



2302 Great Northern Drive
Fargo, ND 58802

December 20, 2023

—Via Electronic Mail and UPS—

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

RE: APPLICATION
14TH DEPARTMENT OF ENERGY (DOE) SETTLEMENT PAYMENT
CASE NO. PU-23-____

Dear Mr. Kahl:

Northern States Power Company, doing business as Xcel Energy, submits the enclosed original and seven copies of the Company's Application proposing disposition of the 14th U.S. Department of Energy (DOE) payment received for partial breach of its contract to take spent nuclear fuel for 2022. The Company proposes to use the 14th DOE Settlement Payment to offset the North Dakota jurisdictional share of the 2024 PI Payment, with the remainder to be kept in an interest-bearing account until it can be bundled with other refunds.

Please contact me at Alex.J.Nisbet@xcelenergy.com if you have any questions regarding this filing.

Sincerely,

/s/

ALEX NISBET
REGULATORY POLICY SPECIALIST

Enclosures

STATE OF NORTH DAKOTA
BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF
NORTHERN STATES POWER COMPANY
FOR UTILIZATION OF THE 14TH
DEPARTMENT OF ENERGY (DOE)
SETTLEMENT PAYMENT

CASE NO. PU-23-____

APPLICATION

I. INTRODUCTION

Northern States Power Company, doing business as Xcel Energy, submits to the North Dakota Public Service Commission (Commission) this application to approve the utilization of the fourteenth Department of Energy (DOE) Settlement Payment to offset payments to be made to the Prairie Island Indian Community (PIIC) related to operation of the Prairie Island Nuclear Generating Plant (PINGP).

On November 20, 2023, the fourteenth DOE Settlement Payment for damages due to the partial breach of its contract to take spent nuclear fuel was received in the amount of \$16,781,605. This payment was for damages during the period January 1, 2022 to December 31, 2022. The North Dakota allocation of this payment is \$835,711, which the Company has placed into a separate external interest-bearing account.

In its Amended Order in Case No. PU-23-044 (approving the disbursement of the thirteenth DOE Settlement Payment), the Commission ordered at page 3:

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 DOE.*

[...]

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.*

In the past, Commission Staff and the Company have worked together to find creative refund mechanisms and uses for the DOE settlement funds and other similar refunds. In recent discussions with Staff, it was discussed that the fourteenth DOE Settlement Payment could be used to offset the jurisdictional share of new payments to be made to the PIIC related to the operation of the PINGP. These new payments begin in 2024.

As further detailed below, a new settlement agreement between the Company and the PIIC includes a \$7.5 million payment per year as well as \$50,000 for each of the 50 casks of fuel stored at the PINGP in 2023. The negotiated terms of this new settlement agreement appropriately recognize and fairly compensate the Prairie Island Indian Community for their proximity to a nuclear generating facility with increasing spent fuel storage requirements.

The revenue requirement for the North Dakota Jurisdictional share of the 2024 PI Payment is \$517,435. The Company proposes to use the fourteenth DOE Settlement Payment to offset the North Dakota jurisdictional share of the 2024 PI Payment. We propose holding the remaining funds in the amount of \$318,276 in an interest-bearing account until it can be bundled with other refunds.

The settlement funds in question are a result of lawsuits filed by the Company against the DOE to recover damages associated with the storage of spent nuclear fuel at our Prairie Island and Monticello nuclear generating plants. Specifically, the 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. Utilization of the fourteenth DOE refund to offset the 2024 PI Payment is fair and reasonable given the circumstances and history of these matters.

In the alternative, the Company could refund the full Settlement Amount through the BCR as soon as is practicable pursuant to the Amended Order in Case No. PU-23-044. If it is the preferred alternative that the full amount be refunded to ratepayers via the BCR, the Company would then proceed to file an application with the Commission for deferred accounting on the PI Payments.

In support of this filing, Xcel Energy provides:

- Background regarding the PI Payments;
- A summary of the DOE Settlement and previous credits; and
- A description of the proposed methods of utilizing the 14th payment.

Also provided with this credit plan are the following attachments:

- Attachment A: ACH Transfer of the 14th DOE Payment
- Attachment B: Jurisdictional and Class Allocation Detail

II. FILING INFORMATION

Pursuant to Section 69-02-02-04 of the North Dakota Administrative Code, the following information is provided:

A. Contact information for utility making the filing

Shubha Harris
Principal Attorney
Xcel Energy Services Inc.
414 Nicollet Mall – 401, 8th Floor
Minneapolis, MN 55401
(612) 215-4517
shubha.m.harris@xcelenergy.com

Alex Nisbet
Regulatory Policy Specialist
Xcel Energy
2302 Great Northern Drive
PO Box 2747
Fargo, ND 58108-2747
(701) 929-0547
alex.j.nisbet@xcelenergy.com

We request that all communications regarding this proceeding, including data requests, also be directed to:

Christine Schwartz
Regulatory Administrator
Xcel Energy
414 Nicollet Mall – 401, 7th Floor
Minneapolis, MN 55401
regulatory.records@xcelenergy.com

B. Date of filing and proposed effective date

The date of this filing is December 20, 2023. The proposal would be effective upon Order of the Commission.

C. Statutory Authority

We submit this application pursuant to N.D.C.C. Section 49-02-03 which establishes Commission authority to supervise rates.

D. Articles of Incorporation

Pursuant to Section 69-02-02-04 of the North Dakota Administrative Code, a certified copy of Xcel Energy's Articles of Incorporation is on file with the Commission, as is an original Certificate of Good Standing.

III. BACKGROUND

A. 2003 and 2015 Agreements with PIIC

After the DOE failed to meet a January 1, 1998 deadline to accept nuclear waste, the Company filed breach of contract lawsuits against the DOE. Following a special legislative session in Minnesota, a new law became effective on May 30, 2003 that authorized additional casks to be stored and a Settlement Agreement with the PIIC including annual payments up to \$2.5 million (2003 Agreement). Under the 2003 Agreement, payments were structured to pay the PIIC \$2.25 million beginning in 2003 and were subsequently reduced to \$1.45 million annually beginning in 2012 as we approached the end of the original licensed plant lives in 2013 and 2014.

On August 20, 2015, the Company and the PIIC amended the original 2003 Agreement given changed circumstances since the 2003 Agreement was executed (2015 Agreement). Specifically, in 2009 the DOE ended its efforts to obtain a license to construct a nuclear disposal facility at Yucca Mountain, causing growing uncertainty as to how long spent fuel will be stored at PINGP. Further, the recommendations advanced by the Blue Ribbon Commission on America's Nuclear Future in 2012, and the resulting strategy to implement the Blue Ribbon Commission's recommendations published by the DOE in 2013, had not been acted upon by Congress.

In addition to the changing circumstances described above, the PINGP's licenses were renewed to allow plant operations until 2033 and 2034. This increased the amount of used nuclear fuel that could potentially be stored from the levels anticipated at the time of the 2003 Agreement and resulted in increased payments. In particular, the 2015 Agreement increased the settlement amount paid to the PIIC by \$1.05 million, resulting in an annual payment of \$2.5 million as authorized by Minnesota statute, beginning January 1, 2016.

The costs of the 2003 and 2015 Agreements were direct assigned to Minnesota customers since they were directly related to decisions of the Minnesota Supreme Court and the Minnesota State Legislature to settle ongoing disputes. The costs were

initially recovered from Minnesota customers through the Minnesota State Energy Policy (SEP) Rider and are currently included in base rates in Minnesota only.

B. PI Payments

On February 1, 2024, the Company will file for a 20-year life extension of the PINGP with the Minnesota Public Utilities Commission. Additional details will be provided in our upcoming Integrated Resource Plan that will be filed with the Commission in February 2024.

As the Company is seeking a 20-year extension to the life of the PINGP, an Amended and Restated Settlement Agreement between the Company and the PIIC was executed on August 3, 2023 (2023 Agreement) detailing a revised settlement amount to account for the impacts of the extension on the PIIC. Per the 2023 Agreement, the new payments begin January 1, 2024, and include two new components: (1) an annual payment of \$7,500,000 for each year the PINGP is in licensed operation, and (2) an annual payment of \$50,000 for each dry cask or container containing spent fuel that is located at the PINGP, whether or not the plant is in licensed operation.

The total incremental payment amount in 2024 is \$10 million, but this amount will increase in the future as additional casks are stored. Each NSP System jurisdiction will be allocated its share of this total. The PI Payments are in addition to the \$2.5 million currently paid to the PIIC annually per prior settlement agreements. The \$2.5 million annual payment is not being, and has not been, recovered from North Dakota customers.

The negotiated terms of the 2023 Agreement appropriately recognize and fairly compensate the PIIC – the closest residents to PINGP. Cities and counties receive personal property tax from power plants in recognition of the extra burdens that plants may place on those communities. These payments to the PIIC are no different than the property taxes that other local municipalities receive due to their proximity to generating facilities.

While payments to the PIIC had not increased in 20 years, local governments have seen property tax revenue more than double. Surrounding communities, like Red Wing, MN, have received hundreds of millions of dollars from the placement of the nuclear plant at Prairie Island.

The PINGP is an integral part of our continued ability to meet our customers' needs reliably and affordably. PINGP and its sister plant in Monticello, Minnesota, produce almost 30 percent of the electricity the Company serves to its customers in the Upper

Midwest. The 2023 Agreement and the PI Payments are critical to support the PINGP life extension.

C. 2011 DOE Settlement

Under the Nuclear Waste Policy Act, utilities such as Xcel Energy 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, the Company 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. The Company'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.

The Company reached a settlement with the DOE on these 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 Xcel Energy covering damages from January 31, 1998 through 2013.

D. First Extension of DOE Settlement

On January 24, 2014, the Company and the DOE reached an agreement to extend the 2011 Settlement to include the recovery of spent fuel storage damages (via the sixth, seventh, and eighth payments) during the three-year period from 2014 through 2016.

E. Second Extension of DOE Settlement

On February 23, 2017, the Company and the DOE agreed to extend the Settlement another three years to allow for recovery of damages (via the ninth, tenth, and eleventh) during the three-year period of 2017 through 2019.

F. Third Extension of Settlement Agreement

On August 24, 2020, the Company and the DOE agreed to extend the settlement an additional three years to allow for the recovery of damages (via the twelfth, thirteenth,

and fourteenth payments) through December 31, 2022. The second payment under this third extension (and fourteenth payment overall) was received on November 20, 2023.

Attachment A is a redacted copy of the wire transfer confirming the amount received. Attachment B shows the derivation of the North Dakota jurisdictional portion of \$835,711, along with the estimated credit by customer class. This payment was placed into a segregated bank account established specifically and solely for the settlement proceeds similar to the Company’s treatment of previous DOE payments.

G. History of DOE Customer Credits

The Company has previously issued to North Dakota customers approximately \$18 million in DOE payment credits from the thirteen DOE payments already received since 2011. As indicated in Table 1 below, the credits have been utilized in various ways to optimize timing and efficiency:

**Table 1
DOE Payment History (North Dakota Allocation)**

Payment Date	ND Allocation* and Credit Method	Period of Damages
1st Payment Rec'd: Aug 1, 2011	\$4,673,813 issued with an interim rate refund (Case Nos. PU-10-657, PU-11-055, PU-11-557)	Jan 31, 1998 – Dec. 31, 2008
2nd Payment Rec'd: Mar 15, 2012	\$878,748 used to reduce 2013 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2009 – Dec. 31, 2010
3rd Payment Rec'd: Oct 16, 2012	\$997,149 used to reduce 2013 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2011 – Dec. 31, 2011
4th Payment Rec'd: Nov. 7, 2013	\$2,060,803 used to reduce 2013 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2012 – Dec. 31, 2012
5th Payment Rec'd: Dec 18, 2014	\$1,742,907 used to reduce 2014 base rate increase (Case Nos. PU-11-557, PU-12-813)	Jan 1, 2013 – Dec. 31, 2013
6th Payment Rec'd: Nov 5, 2015	\$702,656 issued as one-time bill credit in May 2016 (Case No. PU-16-19)	Jan 1, 2014 – Dec. 31, 2014
7th Payment Rec'd: Oct 26, 2016	\$1,013,041 issued as one-time bill credit in Apr 2017 (Case No. PU-16-19)	Jan 1, 2015 – Dec. 31, 2015
8th Payment Rec'd: Nov 13, 2017	\$788,140 issued as a one-time bill credit in Dec 2018 (Case No. PU-16-19)	Jan 1, 2016 – Dec. 31, 2016
9th Payment Rec'd: Nov 13, 2018	\$773,104 issued as a one-time bill credit in Mar 2020 along with the 10th payment (Case No. PU-19-93)	Jan 1, 2017 – Dec. 31, 2017
10th Payment Rec'd: Dec 23, 2019	\$1,516,593 issued as a one-time bill credit in Mar 2020 along with the 9th payment (Case No. PU-19-93)	Jan 1, 2018 – Dec. 31, 2018

11th Payment Rec'd: Dec 22, 2020	\$689,356 issued in conjunction with an electric interim rate refund in 2021 (Case Nos. PU-21-89 & PU-20-441)	Jan 1, 2019 – Dec. 31, 2019
12th Payment Rec'd: Oct 27, 2021	\$848,008 issued as a one-time bill credit in in June 2022 (Case No. PU-21-438)	Jan 1, 2020 – Dec. 31, 2020
13th Payment Rec'd: Jan 3, 2023	\$1,331,018 issued as a twelve-month credit through the BCR (Case No. PU-23-44)	Jan 1, 2021 – Dec. 31, 2021
14th Payment Rec'd Nov 20, 2023	\$835,711 to be utilized to offset the 2024 PI Payment, or to be refunded to customers via the BCR	Jan 1, 2022 – Dec. 31, 2022

*NOTE: Amounts shown above do not include interest or bank fees.

IV. PROPOSED REFUND ALTERNATIVES

A. Offset PI Payment

The revenue requirement for the North Dakota jurisdictional share of the 2024 PI Payment is \$517,435. The Company proposes to use the fourteenth DOE Settlement Payment to offset the North Dakota jurisdictional share of the 2024 PI Payment, with the remainder to be kept in an interest-bearing account until it can be bundled with other refunds. We propose to hold the remaining funds to be combined with other funds at a later date through the BCR.

B. Credit Through the BCR

In the alternative, the Company could refund the full Settlement Amount through the BCR as was done pursuant to the Amended Order in Case No. PU-23-044. If it is the preferred alternative that the full amount be refunded to ratepayers, the Company would then proceed to file an application with the Commission for deferred accounting on the PI Payments.

V. CUSTOMER NOTICES

If it is approved that the fourteenth DOE Settlement amount can be utilized to offset the 2024 PI Payment, then no customer notices will be necessary, and therefore, will not be provided. However, if the Commission Orders that the refund be provided to customers via the BCR, customers will be provided notice with a bill message and onsert the first month the new rate begins and pursuant to the process set forth in our application in PU-23-044.

VI. DOE PAYMENT #13 – BCR UPDATE

The Company committed¹ to providing a report on the status of the BCR at the time it provided notice of receipt of the fourteenth DOE payment. In June 2023, we began returning the thirteenth DOE Payment with a ND jurisdictional amount of \$1,331,018 via the BCR for a twelve-month period. As of November 30, 2023, \$597,117 has been returned to customers.

VII. CONCLUSION

We respectfully request approval of our proposal to utilize the fourteenth DOE Settlement Payment to offset the 2024 North Dakota jurisdictional requirements of new payments made to the PIIC as a result of the 2023 Settlement Agreement. This proposal is reasonable and consistent with the public interest for the continued long-term investment in our nuclear power fleet.

Dated: December 20, 2023

Northern States Power Company

¹ Case No. PU-23-44, NSP Plan Related to the 13th Department of Energy Settlement Payment, February 2, 2023.

11/20/2023	169 / MISCELLANEOUS ACH CREDIT		Credit Amount:	16,781,604.59
	Cust Ref: [REDACTED]		Bank Ref: [REDACTED]	
	Unique ID: [REDACTED]	[REDACTED]		

**Northern States Power Company
DOE Settlement - 14th Payment
Customer Credits for North Dakota Jurisdiction**

**Case No. PU-23-____
Attachment B - Payment Settlement Allocation
Page 1 of 1**

<u>Item</u>	<u>Total</u>	<u>NSPM</u>	<u>Retail</u>			<u>Minn Whlsle</u>
			<u>Minn</u>	<u>N. Dakota</u>	<u>S. Dakota</u>	
2022 12 CP Allocator		100.0000%	87.2980%	5.9513%	6.7507%	0.0000%
Overall Allocator *	<u>100.0000%</u>	<u>83.6779%</u>	<u>73.0491%</u>	<u>4.9799%</u>	<u>5.6488%</u>	<u>0.0000%</u>

14th Credit	<u>\$16,781,605</u>	<u>\$14,042,494</u>	<u>\$12,258,817</u>	<u>\$835,711</u>	<u>\$947,967</u>	<u>\$0</u>
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* The NSPM/NSPW Co split uses a 36 CP allocator

<u>Item</u>	<u>NSPW</u>	<u>Retail</u>		<u>Wisc Whlsle</u>
		<u>Wisc</u>	<u>Mich</u>	
2022 12 CP Allocator	100.0000%	98.0286%	1.9714%	0.0000%
Overall Allocator *	<u>16.3221%</u>	<u>16.0003%</u>	<u>0.3218%</u>	<u>0.0000%</u>
Total Credit	<u>\$2,739,110</u>	<u>\$2,685,111</u>	<u>\$53,999</u>	<u>\$0</u>

Prairie Island Payments

Total Company Cost	\$10,000,000
Interchange Agreement Allocation (Case No. PU-20-441)	83.8210%
2021 Test Year 12 CP Allocator (Case No. PU-20-441)	6.1731%
North Dakota Allocated Cost	<u>\$517,435</u>

Net Refund

\$318,276

North Dakota (PU-20-441)						
Stratification Components	Weight **	Res	Sm Non Dm	C&I Demand	Lighting	Total
Capacity Component (D10C) ***	19.03%	33.64%	4.46%	61.58%	0.31%	100.00%
Energy Component (E8760) ***	80.97%	36.91%	4.93%	57.50%	0.66%	100.00%
Wtd Combination	100.00%	36.29%	4.84%	58.28%	0.59%	100.00%
[1] 14th Credit by Customer Class		\$115,499	\$15,416	\$185,476	\$1,884	\$318,276
[2] Est MWh Sales Dec 2022-Nov 2023		<u>786,673</u>	<u>101,417</u>	<u>1,262,475</u>	<u>15,809</u>	<u>2,166,373</u>
[3] Est. Credit / kWh, [3] = [1] / [2] / 1000		\$0.00014682	\$0.00015201	\$0.00014691	\$0.00011919	\$0.00014692
[4] Est Customer Count Dec 2022-Nov 2023		82,599	8,823	4,366	2,016	97,805
[5] Est. kWh / Cust, [5] = [2] x 1000 / [4]		<u>9,524</u>	<u>11,494</u>	<u>289,133</u>	<u>7,842</u>	<u>22,150</u>
[6] Est. Credit / Customer, [6] = [3] x [5]		<u>\$1.40</u>	<u>\$1.75</u>	<u>\$42.48</u>	<u>\$0.93</u>	<u>\$3.25</u>

** Nuclear Plant Stratification from Case No. PU-20-441

*** Class Allocation Factors from Case No. PU-20-441