CONTRACT NUMBER PU-905-25

Administrator:	**State of North Dakota** **Public Service Commission** **State Capitol – 12th Floor** **Bismarck, ND 58503-0480** **(701) 328-2400**
Date: 2/25/25	**Case No. PU-24-376**
Ste Kahl **Steve Kahl** **Executive Director**	

Contractor

PCMG and Associates, LLC		
Name		
22 Brookes Avenue	Gaithersburg, MD 20877	202-422-2720
Address	**City/State/Zip**	**Phone**
Karl Pavlovic		Managing Director
Typed Name		**Title**
Karl R Pavlovic		2/22/25
Signature		**Date**

Agreement Information		**Budget Information**	
Contract No.:	PU-905-25	**Cost Center:**	7300
Start Date:	Upon execution	**Services:**	Consulting Services
End Date:	December 31, 2025	**Expenses:**	$95,750
Case No.	PU-24-376	**Type of Contractor:**	**( ) Individual**
Type of Contract:	**(X) Fixed Price**	**(X) Corporation**	**( ) Partnership**
( ) Cost Reimb.	**( ) Unit Price**	**( ) Public Agency**	
( ) Other		**( ) Nonprofit Organization**	
		( ) Other	

This Contract is entered into between the State of North Dakota acting through the Public Service Commission (STATE) and PCMG and Associates, LLC (CONTRACTOR). This contract consists of this sheet, general provisions and specific provisions.

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Executed Contract
Public Service Commission

PURCHASE OF SERVICE CONTRACT

The parties to this contract are the State of North Dakota, acting through its North Dakota Public Service Commission, Public Utilities Division (STATE) and PCMG and Associates, LLC, 22 Brookes Avenue Gaithersburg, MD 20877 (CONTRACTOR).

1. SCOPE OF WORK

CONTRACTOR, in exchange for the compensation paid by STATE under this Contract, agrees to provide the services enumerated below. CONTRACTOR shall be registered with the North Dakota Secretary of State and the North Dakota State Procurement Office.

CONTRACTOR agrees to perform services outlined in Section THREE of RFP number 408.24.12.007 and CONTRACTOR's February 6, 2025, response to RFP number 408.24.12.007 (the "CONTRACTOR's Proposal"). The written proposal provided by CONTRACTOR is attached to and incorporated into this agreement.

2. COMPENSATION

Contractual Amount

STATE shall pay for the accepted services provided by CONTRACTOR under this Contract an amount not to exceed $95,750. For the purposes of clarity, the services included in the contractual amount are the Scope of Work Strategy described on Pages 2 through 15 in the CONTRACTOR'S Proposal.

The Contractual Amount is firm for the duration of the Contract and constitutes the entire compensation due CONTRACTOR for performance of its obligations under this Contract, unless amended, regardless of this difficulty, materials or equipment required, including fees, licenses, overhead, profit and all other direct and indirect costs incurred by CONTRACTOR, except as provided by an amendment to this Contract.

The STATE will make payments based on a monthly payment schedule. Each billing must consist of an invoice listing the contract number, hours worked at the contract rate, the staff person completing the work, and include a progress report. No payment will be made until the Project Manager has reviewed the progress report and approved the invoice.

Adam Renfandt – Project Manager
Public Utility Analyst – North Dakota Public Service Commission
600 E Boulevard Ave, Dept 408
Bismarck, ND 58505-0480
arenfandt@nd.gov
701.328.4153

Payment

A. Payment made in accordance with this Compensation section constitutes payment in full for the services and work performed and the deliverables and work(s) provided under this Contract and CONTRACTOR will not receive any additional compensation hereunder.

B. STATE will make every attempt to make payment under this Contract within forty-five(45) calendar days after receipt of an approved invoice.

C. Payment of an invoice by STATE will not prejudice STATE's right to object to or question that or any other invoice or matter in relation to this contract. CONTRACTOR's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by STATE, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute allowable costs. At STATE's sole discretion, all payments shall be subject to reduction for amounts equal to prior overpayments to CONTRACTOR.

D. For any amounts that are or will become due and payable to STATE by CONTRACTOR, STATE reserves the right to deduct the amount owed from the payments that are or will become due and payable to CONTRACTOR under this Contract.

Travel

CONTRACTOR acknowledges travel costs are included in the Contractual Amount and may include travel costs in the monthly invoices submitted to STATE.

Prepayment

STATE will not make any advance payments before full performance by CONTRACTOR under this Contract.

Payment of Taxes by STATE

STATE is not responsible for and will not pay local, state, or federal taxes. STATE sales tax exemption number is E-2001. STATE will furnish certificates of exemption upon request by the CONTRACTOR.

Taxpayer ID

CONTRACTOR shall provide STATE with its federal employer ID number and North Dakota tax ID number upon request.

3. TERM OF CONTRACT

This Contract begins on the date the last party has fully executed the Contract, and ends on December 31, 2025.

No Automatic Renewal

This Contract will not automatically renew.

Extension Option

STATE reserves the right to extend the Contract up to three times for an additional period of time not to exceed 12 months per extension.

Renewal Option

STATE may renew this Contract upon satisfactory completion of the initial Contract term. STATE reserves the right to execute up to three options to renew this Contract under the same terms and conditions for a period of twelve months each.

4. TIME IS OF THE ESSENCE

CONTRACTOR hereby acknowledges that time is of the essence for performance under this Contract unless otherwise agreed to in writing by the parties.

5. TERMINATION OF CONTRACT

Termination for Convenience or by Mutual Agreement

This Contract may be terminated by STATE upon thirty (30) days' written notice to CONTRACTOR. This Contract may be terminated by mutual consent of both Parties executed in writing.

Termination without Cause.

STATE may terminate this Contract in whole or in part when it has determined that continuing the Contract is no longer necessary or would not produce beneficial results commensurate with the further expenditure of public funds.

Early Termination in the Public Interest

STATE is entering this Contract for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly, Agencies and Courts. If this Contract ceases to further the public policy of the State of North Dakota, STATE, in its sole discretion, by written notice to CONTRACTOR, may terminate this Contract in whole or in part.

Termination for Lack of Funding or Authority

STATE by written notice to CONTRACTOR, may terminate the whole or any part of this Contract under any of the following conditions:

A. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.

B. If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.

C. If any license, permit, or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

Termination for Cause

STATE may terminate this Contract effective upon delivery of written notice to CONTRACTOR, or any later date stated in the notice:

A. If CONTRACTOR fails to provide services required by this Contract within the time specified or any extension agreed to by STATE; or

B. If CONTRACTOR fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms.

The rights and remedies of STATE provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

6. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, pandemic (excluding COVID-19), acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected Party, the event is beyond the Party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default. If CONTRACTOR is the affected Party and does not resume performance within fifteen (15) days or another period agreed between the Parties, then STATE may seek all available remedies, up to and including termination of this Contract pursuant to its Termination Section, and STATE shall be entitled to a pro-rata refund of any amounts paid for which the full value has not been realized, including amounts paid toward software subscriptions, maintenance, or licenses.

7. INDEMNITY

CONTRACTOR agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (STATE), from and against claims based on the vicarious liability of the STATE or its agents, but not against claims based on the STATE's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by CONTRACTOR to the STATE under this provision shall be free of any conflicts of interest, even if retention of separate legal counsel for the STATE is necessary. An attorney appointed to represent the STATE shall first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under North Dakota Century Code section 54-12-08. CONTRACTOR also agrees to defend, indemnify, and hold the STATE harmless for all costs, expenses, and attorneys' fees incurred if the STATE prevails in an action against CONTRACTOR in establishing and litigating the indemnification coverage provided herein. This obligation continues after the termination of this agreement.

8. INSURANCE

CONTRACTOR shall secure and keep in force during the term of this agreement and CONTRACTOR shall require from all subcontractors, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of $2,000,000 per occurrence.

B. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of $500,000 per person and $2,000,000 per occurrence.

C. Workers compensation coverage meeting all statutory requirements. The policy must provide coverage for all states of operation that apply to the performance of this Contract.

D. Employer's liability or "stop gap" insurance of not less than $2,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

E. Professional errors and omissions with minimum limits of $1,000,000 per claim and in the aggregate, Contractor shall continuously maintain such coverage during the contract period and for three years thereafter. In the event of a change of cancellation of coverage, Contractor shall purchase an extended reporting period to meet the time periods required in this section.

The insurance coverages listed above must meet the following additional requirements:

A. Any deductible or self-insured retention amount or other similar obligation under the policies is the sole responsibility of CONTRACTOR. The amount of any deductible or self-retention is subject to approval by the STATE.

B. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the STATE. The policies must be in form and terms approved by the STATE.

C. The duty to defend, indemnify, and hold harmless the STATE under this agreement is not limited by the insurance required in this agreement.

D. The State of North Dakota and its agencies, officers, and employees (STATE) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The STATE shall have all the benefits, rights and coverages of an additional insured under these policies that may not be limited to the minimum limits of insurance required by this agreement or by the Contractual indemnity obligations of CONTRACTOR.

E. The insurance required in this agreement, through a policy or endorsement, must include:

    i. "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the STATE;

    ii. a provision that CONTRACTOR'S insurance coverage is primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the STATE and that any insurance, self-insurance or self-retention maintained by the STATE is in excess of the CONTRACTOR'S insurance and does not contribute with it;

    iii. cross liability/severability of interest for all policies and endorsements;

    iv. The legal defense provided to the STATE under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the STATE is necessary;

v. The insolvency or bankruptcy of the insured CONTRACTOR does not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured CONTRACTOR from meeting the retention limit under the policy.

F. CONTRACTOR shall furnish a certificate of insurance to the undersigned STATE representative prior to commencement of this agreement. All endorsements must be provided as soon as practicable.

G. Failure to provide insurance as required in this agreement is a material breach of Contract entitling the STATE to terminate this agreement immediately.

H. CONTRACTOR shall provide at least 30 day notice of any cancellation or material change to these policies or endorsements. Contractor shall provide on an ongoing basis, current certificates of insurance during the term of the contract. A renewal certificate will be provided 10 days prior to coverage expiration. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

9. WORKS FOR HIRE

CONTRACTOR acknowledges that all work(s) under this Contract is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to STATE all rights and interests CONTRACTOR may have in the work(s) it prepares under this Contract, including any right to derivative use of the work(s). All software and related materials developed by CONTRACTOR in performance of this Contract for STATE is the sole property of STATE, and CONTRACTOR hereby assigns and transfers all its right, title, and interest therein to STATE. CONTRACTOR shall execute all necessary documents to enable STATE to protect STATE's intellectual property rights under this section.

10. WORK PRODUCT

All work product, equipment or materials created for STATE or purchased by STATE under this Contract belong to STATE and must be immediately delivered to STATE at STATE's request upon termination of this Contract.

11. NOTICE

All notices or other communications required under this Contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Karl Pavlovic
PCMG and Associates, LLC
22 Brookes Avenue
Gaithersburg, MD 20877

North Dakota Public Service Commission
600 East Boulevard Ave, Dept. 408
Bismarck, ND 58505-0480

Notice provided under this provision does not meet the notice requirements for monetary claims against the STATE found at North Dakota Century Code section 32-12.2-04.

12. CONFIDENTIALITY

CONTRACTOR shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, North Dakota Century Code chapter 44-04. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Contract.

13. COMPLIANCE WITH PUBLIC RECORDS LAW

Under the North Dakota public records law and subject to the Confidentiality clause of this Contract, certain records may be open to the public upon request.

Public records may include: (a) records STATE receives from CONTRACTOR under this Contract, (b) records obtained by either Party under this Contract, and (c) records generated by either Party under this Contract.

CONTRACTOR agrees to contact STATE immediately upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to such request.

14. INDEPENDENT ENTITY

CONTRACTOR is an independent entity under this Contract and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR'S activities and responsibilities under this Contract, except to the extent specified in this Contract.

15. ASSIGNMENT AND SUBCONTRACTS

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE's express written consent, provided, however, that CONTRACTOR may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Contract, whether by merger, reorganization, operation of law, or otherwise. Should Assignee be a business or entity with whom STATE is prohibited from conducting business, STATE shall have the right to terminate without cause.

CONTRACTOR may enter into subcontracts provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor with whom CONTRACTOR contracts. CONTRACTOR does not have authority to contract for or incur obligations on behalf of STATE.

16. SPOLIATION – NOTICE OF POTENTIAL CLAIMS

CONTRACTOR shall promptly notify STATE of all potential claims that arise or result from this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.

17. MERGER AND MODIFICATION

This Contract, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties..

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Contract, the documents shall control in this order of precedence:

a. The terms of this Contract as may be amended;
b. STATE RFP number 408.24.12.007
c. CONTRACTOR's written negotiated proposal dated February 6, 2025 in response to RFP 408.24.12.007.
d. All terms and conditions contained in any end user agreements (e.g. automated click-throughs, shrink wrap, or bonus wrap) are specifically excluded and null and void, and may not alter the terms of this Contract.

18. SEVERABILITY

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this Contract did not contain that term.

19. APPLICABLE LAW AND VENUE

This Contract is governed by and construed in accordance with the laws of the STATE. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or forum non conveniens.

20. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

By entering this Contract, STATE does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The Parties may enforce the rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

21. ATTORNEY FEES

In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by North Dakota Century Code section 28-26-04, pay STATE'S reasonable attorney fees and costs in connection with the lawsuit.

22. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

CONTRACTOR agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility, and civil rights (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women).

CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums.

CONTRACTOR shall have and keep current all licenses and permits required by law during the Term of this Contract.

CONTRATOR is prohibited from boycotting Israel for the duration of this Contract. (See N.D.C.C § 54-44.4-15.) CONTRACTOR represents that it does not and will not engage in a boycotting Israel during the term of this Contract. If STATE receives evidence that CONTRACTOR boycotts Israel, STATE shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than $100,000 or if CONTRACTOR has fewer than ten (10) full-time employees.

CONTRACTOR's failure to comply with this section may be deemed a material breach by CONTRACTOR entitling STATE to terminate in accordance with the Termination for Cause section of this Contract.

23. STATE AUDIT

Pursuant to N.D.C.C. § 54-10-19, all records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. CONTRACTOR shall maintain these records for at least three (3) years following completion of this Contract and be able to provide them upon reasonable notice. STATE, State Auditor, or Auditor's designee shall provide reasonable notice to CONTRACTOR prior to conducting examination.

PCMG and Associates, LLC
Regulatory Consultants

Response to North Dakota Public Service Commission, Public Utilities Division
RFP 408.24.12.007
Northern States Power Company, 2025 Electric Rate Increase
Application Case No. PU-24-376

I. Cover Letter (RFP Section 4.3.1)

PCMG and Associates, LLC
22 Brookes Avenue
Gaithersburg, MD 20877
North Dakota Certificate of Authority ID#: 42,426,800

Contact:
Karl Richard Pavlovic
202-422-2720
kpavlovic@pcmgregcon.com

By signature below, PCMG confirms that it will comply with all provisions of the above referenced Request for Proposals, and that neither PCMG nor the individuals named in this proposal have any conflicts of interest with regard to this proposal.

Karl R Pavlovic

Karl Richard Pavlovic
Managing Director

2/6/25

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II. RFP Amendments (RFP Section 4.3.2)

No solicitation amendments requiring acknowledgement by offerors were issued for this RFP.

III. Scope of Work Strategy (RFP Section 4.3.3)

A. Strategy for Scope of Work Requirements

The North Dakota Public Service Commission, Public Utilities Division (Division), is soliciting proposals for (1) a thorough analysis of the rate increase application, (2) written testimony and effective oral testimony at hearing, and (3) assistance in the preparation of pre- and post-hearing documents and possibly application dismissal documents.

Specifically, regarding the analysis of the rate increase application, the Public Utilities Division requests a detailed analysis and conclusions related to the appropriate rate base, cost of capital, income, expenses, class cost of service study, revenue allocation to the classes and rate design for NSP's North Dakota electric operations.

The Divisions estimates (subject to change) the following schedule for this proceeding.

1. Contract start date: February 24, 2025
2. Testimony of the selected offeror, ratepayer advocacy staff and any other intervenor: April 25, 2025
3. Rebuttal Testimony of all parties: May 23, 2025
4. Surrebuttal Testimony of all parties: June 2, 2025
5. Pre-Hearing documents if a formal Hearing is required
6. Formal Hearings: June, 2025
7. Post-Hearing documents if applicable
8. Initial Briefs: TBD
9. Reply Briefs: TBD

Responses to data requests due 10 days after receipt.

Based on its analysis of the Company's application below (III.B), the PCMG project team (see Section IV below) proposes to provide the requested assistance to the Public Utilities

Division through the following six work plan deliverables to the estimated schedule or subsequent revisions of the schedule.

The work will be performed at PCMG's offices with attendance at hearing performed at the North Dakota Public Service Commission in Bismarck. No State furnished property and services will be required, other than consultation with the Commission's ratepayer advocacy staff.

Deliverable 1 – Review, Analysis and Critique of the Company's Rate Increase Filing

PCMG will undertake a thorough analysis of the Company's application in light of (1) the evidentiary record and rate orders from prior relevant Commission Orders, (2) regulatory ratemaking theory and practice, (3) the Commission's past policy determinations with regard to gas utility rates and costs, (4) relevant North Dakota and Commission statutory and regulatory requirements, and (5) information and data received in response to identified-issue-targeted discovery prepared by PCMG. This analysis will focus on appropriate rate base, cost of capital, income, expenses, class cost of service study, revenue allocation to the classes and rate design.

The results of this analysis will be memorialized in a report to the Division. In addition to PCMG's findings, the report will include recommendations with regard to the issues identified and thoroughly document all qualitative and quantitative analyses performed. In the event that there are delays in the discovery process, PCMG will produce a preliminary report into which findings and recommendations based on discovery can be incorporated as they become available. The report will form the initial basis for written testimony prepared in consultation with the Division (see Deliverables 2-4).

Deliverable 2 – Direct Testimony and Exhibits

PCMG will draft and finalize direct testimony and relevant exhibits in support of its conclusions and recommendations for review by the Division and respond to discovery directed to its testimony.

Deliverable 3 – Rebuttal Testimony and Exhibits

PCMG will review, analyze and summarize intervenor testimony and draft discovery regarding the positions and issues articulated therein, provide written rebuttal testimony as required, respond to any discovery directed to PCMG's testimony, and provide any other assistance required by the Division.

Deliverable 4 –Surrebuttal Testimony and Exhibits

PCMG will review, analyze and summarize Company and intervenor testimony and draft discovery regarding the positions and issues articulated therein, provide written surrebuttal testimony as required, respond to any discovery directed to PCMG's testimony, and provide any other assistance required by the Division.

Deliverable 5 – Cross-Examination and Testimony at Hearing

At hearing PCMG will assist the Division with the preparation and conduct of cross-examination of intervenor and Company witnesses, present oral testimony if required, and respond to cross-examination.

Deliverable 6 – Assistance on Brief

PCMG will provide the Division assistance on initial and reply briefs and any other assistance required by the Division.

B. Preliminary Identification of Issues

On December 2, 2024, Northern States Power Company (NSPC), a Minnesota corporation doing business as Xcel Energy (Xcel or Company) filed a petition with the North Dakota Public Service Commission (Commission) requesting (1) an increase in its electric distribution service of $44.556 million or 19.34% over current rates and (2) interim rate relief of $27.371 million or 11.88%, effective February 1, 2025, subject to refund, until final rates are placed into effect. The Company's request is based on a projected future test year period for 2025. The Company is proposing an overall rate of return of 7.56% which includes a return on equity of 10.30%. The Company is proposing a Test Year Period of 2025 based and an average forecasted Rate Base balance of $816.976 million. The Company's Retail Operating Revenues at current / present rates through the end of the test year period is $230.375 million, upon which the Company has included the proposed revenue requirement increase of $44.556 million or 19.3% to develop total proposed Retail Operating Revenues of $274.931 million.

Response to North Dakota Public Service Commission, Public Utilities Division
RFP 408.24.12.007
Northern States Power Company, 2025 Electric Rate Increase
Application Case No. PU-24-376

The Company's last base rate case proceeding was approved in Case No. PU-20-441 which employed a 2021 future test year period. NSPC is a subsidiary of Xcel Energy that provides service to about 1.5 million electricity customers in North Dakota, South Dakota and Minnesota. Xcel Energy is part of an integrated generation and transmission system that serves the upper Midwest, including the operations in Wisconsin and Michigan. The Company provides electric service to about 97,000 customers in its North Dakota service territory.

Company witness Allen Krug, Associate Vice-President for the Company has provided an overview of the Company's filing and what has occurred since the Company's 2021 base rate filing. Mr. Krug stated that the Company's request for this instant rate proceeding is due to the need to recover material investments in the distribution system in North Dakota and generation and transmission assets. Mr. Krug stated that the Company has faced inflation pressures that have impacted the economy since 2020. Mr. Krug stated that investments in information technology, intangible capital investments, fleet modernization and improvements to the North Dakota facilities have contributed for the need to file this 2025 rate case. Mr. Krug has stated that the Company is seeking permission to adjust the remaining lives of its coal units and one of the plants in its nuclear fleet and to recover the undepreciated costs of Unit 2 of the Sherburne County Generating Station (Sherco) which retired in 2023.

Mr. Krug stated that the Company has made and is planning to make capital investments of about $152.71 million to its rate base balance since the 2021 rate proceeding and anticipates spending $460.9 million of capital investments located in North Dakota through the test year period 2025. The capital additions mainly relate to supporting infrastructure, new service centers, the replacement of aging and outdated software and investments in newer systems to help enhance the ability to efficiently manage its business and improvements to the Company's facilities.

Mr. Krug provided testimony related to certain employee compensation and benefits, charitable donations and organizational dues and aviation expenses. Mr. Krug stated that the Company is proposing to adjust recovery in rates for its Long-Term Incentive program (LTI) that is available to senior and executive level employees and certain exempt and non-bargaining employees. Mr. Krug stated that the need for the LTI is help retain key employees and remain competitive in the labor market. Mr. Krug has identified LTI into three components; (1) Environmental Performance; (2) Total Shareholder Return and: (3) Time-Based. Mr. Krug has proposed that the Company be able to recover 100% of membership dues for the Greater North

Dakota Chamber of Commerce, 50% of charitable contributions, 100% of state and local economic development costs, and 50% of aviation expenses.

The Company has included adjustments to its Operation and Maintenance expenses primarily due to increased Administrative and General Expenses, Distribution O&M, Customer Accounting, Customer Service and Information and various Administrative and General Expenses.

PCMG has identified the following issues in the Company's filing:

1. Revenue Requirement

Rate Base

Company witness Mr. Benjamin Halama has proposed an average Rate Base balance at the end of the 2025 test year of $968.33 million and a Utility Plant in Service Balance of $1.778 billion. Mr. Halama stated that the test year balance was computed by taking the June 30, 2024, balance, adjusted for projected construction through December 31, 2020, and projecting out through 2025 for capital additions, retirements, depreciation, salvage and removal costs. The net plant balance is the simple average of projected net plant at the beginning and end of the 2025 test year. (Halama testimony page 22). Company witness Mr. Mark Moeller has provided testimony related to the Company's capital additions from the period subsequent to the last rate case and through 2014, and capital addition through the end of the average test year period 2025. Mr. Moeller stated that the Company has placed in service about $5.3 billion of plant additions between 2020-2023, related to wind farms, regional expansion transmission projects, nuclear generating fleet, a natural gas combustion turbine and updates to its IT technology and business systems (Moeller testimony page 11). With respect to the capital additions during the 2020 – 2023 period, Mr. Moeller stated that the major costs additions amount to $820.7 million related transmission projects and asset renewable and reliability requirement investments. This category includes that the transmission system is in compliance with all NERC reliability standards. The Company has included $55.3 million of distribution capital investments during the 2020-2023 period.

With respect to the Company's nuclear generating fleet, the Company owns three nuclear units: Monticello, Minnesota and two units at Prairie Island in Welch, Minnesota. The current operating licenses approved by the NRC are Monticello in 2030, Prairie Island I in 20233 and

Prairie Island II in 2024. The Company has filed license renewals seeking a 20-year extension for Monticello. The Company is planned to seek license renewals for the Prairie Island facilities in late 2026. The Company has invested about $400 million in its nuclear generating fleet for the 2020-2023 period. (Moeller testimony page 15).

Company witness Mr. Krug stated that its Advanced Grid Intelligence and Security (AGIS) initiative is a group of related investments in technology used to operate the distribution system. This system has been in service since the 1990s. The Commission approved settlement in the prior rate case that placed these costs in a deferral and the Company is allowed to propose a reasonable amortization period for the recovery of the deferral in a future rate proceeding assuming that the foundational AGIS investments are either in service or are forecasted to be in service during the test year period. (Krug testimony page 12). Company witness Mr. Nickell provided costs related to its AGIS Initiative in the amount of $24.5 million (Nickell testimony page 20). The Company has included $2.1 million of O&M expenses for recovery in this proceeding offset by $472,500 related to test year legacy AMR meter reading expenses.

A review of the Company's past plant additions (actual vs. budgeted) should be examined to determine whether the Company's projected balances from the Company's last base rate proceeding in 2020 to 2023, and through the 2025 test year period, are reasonable, needed, prudent and achievable. This review consists of (1) examination of updates to the Company's budget process and construction program, as to the timing of projects being placed in service, (2) determination of whether plant additions are mandatory in nature and in accordance with federal, state and local law, (3) determination of the need for the plant additions to provide safe and reliable electric utility service, and (4) determination of whether capitalization of costs allocated from the parent company (Xcel Energy) to NSPC and NSP-M is proper and reasonable. Tracking the plant in service additions through the test year 2025 should be conducted to determine any delays or removals that may affect the test year 2025 UPIS balance.

Operation and Maintenance Expense (O&M)

Company witness Mr. Halama provided an overview of the Company's Distribution O&M Expenses. Mr. Halama forecasted the O&M expenses from July 2024 and included actual and forecasted expenses through the 2024 calendar year, which formed the basis of forecasting costs through the test year period 2025 consistent with corporate budgeting protocols. (Halama testimony page 31).

With respect to Depreciation Expense, Mr. Halama stated that the Company is proposing material changes since rates were last set by the Commission. These changes relate to adjustments to remaining lives, salvage rates, retirement curves and depreciation rates for its production, transmission, distribution, general and intangibles. The Company has proposed adjustments to its Electric Utility Production depreciation rates by $7,186,414; its Transmission, Distribution, General, Intangibles of $94,749 and; its Common Utility of ($183,339) for a total adjustment of $9,097,825. (Moeller testimony page 25).

Company witness Halama has provided a breakdown of these O&M expense adjustments in its 2025 FTY Adjustment Summary (BCH-1 Schedule 4 page 1). In addition to the adjustments of O&M indicated above, the Company has proposed adjustments to certain of its O&M Expenses as follows (precedential and rate case):

Precedential Adjustments:

- Advertising - $242,000)
- Association Dues – ($36,000)
- Incentive Pay – ($1,151,000)
- E Community North WF removal ($239,000)
- E Jeffers WF removal ($137,000)
- E Northern Wind WF removal ($933,000)
- Pension – SERP – ($2,000)
- PTC Amortization - $6,409,000

Ratemaking Adjustments:

- Aviation – ($121,000)
- Bad Debt - $221,000
- Chambers of Commerce - $33,000
- Donations - $299,000
- Economic Development - $113,000
- Incentive Pay – ($151,000)
- Environmental Pay - $211,000
- Time Based Pay - $589,000
- Depreciation Study – ($84,000)
- PTC Transferability Costs - $1,196,000
- Remaining Life Sherco 1 - $2,909,000

- Remaining Life Sherco 2 - $2,574,000
- Remaining Life Sherco 3 - $680,000
- Remaining Life – King - $2,314,000
- Remaining Life – Monticello Life Ext. – ($3,545,000)
- Remining Life – ND - $530,000
- AGIS Deferral - $1,507,000
- NOL – ADIT ARAM - $506,000
- PI EPU Deferral - $420,000
- Rate Case Expenses - $468,000

Secondary Adjustments:

- ADIT Prorate for IRS – ($6,000)
- Cash Working Capital – ($496,000)
- NOL/Credits/199 – ($243,000)

With respect to Rate Case expenses, the Company is proposing to include $1.404 million of projected direct expenses associated with this proceeding, amortized over a three-year period or $468,000 annually.

A review of the Company's projected O&M expenses from the calendar period of 2025 (test year) is required to be reviewed and examined to determine trends, prior years expense levels, and the averaging out certain expenses that are deemed to be fluctuating from year to year, volatile in nature and out of the Company's control. A review of the allocation method used to allocate costs from Xcel Energy to the North Dakota jurisdiction operations, is required to determine whether any of the O&M costs allocated are consistent, necessary, appropriate, and applicable, and whether such costs are deemed prudent in the provision of utility service.

A similar review of the Company's remaining rate base components should also be undertaken to determine the appropriate allocation and the proper and reasonable level of costs through the end of the future test year period for Materials and Supplies, Fuel Inventory, Prepaids and Other, Cash Working Capital, and Customer Advances/Customer Deposits. The rate base components associated with the Company's projected EPIS such as Accumulated Depreciation, CWIP and Accumulated Deferred Income Taxes are computed based upon the Company's jurisdictional allocation on total Company and the North Dakota jurisdiction.

Revenues

Mr. Halama has projected Electric distribution revenues based upon normal weather and include other operating revenues such as offsets for wholesale margins, transmission related, and other tariff charges for activation fees, reconnection fees and other non-utility revenue. (Halama testimony page 29). Company witness Mr. Levine stated that customer growth is expected to increase by 601 customers. Customer growth in the North Dakota service territory slowed considerably over the last decade and stagnated in 2020. (Pandemic period). Weather normalization comparison in 2021 was lower than expected given the COVID-19 pandemic. The sales forecast was prepared in July 2024 using a combination of econometric and statistical forecasting techniques and analyses and based upon actual customers and sales through May 2024. (Levine testimony page 17). The Company used a 20-year historical weather normalization period. (Levine testimony page 18).

2. Cost of Capital

The Company offered one witness regarding cost of capital: Joshua C. Nowak of Concentric Advisors (Return on Equity, Capital Structure, and Rate of Return).

Return on Equity

Mr. Nowak testifies that the authorized return on equity (ROE) for NSP in this docket should be 10.30 percent. He applies the discounted cash flow (DCF) model, the capital asset pricing model (CAPM), and a risk-premium analysis. He also includes an expected earnings analysis as a benchmark. Mr. Nowak makes an adjustment for flotation costs, the costs of issuing equity, and considers NSP's business and regulatory risks in his recommendation. He also states that current and prospective conditions for economic and capital markets inform his analysis.

Mr. Nowak applies the DCF model and the CAPM to a fifteen-member electric utility proxy group. The group members meet several screening criteria, some of which must be present to apply the DCF model and CAPM, and others that mean the risk profiles of the companies are similar to the risk profile for NSP and for each other. One of these latter criteria is that the electric utilities have company-owned generating assets included in their rate base. Thus, distribution-only electric utilities are not part of the proxy group.

The inputs to Mr. Nowak's application of the constant-growth DCF model reflect typical practices in calculating an ROE. These inputs include the forecasted earnings per share (EPS) growth rates for proxy group members. The current dividends and common-equity share prices of the electric utilities are also included. He uses three periods of average common-equity prices, including two that significantly raise his ROE result compared to the result a shorter, more recent period produces.

As for Mr. Nowak's CAPM analysis, he includes a yield on 30-year U.S. Treasury bonds as his risk-free rate, return on the Standard & Poor's (S&P) 500, and betas from Bloomberg and Value Line. In calculating the risk-free rate, he includes forecasted rates in addition to the average of a set of recent rates. Current bond yields are the best evidence of what it is that investors expect to happen. His S&P 500 returns only partially follow the requirement that companies must be paying dividends to be included, as it is a mathematical rule for individual returns to be calculated. He also includes companies with negative and unsustainably high EPS projections in the analysis. The Federal Energy Regulatory Commission (FERC) excludes such outlier values from its CAPM analyses.

Of greater importance are the sections of Mr. Nowak's testimony in which he substitutes his judgment for that of the millions of investors who participate in the U.S. equity and bond markets. He states it is possible that the ROE estimation models will not provide an accurate estimate of investors' forward-looking required return. Therefore, he continues, an assessment of current and projected market conditions is integral to any ROE recommendation. In other words, Mr. Nowak is arguing that investors will not make correct choices as they buy and sell stocks and bonds, and he must step in to correct the errors in order to save investors from themselves.

Mr. Nowak's adjustments for current and projected economic conditions double count these factors. The common-equity share prices of proxy group companies reflect investors assessments of expected interest-rate movements and other expected general economic conditions. These common-equity share prices are a key input to the DCF models. Thus, the expected economic conditions that Mr. Nowak relies on to support increases to his DCF ROE results are already captured in the models and Mr. Nowak's separate adjustment outside the models double-weights these factors.

In addition, the risk-premium approach is not forward-looking and should be excluded from consideration. It relies upon the results of previous cases to find ROEs. Thus, past rate-case decisions affect current rate case outcomes. The expected earnings approach employed by

Mr. Nowak finds ROEs based on the book values of electric utilities. Market values of utility shares exceed their book values by ratios of about 2-to-1. Investors cannot buy shares of proxy-group electric utilities at the low book value prices. Thus, the expected earnings approach overstates the ROE that investors require.

PCMG's cost of capital witness, Dr. Marlon Griffing, will apply recognized ROE models to his proxy group companies and weight the outcomes equally to determine his ROE. He relies on the DCF model and CAPM for his ROE. These models are forward-looking as they rely on inputs that reflect investors current views regarding utility common-equity prices, current dividends, and current growth-rate forecasts for the electric utilities. Dr. Griffing, in contrast to Mr. Nowak, does not depart from the model outcomes. He recognizes that investors know their own minds and express them as they participate in financial markets.

As a check on the reasonableness of his DCF ROE outcomes, Dr. Griffing uses the results of recent authorized ROEs from LDCs around the United States. These results from Regulatory Research Associates should not drive ROE analysis, because they represent former economic conditions. However, pragmatically, they and the CAPM results serve as indicators of how well a given ROE analysis fits into the national regulatory environment.

Capital Structure

Mr. Nowak recommends a capital structure of 46.71 percent long-term debt, 0.79 percent short-term debt, and 52.50 percent common equity for NSP. These ratios reflect forecasted amounts for each category for the 2025 Test Year NSP has chosen for this docket. Mr. Nowak's recommended cost of long-term debt is 4.51 percent, while his recommended cost of short-term debt is 5.31 percent. The costs of debt also reflect projected costs during the 2025 Test Year. When the proposed NSP ratios and costs for each instrument are combined, the ROR is 7.56 percent.

Given that the test year for the case is a projected year, Dr. Griffing will ask NSP to update its ratios and costs to reflect actual values as debt and common equity are retired or issued through the course of the rate case.

3. Depreciation

Company witness Mr. Moeller testified to the revision of the Company's remaining lives, net salvage rates, retirement curves and depreciation rates for its production, transmission, distribution, general and intangible assets, based on the asset service life and net salvage parameters recommended in 2022 depreciation study by Alliance Consulting Service. Through analysis and discovery PCMG will examine the propriety of the recommended service life and net salvage parameters and the calculation of remaining life depreciation rates, which are used to calculate the revenue requirement depreciation expense.

4. Class Cost of Service Study, Class Revenue Allocation, and Class Rate Desi8gn

The Company offered three witnesses related to the Class Cost of Service Study, the Peak Demand Allocator and the Class Rate Design. These witnesses are Christopher Barthol, Steven Wishart (Concentric Energy Advisors) and Nicholas Paluck, respectively.

In regulatory theory and practice the relationship between cost allocation and rate design and the utility's recovery of its approved revenue requirement is conceptually simple. If a utility's costs of providing service are not accurately allocated to its rate classes and rate class costs are not accurately reflected in the rate classes' tariff billing charges, then the utility will either over or under recover its costs of service or revenue requirement. The less accurately the costs are reflected in the rate classes' tariff billing charges, the greater the utility's under or over recovery of its costs will be. Regarding electricity, it is important to distinguish between the production of the commodity electricity on the one hand and the delivery (transmission and distribution) of the commodity to customers on the other, because the drivers of commodity costs are complex and difficult to forecast, while the drivers of delivery costs are simple and relatively straightforward to forecast. For distribution costs the two primary cost drivers are (1) the number of customers served by the distribution system and (2) customer demand on the distribution system; commodity volume is a lesser cost driver. In this proceeding the revenue requirement, class costs and tariff rates at issue concern NSP's gas distribution system serving its North Dakota customers. Consequently, the fundamental issue is whether NSP's proposed customer class cost allocations and tariff rates (1) accurately reflect the distribution customer costs, demand costs, and volumetric costs of its customers and (2) thus minimize the likelihood of either under or over recovery of NSP's electric production and distribution revenue requirement.

Company Witness Christopher Barthol presents the Company's class cost study and proposed Section No. 6 tariff changes. The class cost study follows the standard approach of functionalizing, classifying and allocating the Company's North Dakota system costs. Regarding production, the cost study classifies production costs as into capacity- versus energy-related using the plant stratification process. Regarding the classification of distribution system costs, the cost study applies the minimum system methodology to classify primary and secondary lines and transformers as both demand-related and customer-related. The cost study uses coincident peak, non-coincident peak demand, customer, and energy allocators.

Company Witness Nicholas N. Paluck presents the Company's proposed class revenue requirement allocation and proposed rate design. Regarding allocation of the revenue requirement to classes, Mr. Paluck proposes to move all classes 50 percent towards cost using the results of the cost study. Regarding rate design, Mr. Paluck proposes no structural changes to the current rate structure, but to move class Basic Service Charges towards full customer cost recovery with the remainder of the revenue increase recovered through the variable energy charges.

Firmly established regulatory ratemaking theory requires that rates and charges reflect the costs incurred in providing service to the customer, modified only by compelling overriding policy considerations. The standard issues regarding rate design (class revenue distribution and rate structure) and cost allocation are:

- Have the utility's costs been assigned to the proper functions?

- Have the functionalized costs been properly classified as customer, demand or volume related based on cost causation?

- Have the functionalized and classified costs been properly assigned to customer classes or allocated using appropriate class allocators based on cost causation?

- Has the revenue requirement been properly assigned to classes giving appropriate weight to cost causation and relevant policy considerations?

- Do the class rate structures properly reflect cost causation and relevant policy considerations?

Based on a preliminary analysis of MDU's filing, PCMG has identified the following specific issues regarding MDU's class cost studies and rate design proposals:

- The embedded class cost of service study does not classify system costs and allocate costs to rate classes consistent with the principle of cost causation. Specifically, the classification of primary and secondary line costs as customer-related has no defensible basis in either theory or practice and over allocates those costs to the customer classes with large customer counts.

- The errors in the class cost study render the resulting class return results erroneous.

- The revenue allocation to classes based on the erroneous class return results renders the revenue allocations equally erroneous and over allocates the revenue requirement increase to the residential class.

- The calculation of class Basic Service Charges based on the cost study's erroneous customer cost results renders those class charges equally erroneous.

IV. Experience and Qualifications (RFP Section4.3.4)

A. PCMG and Associates

PCMG and Associates LLC (PCMG) is an association of experts in utility regulation and policy, economics, accounting, and finance, with over 75 years collective experience providing assistance to counsel and expert testimony regarding the regulation of electric, gas, water, and wastewater utilities operating under local, state and federal jurisdictions. PCMG brings to client engagements a consultative collaborative approach to the identification of issues and development of positions with strict adherence to client procedures and deadlines.

PCMG was organized in the State of Maryland as a sole proprietorship on October 8, 2014 with an organizational structure consisting of a Board of Directors, Managing Director, and Members. PCMG began operation on January 1, 2015 and on July 30, 2015 re-organized as a limited liability company, retaining in all particulars the original organization structure.

PCMG is currently and has provided assistance to counsel and/or testimony regarding revenue requirement accounting, cost of capital, cost of service, and rate design in regulatory proceedings before the Arkansas Public Service Commission, the California UCAN, the Georgia Public Service Commission, the Maryland Office of Peoples Counsel, Massachusetts Department of Public Utilities, the New Jersey Board of Public Utilities, the Hawaii Public Utilities Commission, the Maine Public Utilities Commission, the Federal Energy Regulatory Commission, the Pennsylvania Public Utilities Commission, and the Wyoming Public Service Commission.

B. Project Team

Karl Richard Pavlovic, Ph.D.

(a) Senior Consultant and Project Manager
(b) See Attachment A for resume
(c) responsible for depreciation, class cost allocation, class revenue requirement allocation, and rate design
(d) estimated hours: 200
(e)

Dante Mugrace, MBA

(a) Senior Consultant
(b) See Attachment B for resume
(c) responsible for rate base, income and expenses
(d) estimated hours: 167

Marlon Griffing, Ph.D.

(a) Senior Consultant
(b) See Attachment C for resume
(c) responsible for cost of capital
(d) estimated hours: 73

V. Cost Proposal (RFP Section 4.4)

Labor Cost:	Hours	Rate	Total
Mugrace	167	$200	$33,400
TBD	93	$200	$18,600
Pavlovic	200	$200	$40,000
Total number of hours at various hourly rates			$92,000
Direct Expenses - NA			

Other Cost

Supplies - NA	
Overhead - NA	
Travel	
Mugrace	$1,250
Griffing	$1,250
Pavlovic	$1,250
Profit - NA	
Other Pertinent Expenditures - NA	

Total Cost $95,750

List any applicable Prompt Payment Discount Terms. – NA

VI. Contract Provisions (RFP Section 6)

PCMG has reviewed RFP Section 6 and the Attachment 2 Sample Contract and accepts the terms and conditions in the Contract.