

Memorandum

To: Commissioners Christmann, Haugen-Hoffart and Fedorchak

From: Robert Frank Public Utility Analyst

RF

Date: March 27, 2023

Re: Northern States Power Company, Customer Credit – DOE Settlement 2021, Rates, Case No. PU-23-044

On February 2, 2023, Northern States Power Company (NSP) filed a petition for approval to refund to customers the 13th settlement payment received January 3, 2023, pursuant to the third extension of the 2011 Settlement Agreement with the United States Department of Energy (DOE) for 2021 damages due to DOE not accepting nuclear waste in breach of the federal Nuclear Waste Policy Act.

Under the Nuclear Waste Policy Act of 1982, utilities were required to enter into contracts for the disposal of spent nuclear fuel; utilities contributed 1.0 mil for every kilowatt-hour of electricity generated by their nuclear power plants. In exchange, the DOE committed to transport and dispose of the spent nuclear fuel beginning no later than January 31, 1998. However, the DOE has not accepted any spent nuclear fuel to date.

In 1998, NSP filed the first of two lawsuits against the DOE seeking to recover damages associated with the storage of spent nuclear fuel at our Prairie Island and Monticello nuclear generating plants. NSP's claims were for partial breach of the Standard Contract for Disposal of Spent Nuclear Fuel for failing to take title to, transport, and dispose of spent nuclear fuel beginning no later than January 31, 1998. The first lawsuit sought damages through 2004; the second sought damages through 2008. NSP reached a settlement with the DOE on two lawsuits on July 7, 2011, that provided a mechanism for the Company to recover its spent nuclear fuel storage damages through December 31, 2013. Five payments were subsequently received by NSP covering damages from Jan. 31, 1998, through 2013.

From January 24, 2014, through August 24, 2020, NSP and the DOE extended the 2011 Settlement three times. On August 24, 2020, NSP and the DOE agreed to extend the settlement an additional three years to allow for the recovery of damages (via the 12th, 13th, and 14th payments) through December 31, 2022. The second payment under this third extension (and 13th payment overall) was received on January 3, 2023. The North Dakota jurisdictional portion is approximately \$1,331,018 including the related total interest forecasted to accrue over the issue period. The payment is allocated to each customer class based on related weighted energy and capacity components. A North Dakota residential consumer is estimated to receive the one-time credit amount of \$5.62 for the 13th payment.

In its Order in Case No. PU-21-89 (approving the disbursement of the 11th DOE payment), the Commission instructed that NSP should refund the DOE settlement proceeds through the one-time bill credit method as soon as practicable but not to exceed 120 days from receipt of the funds. NSP continues to experience a backlog of customer refunds and credits due to its system being unable to process multiple refunds concurrently and does not find it will be feasible to process the 13th payment within the 120-day period, or May 2, 2023.

NSP requests approval of one of two methods refunding the 13th payment:

1. Grant a 90-day extension of the May 3 deadline to allow the Company to properly schedule and prepare to issue the \$1.3 million credit as a distinct line-item credit on bills to its North Dakota electric customers by August 1st or
2. Allow the refund to be credited through the Billing Credit Rider (BCR) with a negative rate per kWh for each customer class. The rate credit would be calculated based on allocation of the \$1.3 million to class divided by the forecast kWh sales per class during the refund period.

The BCR was approved on August 17, 2022, in Case No. PU-22-186 and would provide the 13th DOE payment refund as an ongoing credit to customers. The determination of credits by class would be consistent with the one-time bill credit methodology. NSP proposes to refund the 13th DOE payment over 12 months starting April 1, 2023, as a line-item refund on customer bills. NSP request a one-time 333-day extension of the timeline that would enable the credit to be processed April 1, 2023, through March 31, 2024.

Staff recommends allowing the 333-day extension and processing the credit from April 1, 2023, through March 31, 2024, using the BCR.

C. Alex Nisbet