclude Resource Treatment Framework cost amortization	(\$184)	
9. Adjust Non-plant and Other Rate Base	(\$141)	
10. Correct revenue req. impacts and adjust for secondary impacts <sup>5</sup>	(\$122)	
11. Exclude return on Tax Tracker amortization	(\$53)	
Total Adjustments:	(\$12,123)	\$338
<b>Settlement Revenue Increase.....</b>	<b>\$7,074</b>	<b>\$338</b>

<sup>2</sup> Includes both O&M and capital-related revenue requirements.

<sup>3</sup> May request prospective MECII demand costs in future rate case.

<sup>4</sup> Community Wind North and Jeffers wind projects PPA costs have been recovered at average cost of fuel/kWh consistent with Settlement in Case No. PU-12-813.

<sup>5</sup> Includes corrected PTC LCM impacts and software cost allocations; also reflects secondary revenue requirement impacts. See Section I.A.11.

1. *Cost of Capital*

To ensure a balance between rate affordability, system reliability, and the utility's financial health, the Parties agree for settlement purposes to an authorized ROE of 9.50 percent for the 2021 test year. The WACC will be calculated using the Capital Structure proposed by the Company (as detailed above). Until such time the Company's cost of capital is modified by the Commission, the Company will use this Settlement Cost of Capital for its annual transmission and renewable resource rider filings, or any additional riders approved by Commission. For annual jurisdictional earnings reporting, the Company will use its actual capital structure and actual cost of debt. Changes to the Cost of Capital as provided herein result in a \$3.3 million reduction to the test year revenue requirement.

2. *Depreciation Expense for Sherco Units 1 and 2*

The Parties agree that, for purposes of determining the overall test year revenue requirement, the Company will not adjust the remaining lives of Sherco Units 1 and 2 to reflect its plan to retire these units on December 31, 2026 and December 31, 2023, respectively. Rather, the Company's depreciation expense for Sherco Units 1 and 2 will reflect a retirement date of January 1, 2035, as initially set in Case No. PU-07-776. The remaining lives set herein are for calculation of the depreciation expense only and are without prejudice to the Company's plan to retire Sherco Units 1 and 2 prior to 2035. This Settlement makes no determination as to the prudence of the Company's current plans for the retirement of Sherco Units 1 and 2. The Company may seek to adjust the remaining lives of Sherco Units 1 and 2 in a future rate case and may seek recovery at such time of stranded costs, if any, due to the retirement of Sherco Units 1 and 2 prior to 2035. The adjustment of the remaining lives of Sherco Units 1 and 2 results in a \$2.7 million reduction of the test year revenue requirement.

3. *Deferral of Advanced Grid Intelligence and Security (AGIS) Initiative Costs*

The Parties agree that, for purposes of determining the overall test year revenue requirement, the Company will defer all capital-related and operation and maintenance (O&M) expenses for its AGIS initiative until such time as all “foundational” elements of AGIS are placed in-service; specifically, the Advanced Distribution Management System (ADMS), Field Area Network (FAN), and Advanced Metering Infrastructure (AMI). The deferral will be designed to ensure that all capital-related and O&M expenses for AGIS will be treated as if they were capital expenditures included in Construction Work in Process (CWIP), whereby an allowance for funds used during the deferral is provided, similar to the treatment for Allowance for Funds Used During Construction (AFUDC). Within 60 days after the approval of this Settlement, the Company will make a compliance filing to the Commission providing for the specific design of the AGIS deferral. This Settlement is without prejudice to the prudence of the Company’s investment in AGIS and makes no determination thereupon. The Company may request to begin recovery of the AGIS deferral and propose a reasonable amortization period in its next rate case, assuming the foundational elements are already, or are forecasted to be, in service during the applicable test year. The AGIS deferral reduces the test year revenue requirement by \$1.6 million.

4. *Mankato Energy Center Expansion (MEC II) Demand Costs*

The Parties agree that, for purposes of determining the overall test year revenue requirement, the demand costs of the MEC II power purchase agreement (PPA) will be removed from the test year revenue requirement. This adjustment herein is without prejudice to a future determination of prudence of the Company’s PPA for MEC II. The Company may seek to recover prospective demand costs of the MEC II PPA in a future rate case. The removal of the MEC II demand costs reduces the test year revenue requirement by \$1.4 million (net of Interchange billings to NSP - Wisconsin Co.).

5. *General O&M and Other Revenue Adjustment*

The Parties agree that, for the purposes of determining the overall test year revenue requirement, a \$1.4 million reduction of the test year revenue requirement will be made to reflect the agreed-upon reduction in the Company's overall O&M expense, and increase in the test year other electric revenue forecast consistent with a 3 year historical average for the period 2018-2020. Except as otherwise described in this Settlement, this adjustment is without prejudice to the prudence of any of the Company's specific O&M expenses or other revenues, but, rather, is being made for Settlement purposes only.

6. *Community Wind North & Jeffers Repowering Projects*

The Parties agree that, for the purposes of determining the overall test year revenue requirement, base rate recovery of the capital additions of the Community Wind North and Jeffers wind facility repowering projects should be removed from the test year revenue requirement. This results in a reduction of \$0.7 million to the test year revenue requirement and is made without prejudice to a future determination of prudence of the Company's investment in the Community Wind North and Jeffers wind repowering projects. The Company may seek to recover, prospectively, the costs of the Community Wind North and Jeffers repowering projects in a future rate case. Recognizing that costs associated with PPAs for the Community Wind North and Jeffers facilities have until recently been recovered as "disputed resources"<sup>6</sup> through the Company's Fuel Cost Rider (FCR) and that upon purchase by the Company of these two wind facilities they are still providing energy for use, in part, by North Dakota customers, the Parties agree that the Company may continue to recover a portion of the costs of these projects as if they continued to be "disputed resources," notwithstanding that the existing PPAs

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<sup>6</sup> As defined in the Second Amended Settlement Agreement in Case No. PU-12-813.

will have terminated. FCR recovery of these costs, as provided for in this Settlement, will be retroactive to January 1, 2021 and may be implemented in a subsequent monthly FCR filing following approval of this Settlement. This results in a \$0.3 million increase to the FCR revenue requirement.

7. *Miscellaneous Expenses and Amortization Periods*

The Parties agree that, for the purposes of determining the test year revenue requirement and for jurisdictional earnings reporting, the following expenses will be excluded, consistent with Advocacy Staff's recommendation: (a) the test year costs of the Company's Annual Incentive Plan (AIP) above 15% of base pay; (b) financial support for state and local economic development entities; (c) charitable contributions; (d) brand and image advertising; (e) chamber and association dues; (f) certain customer deposits and (g) corporate aviation costs. In addition, the Company's proposed rate case amortization will be extended from 3 years to 3.5 years. These adjustments result in a \$0.5 million reduction of the test year revenue requirement. The Company may seek to recover these costs on a prospective basis in its next rate case.

8. *Resource Treatment Framework Costs*

The Parties agree that, for the purposes of determining the test year revenue requirement, the test year amortization of the incremental costs of developing the Company's Resource Treatment Framework (RTF) proposal and filing in Case No. PU-12-813 will be excluded. This exclusion results in a \$0.2 million reduction of the test year revenue requirement. The Parties further agree that the RTF proceeding has run its course and should be closed. This results in a recommendation that the Commission close Case Nos. PU-12-813, PU-13-706, PU-13-707, PU-13-708, PU-13-742, PU-13-743, PU-13-194, and PU-13-195.

9. *Non-Plant and Other Rate Base*

The Parties agree that, for the purposes of determining the test year revenue requirement, non-plant and other rate base will be reduced consistent with Staff's recommendation, resulting in a \$0.3 million reduction of the test year revenue requirement.

10. *Revenue Requirement Corrections and Secondary Calculations*

The Parties agree to adopt, for the purposes of determining the test year revenue requirement, the rebuttal adjustment proposed by Company Witness Mr. Benjamin Halama in his Direct Testimony, namely: (a) inclusion of Mower wind project in calculating the revenue requirement impact of the PTC LCM; and (b) corrections to the assignment of software costs to other non-utility affiliates as required by a recent Federal Energy Regulatory Commission (FERC) audit finding. The Parties further agree to accept the Company's calculation of "secondary" impacts of the various revenue requirement adjustments contained in this Settlement, including the proration of accumulated deferred income taxes (ADIT) and change in cash working capital. These adjustments net to a \$0.1 million reduction of the test year revenue requirement.

11. *Return on Tax Tracker*

The Parties agree that, for the purposes of determining the test year revenue requirement, no return on the Tax Tracker amortization balance will be allowed, and the term of amortization will be extended from 3 years to 3.5 years. This results in less than a \$0.1 million reduction of the test year revenue requirement.

## **B. Ensuring Just and Reasonable Rates**

### *1. Earnings Sharing*

The Parties agree that the rates set in this Settlement are just and reasonable. However, in light of the potential for rates set in this Case to be in effect beyond 2021, the Parties agree to establish an earnings-sharing mechanism. The earnings-sharing mechanism will include a weather-normalized earnings threshold of 9.75 percent ROE in recognition of, among other things, the Jurisdictional Reporting Reform implemented by this Settlement. In the event the Company's annual weather-normalized earnings exceed 9.75 percent, the Company will refund to customers 100 percent of the weather-normalized revenue contributing to earnings in excess of 9.75 percent as calculated in the Company's jurisdictional annual reports filed with the Commission. This earnings-sharing mechanism will be in effect for all calendar years prior to the Company's next rate case test year, unless a future settlement or Commission Order determines otherwise.

### *2. Jurisdictional Reporting Reform*

The Parties agree that annual jurisdictional earnings reported by the Company will exclude, from the Company's statement of operating income, expenses in excess of amounts recovered in the FCR associated with the generation resources identified in Attachment A (for the avoidance of doubt, the Parties agree that the resources identified on Attachment A shall continue to be partially recovered in rates consistent with the Second Amended Settlement Agreement in Case No. PU-12-813, except for MEC II, Community Wind North, and Jeffers, for which rate treatment will be consistent with this Settlement). In light of the exclusion from the earnings calculation of expenses in excess of amounts recovered in the FCR related to the resources identified in Attachment A, and in recognition that any partial recovery of the costs of

such resources in retail rates relates only to the capacity and energy value of such resources, the Company may retain all non-energy or non-capacity related attributes (e.g., PTCs, Renewable Energy Credits (RECs), etc.) and all wholesale revenue (i.e., asset-based margins) for these resources. The value of such attributes and revenues will not be reflected in the Company's annual calculation of jurisdictional earnings for purposes of the earnings-sharing mechanism. Further, the parties agree that, on a prospective basis, this same treatment will be applicable to any resource addition for which an ADP has been denied or the Commission has otherwise disallowed full cost recovery, until such time as the Commission allows full recovery for such a resource addition.

The provisions of this Section I.B.2 apply as of January 1, 2021, and beyond. Therefore, jurisdictional earnings for 2021 will be calculated consistent with this Section B.2. All non-energy or non-capacity related attributes of the resources in Attachment A created in 2021 will be retained by the Company consistent with the paragraph above. To the extent any asset-based margins or proceeds from REC sales for the resources identified in Attachment A have been provided to customers in 2021 through various rider mechanisms, the Company may true-up for its retention of such asset-based margins and renewable energy credit sale proceeds, if any, in a subsequent monthly FCR filing following a Commission order approving this Settlement.

### *3. COVID Deferral*

The Parties recognize that the Company sought to defer certain revenue impacts and costs related to the impact of COVID-19 on its electric jurisdictional cost of service in Case No. PU-20-192. In recognition of the outcome of this Case, the Company will withdraw its requested deferral and not recover such costs from its North Dakota customers.

## II. RATE DESIGN

The Parties agree to a customer class revenue increase apportionment reflecting rate percentage changes (by customer class) that are consistent with the Company's originally proposed class revenue increases, as shown in Table 2 below.

**Table 2 – Settlement Revenue Apportionment**

	Present Revenue	Proposed Revenue	Proposed Increase	Settlement Revenue	Settlement Increase
Residential	\$83,739	\$91,526	9.3%	\$86,598	3.4%
C&I Non-Demand	\$11,379	\$11,742	3.2%	\$11,512	1.2%
C&I Demand	\$109,232	\$119,904	9.8%	\$113,149	3.6%
Lighting	\$2,066	\$2,399	16.1%	\$2,188	5.9%
Total Retail	\$206,416	\$225,570	9.3%	\$213,447	3.4%
Other Increases <sup>7</sup>	\$0	\$43		\$43	
Total Revenue	\$206,416	\$225,613	9.3%	\$213,490	3.4%

The Parties agree to the tariff changes proposed in the Company's initial filing as filed in compliance with the Second Amended Settlement Agreement in Case No. PU-12-813. The Parties agree to use the Company's proposed rate design principles in developing final rates to implement the approved revenue requirement contained in this Settlement Agreement and the Company will implement a \$15.00 monthly residential fixed charge.

The Company will file compliance tariff pages setting forth the revised electric rates and tariffs provided by this Settlement Agreement within at least thirty (30) days from the date of approval of this Settlement.

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<sup>7</sup> Includes changes in late payment fees, winter construction charges, and excess service footage charges.

### **III. IMPLEMENTATION**

The Parties agree that all Company proposals not explicitly addressed in this Settlement are agreed to and shall be implemented as proposed by the Company;<sup>8</sup> provided, however, that they shall not be precedential in nature.

### **IV. INTERIM RATE REFUNDS**

Since the Parties have agreed to a base rate increase for 2021 that is lower than the current interim increase, this Settlement will result in an interim rate refund for North Dakota customers. Interim rates went into effect on January 5, 2021 and were subsequently updated on April 1, 2021. Parties agree that the interim rate level effective as of April 1, 2021 will remain in effect until final rates are implemented. At the time of this Settlement Agreement, the final amount of interim revenues collected is not available. The estimated interim rate refund of approximately \$5,041,000 (plus interest) results in an average refund of approximately \$26 per residential customer. The refund is expected to be issued to customers beginning approximately 30-60 days from the implementation of final rates.

### **V. OTHER TERMS AND CONDITIONS**

#### **A. Basis of Settlement**

It is agreed that this Settlement is a negotiated settlement agreement subject to approval by the Commission. This Settlement does not establish any principle or precedent or

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<sup>8</sup> Notwithstanding this Section III, the Parties agree that any capital additions for transmission expansion related to the Honeycrisp data center will be removed from rate base for settlement purposes with a resulting approximately \$5,000 adjustment to the revenue requirement, and without prejudice to the Company's ability to seek recovery of costs related to such transmission expansion in a future proceeding.

adopt or recommend any specific type or amount of expense or rate base for this or any future proceeding.

**B. Effect of the Settlement Negotiations**

It is understood and agreed that all offers of settlement and discussions related to this Settlement are privileged and may not be used in any manner in connection with proceedings in this Case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement, 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.

**C. Applicability and Scope**

This Settlement shall be binding on the Parties and their successors, assigns, agents, and representatives. Consistent with the Commission's settlement guidelines, this Settlement does not set policy or overturn precedent. This Settlement shall not in any respect 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 proceeding.

**D. Effective Date**

This Settlement shall be binding on the Parties upon the date it is executed by all Parties; provided that this Settlement shall be effective on the date of the Commission Order approving this Settlement. The revised rates and tariff agreed to by this Settlement shall be effective as specified herein.

**E. Modification**

If a Commission Order modifies or conditions approval of this Settlement, it shall be deemed terminated if any Party files a letter with the Commission within three (3) business days of the date of such Order stating that a condition or modification to the Settlement is unacceptable to such party.

**F. Mutual Support**

Each of the Parties shall support – and not oppose – this Settlement before the Commission.

**G. Counterparts**

This Settlement may be executed in counterparts with each signature making up the whole.

**CONCLUSION**

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

**[SIGNATURE PAGES FOLLOW]**

**EXECUTION VERSION**

Dated this 29th day of June 2021.

Northern States Power Company,

A Minnesota corporation

By: 

Its: President

**[NSP SIGNATURE PAGE TO SETTLEMENT CASE NO. PU-20-441]**

Dated this 29<sup>th</sup> day of June 2021.

Northern Dakota Public Service Commission Staff

By: Mitchell S. A. [Signature]  
Its: Counsel

**[ADVOCACY STAFF SIGNATURE PAGE TO SETTLEMENT  
CASE NO. PU-20-441]**

Dated this 30<sup>th</sup> day of June 2021.

Walmart Inc.

By: Julie A. Ouml  
Its: Counsel

**[WALMART SIGNATURE PAGE TO SETTLEMENT  
CASE NO. PU-20-441]**

Dated this 30<sup>th</sup> day of June 2021.

AARP

By: John B Coffman  
Its: Attorney

[AARP SIGNATURE PAGE TO SETTLEMENTCASE NO. PU-20-441]

**Resources with Certain Expenses Excluded from  
Annual Jurisdictional Earnings Reporting**

1. Adams Wind Generations (20 MW)
2. Aurora Distributed Solar (100 MW)
3. Best Power - St Johns (0.4 MW)
4. Best Power-School Sisters of Notre Dame (0.8 MW)
5. Big Blue Wind Farm, LLC (36 MW)
6. Danielson Wind Farms, LLC (20 MW)
7. Dragonfly Solar (0.8 MW)
8. Ewington Energy Systems, LLC (20 MW)
9. Grant County Windfarm, LLC (20 MW)
10. Hilltop Power, L.L.C. (2 MW)
11. Jeffers Wind Energy Center (50 MW) \*
12. Marshall Solar (62.2 MW)
13. North Community Turbines LLC (15 MW) \*
14. North Star Solar (100 MW)
15. North Wind Turbines LLC (15 MW) \*
16. Ridgewind Power Partners, LLC (25 MW)
17. Slayton Solar, LLC (1.6 MW)
18. Uilk Wind Farm, LLC (4.5 MW)
19. Valley View Transmission (10 MW)
20. Winona County Wind LLC (1.5 MW)
21. Woodstock Municipal Wind, LLC (0.8 MW)
22. Zephyr Wind LLC (30 MW)
23. Mankato Energy Center Expansion (MEC II) (capacity costs only) (345 MW)

\* Following the Company's acquisition of these resources, treatment will be as described in Section I.B.2 of this Settlement.