500 West Russell St
Sioux Falls, SD 57104

February 1, 2016

—Via Electronic Filing—

Ms. Patricia Van Gerpen, Executive Director
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 E. Capitol Ave.
Pierre, SD 57501-5070

RE: IN THE MATTER OF THE CONSIDERATION OF STANDARDS TO GOVERN AVOIDED COST DETERMINATIONS
DOCKET NO. RM13-002

Dear Ms. Van Gerpen:

Northern States Power Company, doing business as Xcel Energy, submits to the South Dakota Public Utilities Commission (Commission) these Comments in response to Staff's November 5, 2015 draft rules regarding the framework for legally enforceable obligations (LEO) under the Public Utilities Regulatory Policy Act of 1978 (PURPA).

With the changes in the power industry since PURPA's enactment, it is unclear whether a need still exists to guarantee a purchase obligation to support non-utility generation. Therefore, the Company supports a rule that limits required purchases to those required by PURPA and no more. Such a policy would encourage the most cost-effective development of new generation resources needed to serve our customers both in South Dakota as well as in other jurisdictions. The Company further supports precisely written rules regarding when an LEO attaches; clear standards are in the customers' best interest as it may avoid unnecessary interpretation and resulting disputes. Finally, the Company supports limiting the time-frame for an LEO to a minimum of 5 years and no greater than 20 years; a time-frame that reflects a reasonable resource planning horizon for the purchasing utility. We appreciate Staff's work on the draft rules and generally limit our comments to suggested clarifications.

Definitions (Draft rule 20:10:40:01)

Avoided Costs. Avoided Cost is defined as "the incremental costs to a public utility of electric energy or capacity or both which, but for the purchase from the qualifying facility, the public utility would generate itself or purchase from another source." While the utility pays for the purchased power and energy value, there is the potential a utility may also incur other types of network costs associated with including the qualifying purchase as a generation resource. We believe that an explicit recognition of that likelihood would be appropriate in the new administrative rules. Therefore, to ensure protection of the host utility's customers from cost impacts related to the purchase from the qualifying facilities, the Company recommends including the following addition to the end of the avoided costs definition as follows:

"Avoided cost," the incremental costs to a public utility of electric energy or capacity or both which, but for the purchase from the qualifying facility, the public utility would generate itself or purchase from another source. The purchasing utility may recover from the qualifying facility any costs incurred by the purchasing utility that result from the addition of the qualifying facility to the system.

Legally Enforceable Option. The definition of LEO provides for the qualifying facility to select a rate based on avoided costs calculated at the time of delivery or at the time that the obligation is incurred. To clarify, Xcel Energy recommends that the phrase "exercised prior to the beginning date of the specified term" be added as shown below in order to precisely describe when the qualifying facility makes the choice indicated.

(2) "Legally enforceable obligation," an obligation that the qualifying facility will sell and the affected public utility will purchase energy or capacity or both for a specified term in which the rates for purchase shall, at the option of the qualifying facility exercised prior to the beginning date of the specified term, be based on either the avoided costs calculated at the time of delivery or the avoided costs calculated at the time the obligation is incurred.

Applicability of Rules (Draft rule 20:10:40:02)

The Company recommends that application of the rule include a reference to the PURPA amendments pursuant to which utilities are required to purchase energy from a qualifying facility *unless* the qualifying facility has nondiscriminatory access to certain wholesale markets, which includes MISO. Therefore, the Company suggests adding the phrase "except as otherwise exempted by the FERC pursuant to 18 C.F.R. sections 292.309 and 292.310" to the end of the section 20:10:40:02, as follows:

20:10:40:02. Applicability of rules. The provisions of § 20:10:40:03 apply only to the establishment of a legally enforceable obligation between a qualifying facility with a design capacity of more than 100 kilowatts and a public utility, except as otherwise exempted by the FERC pursuant to 18 C.F.R. sections 292.309 and 292.310.

Clarification of Notice Requirement (Draft rule 20:10:40:03(1))

A rule that requires that a qualifying facility provide a 90-day notice provides certainty for both the qualifying facility and the host utility. The host utility needs assurance that the energy will be delivered as stated to ensure it can plan its system appropriately and in a way that minimizes costs to customers. Therefore, the Company supports a change to reflect the notice requirement applies to facilities 100kW or larger, rather than the 500kW threshold currently reflected in staff's draft rule.

Additionally, to make the language more precise, the Company recommends adding the phrase shown below to clarify meaning of "prior". Those changes are reflected, as follows:

(1) The qualifying facility, if it has a net power production capacity of ~~500~~ greater than 100 kW ~~or more~~, has notified the public utility of its status as a qualifying facility at least 90 days prior to the proposed beginning date of the purchased power agreement~~, pursuant to 18 C.F.R. § 292.207(c)(2).~~

The Company appreciates the opportunity to comment on staff's draft rules and provide the clarifications listed above. Please contact me at (605) 339-8350 if you have any questions regarding this filing.

SINCERELY,

/s/

JIM WILCOX
PRINCIPAL MANAGER