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Fargo, North Dakota 58402
dave.sederquist@xcelenergy.com

January 27, 2022

—Via Electronic Filing and U.S. Mail—

Steven M. Kahl, Executive Director
North Dakota Public Service Commission
State Capitol Building, Dept. 408
600 East Boulevard
Bismarck, ND 58505-0480

RE: **MISCELLANEOUS TARIFF CHANGES TO NORTH DAKOTA CITY FEE RIDER**
CASE NO. PU-22-___

Dear Mr. Kahl:

Northern States Power Company, doing business as Xcel Energy, submits to the North Dakota Public Service Commission this request for approval of a miscellaneous tariff revision to reflect 1) electric franchise fee modifications approved by the cities of Grand Forks and Fargo, North Dakota, and 2) tariff formatting changes to improve readability.

Ordinances

Grand Forks

On March 1, 2021, the City of Grand Forks adopted an ordinance which reduced the electric franchise fee applicable to eligible large volume customers whose electric usage during a monthly billing cycle meets certain qualifying criteria. The provision was designed to incent economic development in the city. Franchise Fee Ordinance No. 4783 is provided as Attachment A to this filing.

Fargo

On November 15, 2021, the City of Fargo adopted a similar ordinance which reduced the electric franchise fee to eligible large volume customers whose electric usage meets certain qualifying criteria. As with Grand Forks ordinance, the provision was adopted as an economic development tool. Franchise Fee Ordinance No. 5324 is provided as Attachment B to this filing.

Tariff Sheet

Attachment C to this filing is a revised tariff sheet in both legislative and non-legislative formats. The revision reflects the addition of footnotes for the cities of Grand Forks and Fargo indicating that City Fees are reduced for certain qualifying, high volume customers. Other revisions to the tariff page serve to streamline the tariff and improve clarity.

North Dakota Electric Rate Book – NDPSC No. 2

Sheet No. 5-77, revision 6

Customer Notification

Since there are currently no customers who qualify for reduced City Fees under the new ordinances in Fargo or Grand Forks, there will be no related bill messages.

If you have any questions, please feel free to contact me at (701) 371-5256.

Sincerely,

A handwritten signature in blue ink that reads "David H. Sederquist". The signature is written in a cursive style.

DAVID H. SEDERQUIST
SENIOR REGULATORY CONSULTANT

Enclosures

c: Bruce Grubb, City Administrator, City of Fargo
Todd Feland, City Administrator, City of Grand Forks

ORDINANCE NO. 4783

An Ordinance to amend the Electric Franchise Ordinance (Northern States Power Company d/b/a Xcel Energy) created under Ordinance No. 4256, that was approved on December 1, 2008 (said Ordinance No. 4256 shall be referred to herein as the “Xcel Franchise Ordinance”)

BE IT ORDAINED by the City Council of the City of Grand Forks, North Dakota, pursuant to its home rule charter, Grand Forks City Code and N.D.C.C. ch. 40-11 that:

Section 1: Amending Clause to Amend Section 1 of the Xcel Franchise Ordinance.

Section 1 of the Xcel Franchise Ordinance is amended and modified to include the following defined terms, as additions to the existing list of defined terms, to be used and applied to the Xcel Franchise Ordinance:

Billing Cycle Kilowatts shall mean and be the quotient derived from the fraction, the numerator of which is Kilowatt-hours of electricity supplied and sold by the Company to the customer in a Customer Billing Cycle and the denominator of which is Customer Hours of Electricity Usage in a Customer Billing Cycle, and shown by the following fraction:

Kilowatt-hours of electricity supplied and sold by the Company to
the customer in a Customer Billing Cycle

Customer Hours of Electricity Usage in a Customer Billing Cycle

By way of illustration and example only, if the Kilowatt-hours of electricity supplied and sold by the Company to the customer in a Customer Billing Cycle was 18,000,000, and the Customer Hours of Electricity Usage in a Customer Billing Cycle was 720, then the Billing Cycle Kilowatts is 25,000 ($18,000,000 / 720 = 25,000$).

Billing Cycle Megawatts shall mean and be the quotient derived from the fraction, the numerator of which is the Billing Cycle Kilowatts and the denominator of which is 1,000, and shown by the following fraction:

Billing Cycle Kilowatts

1,000

By way of illustration and example only, if the Billing Cycle Kilowatts is 25,000, then the Billing Cycle Megawatts is 25 ($25,000 / 1,000 = 25$).

Customer Billing Cycle shall mean the period of time, not to exceed a calendar month, for a periodic billing by the Company to a customer for payment of the Company's supply and sale of electricity to said customer.

Customer Hours of Electricity Usage shall mean the actual number of hours during a Customer Billing Cycle that electricity is supplied and sold by the Company to the customer. Accordingly, periods of time during a Customer Billing Cycle in which a customer is not being supplied and sold electricity by the Company, including off-peak time periods, shall be excluded.

Large Volume Electricity User shall mean a Company's customer in which the Company supplies and sells to said customer more than 20 Billing Cycle Megawatts (MW) of electricity during a Customer Billing Cycle. The determination as to whether a customer is a Large Volume Electricity User and whether Large Volume Electricity User Franchise Fee applies shall be made each Customer Billing Cycle. By way of illustration and example only, if a customer is supplied and sold 21 Billing Cycle Megawatts by the Company during one Customer Billing Cycle the customer would be a Large Volume Electricity User and the Large Volume Electricity User Franchise Fee would apply for the Customer Billing Cycle in which 21 Billing Cycle Megawatts were supplied and sold to the customer. However, if a customer is supplied and sold 20 or less Billing Cycle Megawatts by the Company during another Customer Billing Cycle, said customer would not be a Large Volume Electricity User and the Large Volume Electricity User Franchise Fee would not apply for the Customer Billing Cycle in which 20 or less Billing Cycle Megawatts were supplied and sold to the customer. Notwithstanding anything to the contrary, the University of North Dakota and the City (for and electrical service provided and sold by the Company for municipal street and highway lighting, municipal water pumping, municipal sewage pumping, municipal traffic signal, and municipal fire siren services) shall, for all purposes and regardless of the amount of electricity supplied or sold to said parties by the Company, shall be excluded from being a Large Volume Electricity User.

Large Volume Electricity User Franchise Fee shall mean and be sum of the following:

- (A) The product of the Standard Franchise Fee Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by 2%

PLUS

- (B) The product of the Reduced Franchise Fee Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by 0.75%.

By way of illustration and example only, if during an applicable Customer Billing Cycle the Standard Franchise Fee Gross Revenue

By way of illustration and example only, if the Billing Cycle Megawatts is 25, then the Standard Franchise Fee Percentage is 80.00% ($20 / 25 = 80.00\%$).

Section 2: Amending Clause to Amend Section 9 of the Xcel Franchise Ordinance.

The currently existing Section 9.1 of the Xcel Franchise Ordinance shall be stricken and deleted in its entirety, and shall be replaced and amended to provide as follows:

9.1. Fee Schedule.

9.1.1. **Franchise Fee.** During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on the Company, excluding any sales or use taxes, the City hereby imposes on Company a franchise fee as described herein.

9.1.2. **General Franchise Fee.** Except for the Large Volume Electricity User Franchise Fee described in Section 9.1.3 below, the franchise fee payable by the Company to the City shall be two percent (2%) of the Company's Gross Revenues.

9.1.3. **Large Volume Electricity User Franchise Fee.** In the event the Company has a Large Volume Electricity User during a Customer Billing Cycle, the Gross Revenue of the Large Volume Electricity User for such Customer Billing Cycle shall not be included in the Gross Revenue in the calculation of the franchise fee payable under Section 9.1.2 above, and for such Customer Billing Cycle, the franchise fee payable by the Company to the City for the Large Volume Electricity User shall be equal to the Large Volume Electricity User Franchise Fee. By way of illustration only, attached as Exhibit A are examples of a Large Volume Electricity User of 100, 75, 50, 25 and 20 Billing Cycle Megawatts, with an assumed power rate of \$0.085 per Kilowatt hour and an assumed 720 Customer Hours of Electricity Usage.

9.1.4. **Application of franchise fee to customer.** To reimburse the Company for the costs of such franchise fee, the Company may collect and add to its billings to customers with the City a surcharge to each customer at each and every customer location representing applicable franchise fee resulting from the electricity supplied and sold by the Company to said customer. Notwithstanding anything to the contrary, the Company may only collect and add a surcharge for the Large Volume Electricity User Franchise Fee to the billings to the Large Volume Electricity User.

9.1.5. **Modification.** After September 15, 2023, the City may give Company notice the City desires to renegotiate the franchise fee. Upon Company's receipt of such notice, Company and City shall negotiate in good faith to amend this franchise agreement to provide for a revised fee acceptable to City and Company.

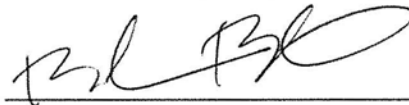
Section 3: No Other Modification or Amendment of Xcel Franchise Ordinance.

All of the amendments and modifications described in Section 1 and Section 2 are and shall be incorporated into and made a part of the Xcel Franchise Ordinance.

Except as specifically amended or modified by the provisions of Section 1 and Section 2 above, nothing herein is, nor shall it be deemed or construed to be, a modification, alteration, change, waiver or relinquishment of any of the terms, conditions, provisions, obligations or rights, nor expand nor diminish any term and/or condition, of the Xcel Franchise Ordinance.

Section 4: Effectivity

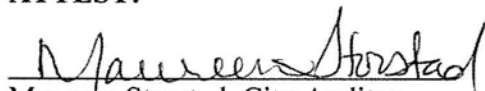
This Ordinance shall be in full force and effect after its final passage and approval as provided by law.



Brandon Bochenski, Mayor

Dated: 03/0/2021

ATTEST:



Maureen Storstad, City Auditor

Dated: 03/02/2021

Introduction and first reading: 02/16/2021

Public Hearing: 03/01/2021

Second reading and final passage and approval: 03/01/2021

Approved: 03/01/2021

Published: 03/10/2021

Exhibit A to Xcel Franchise Ordinance _____ - Section 9.1.3 Example of 100 Billing Cycle Megawatts

	<u>2% Franchise Fee</u>	<u>.75 Franchise Fee</u>	<u>Totals</u>
Gross Revenue	\$6,120,000.00	\$6,120,000.00	
Standard Franchise Fee Percentage	20.00%	N/A	
Reduced Franchise Fee Percentage	N/A	80.00%	
Standard Franchise Fee Gross Revenue (Gross Revenue of \$6,120,000 x Standard Franchise Fee Percentage of 20%)	\$1,224,000.00	N/A	
Reduced Franchise Fee Gross Revenue (Gross Revenue of \$6,120,000 x Reduced Franchise Fee Percentage of 80%)	N/A	\$4,896,000.00	
Franchise Fee Percentages	2.00%	0.75%	
Total Franchise Fee Payable (Standard/Reduced Franchise Fee Gross Revenue x Franchise Fee %)	\$24,480.00	\$36,720.00	\$61,200.00
Data Inputs - For Illustration			
KWhrs supplied and sold in Customer Billing Cycle	72,000,000.00		
Customer Hours of Electricity Usage	720.00		
Billing Cycle Kilowatts (KWhrs supplied and sold in Customer Billing Cycle / Customer Hours of Electricity Usage in a Customer Billing Cycle)	100,000.00		
Billing Cycle Megawatts (Billing Cycle Kilowatts / 1,000)	100.00		
Megawatt Threshold of Large Volume Electrical User	20.00		
Standard Franchise Fee Percentage (20.00 MW Threshold / 100 Billing Cycle Megawatts)	20.00%		
Reduced Franchise Fee Percentage (100% less Standard Franchise Fee Percentage)	80.00%		
KWhrs (Billing Cycle Megawatts x Customer Hours of Electricity Usage x 1,000)	72,000,000.00		
Assumed Power Rate (per KWhrs)	\$0.085		
Gross Revenue (KWhrs x Assumed Power Rate)	\$6,120,000.00		

Exhibit A to Xcel Franchise Ordinance _____ - Section 9.1.3 Example of 75 Billing Cycle Megawatts

	2% Franchise Fee	.75 Franchise Fee	Totals
Gross Revenue	\$4,590,000.00	\$4,590,000.00	
Standard Franchise Fee Percentage	26.67%	N/A	
Reduced Franchise Fee Percentage	N/A	73.33%	
Standard Franchise Fee Gross Revenue (Gross Revenue of \$4,590,000 x Standard Franchise Fee Percentage of 26.67%)	\$1,224,000.00	N/A	
Reduced Franchise Fee Gross Revenue (Gross Revenue of \$4,590,000 x Standard Franchise Fee Percentage of 73.33%)	N/A	\$3,366,000.00	
Franchise Fee Percentages	2.00%	0.75%	
Total Franchise Fee Payable (Standard/Reduced Franchise Fee Gross Revenue x Franchise Fee %)	\$24,480.00	\$25,245.00	\$49,725.00
Data Inputs - For Illustration			
KWhrs supplied and sold in Customer Billing Cycle	54,000,000.00		
Customer Hours of Electricity Usage	720.00		
Billing Cycle Kilowatts (KWhrs supplied and sold in Customer Billing Cycle / Customer Hours of Electricity Usage in a Customer Billing Cycle)	75,000.00		
Billing Cycle Megawatts (Billing Cycle Kilowatts / 1,000)	75.00		
Megawatt Threshold of Large Volume Electrical User	20.00		
Standard Franchise Fee Percentage (20.00 MW Threshold / 75 Billing Cycle Megawatts)	26.67%		
Reduced Franchise Fee Percentage (100% less Standard Franchise Fee Percentage)	73.33%		
KWhrs (Billing Cycle Megawatts x Customer Hours of Electricity Usage x 1,000)	54,000,000.00		
Assumed Power Rate (per KWhrs)	\$0.085		
Gross Revenue (KWhrs x Assumed Power Rate)	\$4,590,000.00		

Exhibit A to Xcel Franchise Ordinance _____ - Section 9.1.3 Example of 50 Billing Cycle Megawatts

	<u>2% Franchise Fee</u>	<u>.75 Franchise Fee</u>	<u>Totals</u>
Gross Revenue	\$3,060,000.00	\$3,060,000.00	
Standard Franchise Fee Percentage	40.00%	N/A	
Reduced Franchise Fee Percentage	N/A	60.00%	
Standard Franchise Fee Gross Revenue (Gross Revenue of \$3,060,000 x Standard Franchise Fee Percentage of 40%)	\$1,224,000.00	N/A	
Reduced Franchise Fee Gross Revenue (Gross Revenue of \$3,060,000 x Reduced Franchise Fee Percentage of 60%)	N/A	\$1,836,000.00	
Franchise Fee Percentages	2.00%	0.75%	
Total Franchise Fee Payable (Standard/Reduced Franchise Fee Gross Revenue x Franchise Fee %)	\$24,480.00	\$13,770.00	\$38,250.00
Data Inputs - For Illustration			
KWhrs supplied and sold in Customer Billing Cycle	36,000,000.00		
Customer Hours of Electricity Usage	720.00		
Billing Cycle Kilowatts (KWhrs supplied and sold in Customer Billing Cycle / Customer Hours of Electricity Usage in a Customer Billing Cycle)	50,000.00		
Billing Cycle Megawatts (Billing Cycle Kilowatts / 1,000)	50.00		
Megawatt Threshold of Large Volume Electrical User	20.00		
Standard Franchise Fee Percentage (20.00 MW Threshold / 50 Billing Cycle Megawatts)	40.00%		
Reduced Franchise Fee Percentage (100% less Standard Franchise Fee Percentage)	60.00%		
KWhrs (Billing Cycle Megawatts x Customer Hours of Electricity Usage x 1,000)	36,000,000.00		
Assumed Power Rate (per KWhrs)	\$0.085		
Gross Revenue (KWhrs x Assumed Power Rate)	\$3,060,000.00		

Exhibit A to Xcel Franchise Ordinance _____ - Section 9.1.3 Example of 25 Billing Cycle Megawatts

	<u>2% Franchise Fee</u>	<u>.75 Franchise Fee</u>	<u>Totals</u>
Gross Revenue	\$1,530,000.00	\$1,530,000.00	
Standard Franchise Fee Percentage	80.00%	N/A	
Reduced Franchise Fee Percentage	N/A	20.00%	
Standard Franchise Fee Gross Revenue (Gross Revenue of \$1,530,000 x Standard Franchise Fee Percentage of 80%)	\$1,224,000.00	N/A	
Reduced Franchise Fee Gross Revenue (Gross Revenue of \$1,530,000 x Reduced Franchise Fee Percentage of 20%)	N/A	\$306,000.00	
Franchise Fee Percentages	2.00%	0.75%	
Total Franchise Fee Payable (Standard/Reduced Franchise Fee Gross Revenue x Franchise Fee %)	\$24,480.00	\$2,295.00	\$26,775.00
Data Inputs - For Illustration			
KWhrs supplied and sold in Customer Billing Cycle	18,000,000.00		
Customer Hours of Electricity Usage	720.00		
Billing Cycle Kilowatts (KWhrs supplied and sold in Customer Billing Cycle / Customer Hours of Electricity Usage in a Customer Billing Cycle)	25,000.00		
Billing Cycle Megawatts (Billing Cycle Kilowatts / 1,000)	25.00		
Megawatt Threshold of Large Volume Electrical User	20.00		
Standard Franchise Fee Percentage (20.00 MW Threshold / 25 Billing Cycle Megawatts)	80.00%		
Reduced Franchise Fee Percentage (100% less Standard Franchise Fee Percentage)	20.00%		
KWhrs (Billing Cycle Megawatts x Customer Hours of Electricity Usage x 1,000)	18,000,000.00		
Assumed Power Rate (per KWhrs)	\$0.085		
Gross Revenue (KWhrs x Assumed Power Rate)	\$1,530,000.00		

Exhibit A to Xcel Franchise Ordinance _____ - Section 9.1.3 Example of 20 Billing Cycle Megawatts

	<u>2% Franchise Fee</u>	<u>.75 Franchise Fee</u>	<u>Totals</u>
Gross Revenue	\$1,224,000.00	\$1,224,000.00	
Standard Franchise Fee Percentage	100.00%	N/A	
Reduced Franchise Fee Percentage	N/A	0.00%	
Standard Franchise Fee Gross Revenue (Gross Revenue of \$1,224,000 x Standard Franchise Fee Percentage of 100%)	\$1,224,000.00	N/A	
Reduced Franchise Fee Gross Revenue (Gross Revenue of \$1,224,000 x Reduced Franchise Fee Percentage of 0%)	N/A	\$0.00	
Franchise Fee Percentages	2.00%	0.75%	
Total Franchise Fee Payable (Standard/Reduced Franchise Fee Gross Revenue x Franchise Fee %)	\$24,480.00	\$0.00	\$24,480.00
Data Inputs - For Illustration			
KWhrs supplied and sold in Customer Billing Cycle	14,400,000.00		
Customer Hours of Electricity Usage	720.00		
Billing Cycle Kilowatts (KWhrs supplied and sold in Customer Billing Cycle / Customer Hours of Electricity Usage in a Customer Billing Cycle)	20,000.00		
Billing Cycle Megawatts (Billing Cycle Kilowatts / 1,000)	20.00		
Megawatt Threshold of Large Volume Electrical User	20.00		
Standard Franchise Fee Percentage (20.00 MW Threshold / 20 Billing Cycle Megawatts)	100.00%		
Reduced Franchise Fee Percentage (100% less Standard Franchise Fee Percentage)	0.00%		
KWhrs (Billing Cycle Megawatts x Customer Hours of Electricity Usage x 1,000)	14,400,000.00		
Assumed Power Rate (per KWhrs)	\$0.085		
Gross Revenue (KWhrs x Assumed Power Rate)	\$1,224,000.00		

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5324

ELECTRIC FRANCHISE ORDINANCE

ORDINANCE NO. 5324

CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the city shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, the board of city commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the board of city commissioners of the city of Fargo:

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF FARGO, NORTH DAKOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following terms listed in alphabetical order shall have the following meanings:

City. The City of Fargo, County of Cass, State of North Dakota.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5324

City Utility System. Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

1 **Commission.** The North Dakota Public Service Commission, or any successor agency or
2 agencies, including an agency of the federal government which preempts all or part of the authority
3 to regulate electric retail rates now vested in the North Dakota Public Service Commission.

4 **Company.** Northern States Power Company, a Minnesota corporation, its successors and
5 assigns.

6 **Electric Facilities.** Electric transmission and distribution towers, poles, lines, guys,
7 anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the
8 purpose of providing electric energy for public use.

9 **Notice.** A written notice served by one party on the other party referencing one or more
10 provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 401
11 Nicollet Mall, 8th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City
12 Administrator, 225 4th Street, Fargo, ND 58102. Either party may change its respective address
13 for the purpose of this Ordinance by written notice to the other party.

14 **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

15 **Billing Cycle Kilowatts** shall mean and be the quotient derived from the fraction, the
16 numerator of which is Kilowatt-hours of electricity supplied and sold by the Company to the
17 customer in a Customer Billing Cycle and the denominator of which is Customer Hours of
18 Electricity Usage in a Customer Billing Cycle, and shown by the following fraction:

$$\frac{\text{Kilowatt-hours of electricity supplied and sold by the Company to the customer in a Customer Billing Cycle}}{\text{Customer Hours of Electricity Usage in a Customer Billing Cycle}}$$

19 By way of illustration and example only, if the Kilowatt-hours of electricity supplied and
20 sold by the Company to the customer in a Customer Billing Cycle was 18,000,000, and the
21 Customer Hours of Electricity Usage in a Customer Billing Cycle was 720, then the Billing Cycle
22 Kilowatts is 25,000 ($18,000,000 / 720 = 25,000$).

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FARGO, NORTH DAKOTA

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Billing Cycle Megawatts shall mean and be the quotient derived from the fraction, the numerator of which is the Billing Cycle Kilowatts and the denominator of which is 1,000, and shown by the following fraction:

1 Billing Cycle Kilowatts _____
2 1,000

3 By way of illustration and example only, if the Billing Cycle Kilowatts is 25,000, then the
4 Billing Cycle Megawatts is 25 (25,000 / 1,000 = 25).

5 **Customer Billing Cycle** shall mean the period of time, not to exceed a calendar month, for
6 a periodic billing by the Company to a customer for payment of the Company's supply and sale of
7 electricity to said customer.

8 **Customer Hours of Electricity Usage** shall mean the actual number of hours during a
9 Customer Billing Cycle that electricity is supplied and sold by the Company to the customer.
10 Accordingly, periods of time during a Customer Billing Cycle in which a customer is not being
11 supplied and sold electricity by the Company, including off-peak time periods, shall be excluded.

12 **Large Volume Electricity User** shall mean a Company's customer in which the Company
13 supplies and sells to said customer more than 20 Billing Cycle Megawatts (MW) of electricity
14 during a Customer Billing Cycle. The determination as to whether a customer is a Large Volume
15 Electricity User and whether Large Volume Electricity User Franchise Fee applies shall be made
16 each Customer Billing Cycle. By way of illustration and example only, if a customer is supplied and
17 sold 21 Billing Cycle Megawatts by the Company during one Customer Billing Cycle the customer
18 would be a Large Volume Electricity User and the Large Volume Electricity User Franchise Fee
19 would apply for the Customer Billing Cycle in which 21 Billing Cycle Megawatts were supplied
20 and sold to the customer. However, if a customer is supplied and sold 20 or less Billing Cycle
21 Megawatts by the Company during another Customer Billing Cycle, said customer would not be a
22 Large Volume Electricity User and the Large Volume Electricity User Franchise Fee would not
23 apply for the Customer Billing Cycle in which 20 or less Billing Cycle Megawatts were supplied
24 and sold to the customer. Notwithstanding anything to the contrary, North Dakota State University
25 and the City (for and electrical service provided and sold by the Company for municipal street and
26 highway lighting, municipal water pumping, municipal sewage pumping, municipal traffic signal,
27 and municipal fire siren services) shall, for all purposes and regardless of the amount of electricity
28 supplied or sold to said parties by the Company, shall be excluded from being a Large Volume
29 Electricity User.

Large Volume Electricity User Franchise Fee shall mean and be sum of the following:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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- (A) The product of the Standard Franchise Fee Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by 2%

PLUS

- (B) The product of the Reduced Franchise Fee Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by 0.75%.

By way of illustration and example only, if during an applicable Customer Billing Cycle the Standard Franchise Fee Gross Revenue from the Large Volume Electricity User was \$1,224,000.00 and the Reduced Franchise Fee Gross Revenue from the Large Volume Electricity User was \$306,000.00, then the Large Volume Electricity User Franchise Fee for such Customer Billing Cycle is \$26,775.00 calculated as follows:

(A) $\$1,224,000.00 \times 2\% = \$24,480.00$

PLUS

(B) $\$306,000.00 \times 0.75\% = \underline{\$2,295.00}$

Large Volume Electricity User Franchise Fee = \$26,775.00

Reduced Franchise Fee Gross Revenue shall mean and be the product of Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by the Reduced Franchise Fee Percentage. By way of illustration and example only, if during an applicable Customer Billing Cycle the Gross Revenue from the Large Volume Electricity User was \$1,530,000.00 and the Reduced Franchise Fee Percentage was 20.00%, then the Reduced Franchise Fee Gross Revenue is \$306,000.00 ($\$1,530,000.00 \times 20.00\% = \$306,000.00$).

Reduced Franchise Fee Percentage shall mean and be the difference of 100.00% minus the Standard Franchise Fee Percentage. By way of illustration and example only, if the Standard Franchise Fee Percentage is 80.00%, then the Reduced Franchise Fee Percentage shall be 20.00% ($100.00\% \text{ minus } 80.00\% = 20.00\%$).

Standard Franchise Fee Gross Revenue shall mean and be the product of Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by the Standard Franchise Fee Percentage. By way of illustration and example only, if during an applicable Customer Billing Cycle the Gross Revenue from the Large Volume Electricity User was

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FARGO, NORTH DAKOTA

ORDINANCE NO. 5324

decisions that apply shall continue to be subject to the jurisdiction of the Public Service Commission of this State or its successor agency.

1 2.4 **Dispute Resolution.** If either party asserts that the other party is in default in the
2 performance of any obligation hereunder, the complaining party shall notify the other party of the
3 default and the desired remedy. The notification shall be written. Representatives of the parties
4 must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute
5 is not resolved within 30 days of the written notice, the parties may jointly select a mediator to
6 facilitate further discussion. The parties will equally share the fees and expenses of this mediator.
7 If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first
8 meeting with the selected mediator, either party may commence an action in District Court, Cass
9 County, North Dakota, to interpret and enforce this franchise or for such other relief as may be
10 permitted by law or equity for breach of contract, or either party may take any other action
11 permitted by law.

8 **SECTION 3. LOCATION, OTHER REGULATIONS.**

9 3.1 **Location of Facilities.** Electric Facilities shall be located, constructed and
10 maintained so as not to interfere with the safety and convenience of ordinary travel along and over
11 Public Ways and so as not to disrupt normal operation of any City Utility System previously
12 installed therein. Electric Facilities shall be located on Public Grounds as determined by the City.
13 Company's construction, reconstruction, operation, repair, maintenance and location of Electric
14 Facilities shall be subject to permits if required by separate ordinance and to other reasonable
15 regulations of the City to the extent not inconsistent with the terms of this franchise agreement.
16 Company shall be required to comply with North Dakota Century Code Ch. 49-23- One-Call
17 Excavation Notice System as underground Electric Facilities may be abandoned underground in
18 place from time to time, provided at the City's request, Company will remove abandoned metal or
19 concrete encased conduit interfering with a City improvement project, but only to the extent such
20 conduit is uncovered by excavation as part of the City improvement project. To the extent
21 inconsistent with State law, State law shall control

17 3.2 **Street Openings.** Company shall not open or disturb any Public Way for any
18 purpose without first having obtained a permit from the City in accordance with Fargo Municipal
19 Code Article 18-09, for which the City may impose a reasonable fee, or otherwise giving notice
20 thereof to the city engineer in accordance with Fargo Municipal Code §18-0912. Permit conditions,
21 if any, imposed on Company shall not be more burdensome than those imposed on other utilities for
22 similar facilities or work. In the event of an emergency, Company shall notify the city engineer on
23 the first working day after such work is commenced, and shall secure such permits, if necessary.

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1 3.3 **Restoration.** After undertaking any work requiring the opening of any Public Way,
2 Company shall restore the same, including paving and its foundation, in accordance with Fargo
3 Municipal Code Article 18-09, unless otherwise agreed to by the parties. Company shall be
4 permitted to use non-reinforced concrete instead of cold mix asphalt for temporary restoration
5 purposes. City hereby waives any requirement for Company to post a construction performance
6 bond, certificate of insurance, letter of credit or any other form of security or assurance that may be
7 required, under a separate existing or future ordinance of the City, of a person or entity obtaining the
8 City's permission to install, replace or maintain facilities in a Public Way.

9 3.4 **Avoid Damage to Electric Facilities.** Nothing in this Ordinance relieves any
10 person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric
11 Facilities while performing any activity.

12 3.5 **Notice of Improvements.** City must give Company reasonable notice of plans for
13 improvements to Public Ways where City has reason to believe that Electric Facilities may affect or
14 be affected by the improvement. The notice must contain: (i) the nature and character of the
15 improvements, (ii) the Public Ways upon which the improvements are to be made, (iii) the extent of
16 the improvements, (iv) the time when the City will start the work, and (v) if more than one Public
17 Way is involved, the order in which the work is to proceed. The notice must be given to Company a
18 sufficient length of time in advance of the actual commencement of the work to permit Company to
19 make any necessary additions, alterations or repairs to its Electric Facilities.

20 3.6 **Shared Use of Poles.** Company shall make space available on its poles or towers
21 for City fire, water utility, police or other City facilities whenever such use will not interfere with
22 the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by
23 any cable television company or other form of communication company. In addition, the City shall
24 pay for any added cost incurred by Company because of such use by City.

SECTION 4. RELOCATIONS.

25 4.1 **Relocation of Electric Facilities in Public Ways.** If the City determines to vacate a
26 Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of
27 any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order
28 Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to
29 accomplish the City's proposed public improvement. Except as provided in Section 4.2, Company
30 shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable
31 notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of
32 any Public Way or to construct or reconstruct any City Utility System. Nothing in this Franchise
33 Agreement requires Company to relocate, remove, replace or reconstruct at its own expense its
34 Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the
35 convenience of the city and is not reasonably necessary for the construction or reconstruction of a
36 Public Way or City Utility System or other City improvement.

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1 City in such suit if written notice thereof is promptly given to Company within a period wherein
2 Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend,
3 it will thereafter have control of such litigation, but Company may not settle such litigation without
4 the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to
5 third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in
6 defending any action on behalf of the City shall be entitled to assert in any action every defense or
7 immunity that the City could assert in its own behalf.

8
9 **SECTION 7. VACATION OF PUBLIC WAYS.**

10 The City shall give Company at least two weeks prior written notice of a proposed vacation
11 of a Public Way. Except where required for a City improvement project, the vacation of any Public
12 Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to
13 operate and maintain such Electric Facilities, until the reasonable cost of relocating the same and the
14 loss and expense resulting from such relocation are first paid to Company. In no case, however,
15 shall City be liable to Company for failure to specifically preserve a right-of-way under North
16 Dakota Century Code, Chapter 40-39.

17 **SECTION 8. CHANGE IN FORM OF GOVERNMENT.**

18 Any change in the form of government of the City shall not affect the validity of this
19 Ordinance. Any governmental unit succeeding the City shall, without the consent of Company,
20 succeed to all of the rights and obligations of the City provided in this Ordinance.

21 **SECTION 9. FRANCHISE FEE.**

22 9.1 **Fee Schedule.** During the term of the franchise hereby granted, and in lieu
23 of any permit or other fees being imposed on the Company, the City may impose on
Company a franchise fee ("Franchise Fee") as described herein.

9.2 **General Franchise Fee.** Except for the Large Volume Electricity
User Franchise Fee described in Section 9.3 below, the franchise fee payable by
the Company to the City shall be determined by Resolution of the board of city
commissioners as a percentage of Company's Gross Revenues.

9.3 **Large Volume Electricity User Franchise Fee.** In the event the
Company has a Large Volume Electricity User during a Customer Billing Cycle, the Gross
Revenue of the Large Volume Electricity User for such Customer Billing Cycle shall not
be included in the Gross Revenue in the calculation of the franchise fee payable under
Section 9.2 above, and for such Customer Billing Cycle, the franchise fee payable by the
Company to the City for the Large Volume Electricity User shall be equal to the Large

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Volume Electricity User Franchise Fee.

1 9.4 **Application of franchise fee to customer.** To reimburse the Company for the
2 costs of such franchise fee, the Company may collect and add to its billings to customers
3 with City a surcharge to each customer at each and every customer location representing
4 applicable franchise fee resulting from the electricity supplied and sold by the Company to
5 said customer. Notwithstanding anything to the contrary, the Company may only collect
6 and add a surcharge for the Large Volume Electricity User Franchise Fee to the billings to
7 the Large Volume Electricity User.

8 9.5 **Fee Adjustments.** City and Company agree that City, in its sole discretion,
9 may raise or lower the percentage Franchise Fee on a non-discriminatory basis, and
10 Company may raise or lower the corresponding surcharge to its customers accordingly.
11 This franchise ordinance shall not be construed as a limitation on the City's power to tax
12 the Company, if any.

13 9.6 **Terms Defined.** For the purpose of this Section 9, the following definitions apply:

14 9.6.1 "Customer Class" shall refer to the classes listed on the Fee Schedule and as
15 defined or determined in Company's electric tariffs on file with the Commission.

16 9.6.2 "Fee Schedule" refers to the schedule in Section 9.1 setting forth the various
17 customer classes from which a Franchise Fee may be collected.

18 9.6.3 "Gross revenues" means all sums, excluding the added charge, received during
19 the term of this franchise by Company from the sale of electricity within the corporate limits of the
20 City provided, however, that there shall be expressly excluded from the computation of gross
21 revenues all sums received by the Company for electricity sold for municipal street and highway
22 lighting, municipal water pumping, municipal sewage pumping, municipal traffic signal, and
23 municipal fire siren services.

 9.7 **Collection of the Fee.** The Franchise Fee shall be payable monthly and shall be
based on the amount collected by Company during complete billing months during the period for
which payment is to be made by imposing a surcharge equal to the designated Franchise Fee for the
applicable customer classification in all customer billings for electric service in each class. The
payment shall be due the last business day of the month following the period for which the payment
is made. The Franchise Fee may be changed by Resolution from time to time; however, each
change shall meet the same notice requirements and not occur more often than annually and no
change shall require a collection from any customer for electric service in excess of the amounts
specifically permitted by this Section 9. The time and manner of collecting the Franchise Fee is
subject to the approval of the board of city commission. No Franchise Fee shall be payable by

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1 Company if Company is legally unable to first collect an amount equal to the Franchise Fee from its
2 customers in each applicable class of customers by imposing a surcharge in Company's applicable
3 rates for electric service. Company may pay City the fee based upon the surcharge billed subject to
4 subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings.
5 Company agrees to make its records available for inspection by City at reasonable times provided
6 that City and its designated representative agree in writing not to disclose any information which
7 would indicate the amount paid by any identifiable customer or customers or any other information
8 regarding identified customers.

9 **9.8 Equivalent Fee Requirement.** City agrees it will not grant additional franchises
10 for other Electrical Distribution System providers in City on terms more favorable or less
11 burdensome than this franchise agreement based on consideration of the Franchises as a whole and
12 not on a provision-by-provision basis.

13 **9.9 Annual Franchise Performance and Planning Meeting; Annual Reporting.**
14 Company and City shall meet annually to discuss items of concern or interest related to this
15 Franchise, including, but not limited to, collaborative infrastructure planning, vegetation
16 management and reliability performance. Upon request of City, Company shall annually provide to
17 City reporting information on service reliability, including System Average Interruption Duration
18 Index (SAIDI) and Customers Experiencing Multiple Interruptions (CEMI) data, customer usage,
19 program participation, outage data, and infrastructure improvements and capital improvements, the
20 exact format and content of which shall be mutually agreed to by City and Company, and in a
21 manner consistent with all applicable laws, regulations and Commission orders.

22 **SECTION 10. INSURANCE AND WORKERS COMPENSATION.**

23 **10.1 Insurance.** As of the effective date of this franchise agreement Company will, at
its sole expense, maintain during the entire term of this franchise agreement public liability
insurance with a company licensed to do business in the State of North Dakota with a rating by Best
of not less than "A" that will protect Company, the City, and the City's officials, officers,
employees, and agents from claims which may arise from operations under this Franchise, whether
such operations are by the Company, its officials, officers, directors, employees, or agents, or any
subcontractors of Company. This liability insurance will include, but will not be limited to,
protection against claims arising from bodily and personal injury, death, and damage to property
resulting from the Company's automobiles, products, and completed operations. The amount of
such insurance shall be subject to periodic changes as described in this Section, or as may be
required by applicable law, but will be not less than the following:

- (a) General liability insurance:
- (b) Bodily injury and/or death per Person \$1,000,000
Bodily injury and/or death per occurrence \$1,000,000

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Property damage per occurrence \$1,000,000
Property damage and bodily injury, aggregate \$2,000,000

(c) Automobile insurance:
Combined single limit \$1,000,000

(d) Umbrella coverage: \$2,000,000

The liability policy will provide for the following, by endorsement or otherwise:

(a) The policy will cover personal injury as well as bodily injury.

(b) The policy will cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries, and property damage.

(c) Broad form property damage liability will be afforded.

(d) The City will be included as an additional insured on the policy.

(e) The coverage is primary insurance and no other insurance or fund of the City will be called upon to contribute to a loss under this coverage.

(f) Standard form of cross-liability will be afforded.

(g) The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

The automobile insurance policy will provide for the following, by endorsement or otherwise:

(a) The City will be included as an additional insured on the policy.

(b) The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

Upon ninety (90) days prior written notice to Company, the City reserves the right to adjust the limit coverage requirements no more than once every five (5) years. Any such adjustment by the City will be no greater than the increase in the State of North Dakota Consumer Price Index for such five (5) year period, unless otherwise required by applicable law.

Legislative

NORTH DAKOTA ELECTRIC RATE BOOK - NDPSO NO. 2

CITY FEE RIDER

Section No. 5
~~5th~~^{6th} Revised Sheet No. 77

A City Fee as designated will be included in monthly bills computed under the indicated rate schedules effective in the North Dakota communities listed below. ~~With the exception of for~~ Cummings, ND, the Company remits 100% of these fees collected from customers to the local government unit.

- ~~A. Cummings* (\$2.60) X indicates City Fee is applied.~~
- ~~B. Fargo (2%) - indicates City Fee is not applied.~~
- ~~C. Grand Forks** (2%)~~
- ~~D. Hatton (2%)~~
- ~~E. Larimore (2%)~~
- ~~F. West Fargo (2%)~~

"X" indicates City Fee is applied

	<u>Cummings¹</u>	<u>Fargo²</u>	<u>Grand Forks^{2,3}</u>	<u>Hatton</u>	<u>Larimore</u>	<u>West Fargo</u>
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>
Rate Schedules.....	\$2.60	2%	2%	2%	2%	2%
Residential Service.....	X	X	X	X	X	X
Residential Time of Day Service.....	X	X	X	X	X	X
Energy-Controlled Service (Non-Demand Metered).....	-	X	X	X	X	X
Limited Off-Peak Service.....	-	X	X	X	X	X
Automatic Protective Lighting Service.....	-	X	X	X	X	X
Small General Service.....	X	X	X	X	X	X
Small General Time of Day Service.....	X	X	X	X	X	X
General Service.....	-	X	X	X	X	X
General Time of Day Service.....	-	X	X	X	X	X
Peak-Controlled Service.....	-	X	X	X	X	X
Peak-Controlled Time of Day Service.....	-	X	X	X	X	X
Real Time Pricing Service.....	-	X	X	X	X	X
Street Lighting System Service.....	-	X	-	-	-	X
Street Lighting Service (Purchased Equipment).....	-	X	-	-	-	X
Street Lighting Service (Purchased Equipment) (Closed).....	-	X	-	-	-	X
Street Lighting Energy Service-Metered	-	X	-	-	-	X
Small Municipal Pumping Service.....	-	X	-	-	-	X
Municipal Pumping Service.....	-	X	-	-	-	X
Fire and Civil Defense Siren Service.....	-	X	-	-	-	X

¹The Company collects a fixed monthly fee of \$2.60 per customer in ~~the unincorporated community of~~ Cummings ~~for energy usage and maintenance on community street lighting. The amount collected is used to offset the Cummings' community's~~ street lighting bill.

² The City Fee is reduced for qualifying large volume customers as detailed in the city's Franchise Agreement.

³ The City Fee is not applied to University of North Dakota bills.

Date Filed: 03-26-24~~01-27-22~~ By: Christopher B. Clark Effective Date: 10-01-24
 President, Northern States Power Company, a Minnesota corporation
 Case No. PU-20-441~~PU-22-~~ Order Date: 08-18-24

Non-Legislative

NORTH DAKOTA ELECTRIC RATE BOOK - NDPSC NO. 2

CITY FEE RIDER

Section No. 5
 6th Revised Sheet No. 77

A City Fee as designated will be included in monthly bills computed under the indicated rate schedules effective in the North Dakota communities listed. Except for Cummings, ND the Company remits 100% of these fees collected from customers to the local government unit.

“X” indicates City Fee is applied

	Cummings ¹	Fargo ²	Grand Forks ^{2,3}	Hatton	Larimore	West Fargo
Rate Schedules.....	\$2.60	2%	2%	2%	2%	2%
Residential Service.....	X	X	X	X	X	X
Residential Time of Day Service.....	X	X	X	X	X	X
Energy-Controlled Service (Non-Demand Metered).....	-	X	X	X	X	X
Limited Off-Peak Service.....	-	X	X	X	X	X
Automatic Protective Lighting Service.....	-	X	X	X	X	X
Small General Service.....	X	X	X	X	X	X
Small General Time of Day Service.....	X	X	X	X	X	X
General Service.....	-	X	X	X	X	X
General Time of Day Service.....	-	X	X	X	X	X
Peak-Controlled Service.....	-	X	X	X	X	X
Peak-Controlled Time of Day Service.....	-	X	X	X	X	X
Real Time Pricing Service.....	-	X	X	X	X	X
Street Lighting System Service.....	-	X	-	-	-	X
Street Lighting Service (Purchased Equipment).....	-	X	-	-	-	X
Street Lighting Service (Purchased Equipment) (Closed).....	-	X	-	-	-	X
Street Lighting Energy Service-Metered	-	X	-	-	-	X
Small Municipal Pumping Service.....	-	X	-	-	-	X
Municipal Pumping Service.....	-	X	-	-	-	X
Fire and Civil Defense Siren Service.....	-	X	-	-	-	X

¹The Company collects a fixed monthly fee of \$2.60 per customer in Cummings to offset the community’s street lighting bill.

² The City Fee is reduced for qualifying large volume customers as detailed in the city’s Franchise Agreement.

³ The City Fee is not applied to University of North Dakota bills.

Date Filed: 01-27-22

By: Christopher B. Clark

Effective Date:

President, Northern States Power Company, a Minnesota corporation

Case No. PU-22-

Order Date: