

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Customer Credit- DOE Settlement 2021
Application**

Case No. PU-23-044

ORDER

March 29, 2023

Preliminary Statement

On February 2, 2023, Northern States Power Company (NSP) filed a petition for approval to refund to customers the 13th settlement payment (approximately \$1,331,008) received January 3, 2023, arising from United States Department of Energy (DOE) not accepting nuclear waste in breach of the federal Nuclear Waste Policy Act.

On February 22, 2023, the Commission issued a Notice of Opportunity for Hearing providing until March 29, 2023, for comments and requests for hearing.

The Notice identified the following issues to be considered:

1. Is the 13th settlement payment refund just and reasonable?
2. What is the appropriate settlement refund mechanism and refund period?
3. Whether a 90-day or 180-day extension of the May 3, 2023, deadline will be necessary.

No comments were received.

Discussion

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.

Given the annual cadence of the DOE payments, NSP requests to use the electric Bill Credit Rider (BCR) tariff to provide the 13th DOE payment refund as an ongoing credit to customers over 12 months starting April 1, 2023. The determination of refund credits by class would be consistent with the prior one-time bill credit methodology. This process would improve the timeliness of refunds because prior refunds were often delayed beyond the 120-day timeline as ordered in Order Provision 4 to Case No. PU-21-89. NSP also requests a one-time 333-day extension of the timeline to process the current payment.

Having considered this matter, the Commission finds the refund of the thirteenth DOE settlement payment is just and reasonable, should be refunded using the BCR over a 12-month period beginning April 1, 2023, and an extension to the May 3, 2023, deadline is necessary.

Order

The Commission Orders:

1. Northern States Power Company's proposal to issue the thirteenth DOE settlement payment as a line-item refund on customer bills for 12 months is APPROVED.
2. The request for a 333-day extension of the timeline to enable the credit to be processed April 1, 2023, through March 31, 2024, is GRANTED.
3. Ordering Provision 4 of the August 4, 2021 Order, Case No. PU-21-89 is revoked.

4. NSP shall refund future DOE settlement proceeds back to North Dakota customers using the Bill Credit Rider as soon as is practicable beginning no later than 120 days from the receipt of the funds from the DOE.

5. NSP shall complete the refund over a period of 12 months.

6. Within 30 days of receipt of the settlement proceeds, NSP shall provide notification to the Commission detailing the amount and planned timing of the refund. A refund report must be filed with the Commission by NSP within 30 days from completion of future refunds.

PUBLIC SERVICE COMMISSION



Sheri Haugen-Hoffart
Commissioner



Randy Christmann
Chair



Julie Fedorchak
Commissioner