

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Northern States Power Company  
Customer Credit – DOE Settlement 2021  
Application

Case No. PU-23-44

AFFIDAVIT OF SERVICE BY CERTIFIED AND ELECTRONIC MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Geralyn R. Schmaltz** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **1st day of May 2023**, she deposited in the United States Mail, at Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Amended Order**

The envelopes were addressed as follows:

Shubha Harris  
Principal Attorney  
Xcel Energy Services, Inc.  
414 Nicollet Mall, 401-8  
Minneapolis, MN 55401  
**Cert. No. 7021 2720 0000 4438 7641**

Kristine Schwartz  
Regulatory Administrator  
Xcel Energy  
401 Nicollet Mall – 407-7  
Minneapolis, MN 55401  
**Cert. No. 7021 2720 0000 4438 7658**

**Geralyn R. Schmaltz** further deposes and says that on the **1st day of May 2023**, she sent an electronic message to **two** addresses, each including an electronic copy in portable document format of the same document.

The electronic mail was addressed as follows:

Regulatory Records  
Xcel Energy  
[regulatory.records@xcelenergy.com](mailto:regulatory.records@xcelenergy.com)

Alex Nisbet  
Xcel Energy  
[alex.j.nisbet@xcelenergy.com](mailto:alex.j.nisbet@xcelenergy.com)

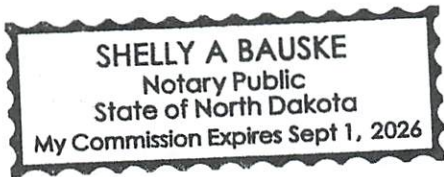
The addresses shown is the respective addressee's last reasonably ascertainable post office and electronic addresses.

Subscribed and sworn to before me  
this **1st day of May 2023**.

*Geney R. Penney*

*Shelly A Bauske*  
Notary Public

SEAL



**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

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

**Case No. PU-23-044**

**AMENDED ORDER**

**April 27, 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 or requests for hearing were received.

On March 29, 2023, the Commission issued an Order approving the thirteenth DOE settlement payment as a line-item refund on customer bills for 12 months, granting a 333-day extension, revoking Ordering Provision No. 4 of the August 4, 2021, Order in Case No. PU-21-89, requiring refund of future DOE settlement proceeds back to customers using the Bill Credit Rider no later than 120 days from receipt of the funds and to be completed within 12 months, and requiring notification to the Commission detailing the amount and planned timing of the refund within 30 days of receipt of the settlement proceeds and a refund report to be filed with the Commission within 30 days from completion of future refunds.

On March 31, 2023, NSP filed a request for a modified order with new processing dates of no later than June 1, 2023, through May 31, 2024.

### **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 their 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.

Upon issuance of the March 29, 2023, Order, NSP requested a modified order. NSP was unable to process the refund with an April 1, 2023, start date and requests new processing dates of June 1, 2023, through May 31, 2024, increasing the one-time extension of the timeline to 394 days. The Company incorrectly requested an April 1, 2023, start date based upon incorrect assumptions regarding first-time usage of the bill

credit rider and required additional setup and testing. To accommodate the request for modified order, a 394-day extension is required to address the new processing dates of June 1, 2023, through May 31, 2024.

Having considered this matter and the request for modified order, 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 June 1, 2023.

### 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 394-day extension of the timeline to enable the credit to be processed June 1, 2023, through May 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

  
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Sheri Haugen-Hoffart  
Commissioner

  
\_\_\_\_\_  
Randy Christmann  
Chair

  
\_\_\_\_\_  
Julie Fedorchak  
Commissioner