

**STATE OF SOUTH DAKOTA
BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE APPLICATION OF
NORTHERN STATES POWER COMPANY
FOR APPROVAL OF ITS PLAN TO PROVIDE
PROCEEDS TO CUSTOMERS FROM A
SETTLEMENT REGARDING THE OUTAGE
AT SHERCO UNIT 3

DOCKET NO. EL19-____

PETITION

INTRODUCTION

Pursuant to S.D. Codified Laws § 49-34A-6, Northern States Power Company, doing business as Xcel Energy, operating in South Dakota, submits this Petition to the South Dakota Public Utilities Commission (Commission) for an Order approving a credit mechanism for funds received pursuant to a settlement agreement stemming from litigation with General Electric Company, General Electric International, Inc., GE Energy Services, Inc., and GE Energy Control Solutions, Inc. (collectively, GE) in connection with the November 19, 2011, outage at Unit 3 of the Sherburne County Generating Station (Sherco 3).

We file this Petition for approval to credit the Settlement proceeds to our current South Dakota electric customers in the form of a one-time bill credit combined with the ninth Department of Energy (DOE) bill credit already scheduled for implementation in August 2019, as approved in the Commission's February 22, 2019 ORDER APPROVING CONTINUATION OF CREDIT MECHANISM AND APPROVING BILL CREDIT in Docket No. EL19-002.

PETITION

I. GENERAL FILING INFORMATION

A. Utility Employee Responsible for Filing

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B. Name, Address and Telephone Number of Utility Attorney

Ryan Long
Lead Assistant General Counsel
Xcel Energy
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C. Service List

We request that all communications regarding this proceeding, including data requests, pleadings, documents and other filings also be directed to:

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D. Date of Filing and Date Modified Rates Take Effect

Xcel Energy submits this Petition for approval on April 26, 2019. We propose to issue the credit in August 2019 bills.

II. DESCRIPTION AND PURPOSE OF FILING

The Company requests Commission approval of a credit mechanism to flow through to customers funds received pursuant to a settlement agreement stemming from litigation with GE in connection with the November 19, 2011, outage at Sherco 3.

In support of this filing, Xcel Energy provides:

- Background of the Sherco 3 outage and litigation; and
- A description of the Company's proposed credit mechanism.

III. BACKGROUND

In November 2011, Sherco 3 was in the process of turbine testing while returning to service after a scheduled maintenance overhaul outage. During this process, there was a failure of the root of certain blade attachments in one of the low pressure turbines, due to stress corrosion cracking resulting from a design flaw. The extensive damage resulting from this Event included vibration damage, flying debris, impact damage, contamination, fire and smoke damage, and metallurgical damage that extended from surface areas to the internal portions of equipment, structures, and systems.

Following the Event, we undertook a strategic review of the impacts of the Event on Sherco 3 and developed a strategy to bring the Unit back to its pre-Event condition as quickly and safely as possible, to minimize the overall impact on our customers.

Given the severity of the Event, the Restoration project ultimately lasted approximately 22 months.

Sherco 3 was synchronized to the electric grid producing energy and was considered returned to service on September 4, 2013. We then took the unit offline on September 7, 2013, for an outage to address certain post-restoration items, and re-synchronized on October 10, 2013. Sherco 3 released for MISO dispatch on October 28, 2013, and continues to operate well.

On November 15, 2013, the Company, along with the joint owner of Sherco 3, Southern Minnesota Municipal Power Agency, and insurers of Sherco 3, filed a joint complaint against GE (the Lawsuit). The complaint, as amended on January 27, 2014, sought to recover costs associated with the Event.

The Company settled its lawsuit with GE on September 20, 2018. The Company's claims against GE were dismissed on October 9, 2018. The settlement resulted in a total payment of **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** (the Settlement Amount) to the Company (on a total company basis). The South Dakota jurisdictional portion of the Settlement Amount is **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**. The jurisdictional allocation of the Settlement Amount was calculated based on monthly sales from November 2011 (when the Sherco 3 outage began) until October 2013 (when Sherco 3 was released for MISO dispatch).

IV. PROPOSED CREDIT MECHANISM

A. One-Time Bill Credit Combined with DOE Settlement Credit

The Company proposes to return the South Dakota jurisdictional portion of the Settlement Amount to customers via a one-time bill credit posted to customer accounts in August 2019. This credit would be combined with the ninth Department of Energy (DOE) bill credit already scheduled for implementation in August 2019, as approved by the Commission's February 22, 2019 ORDER APPROVING CONTINUATION OF CREDIT MECHANISM AND APPROVING BILL CREDIT in Docket No. EL19-002. We believe it is appropriate to combine the two credits in order to streamline the refund process and to avoid additional costs associated with issuing multiple credits. The combined credits will be shown as one line item on customer bills.

B. Jurisdictional Allocation

The funds are payable to Northern States Power Company – Minnesota (NSPM), and will first be allocated between NSPM and NSP-Wisconsin (NSPW) Companies. The NSPM portion will be further allocated by jurisdiction (South Dakota, North Dakota, Minnesota) and then to customer classes. Finally, they will be credited to individual customers. Consistent with the allocation method used in Docket No. EL19-002 we propose using allocators from the months in which the damages were incurred. Thus, the jurisdictional allocation of the Settlement Amount was calculated based on monthly sales from November 2011 (when the Sherco 3 outage began) until October 2013 (when Sherco 3 was released for MISO dispatch). See Attachment A for details.

C. Customer Class Allocation

The DOE ninth credit refund is allocated to class using the nuclear cost allocation factor from the Class Cost of Service Study (CCOSS) approved by the Commission in the Company's last rate case, while the Sherco Settlement refund is allocated to class using the Fossil Plant allocation factor from the same approved CCOSS. Once the credit amounts have been allocated for each customer class, a credit factor will be calculated for each class based on the most recent and available 12 months of kWh usage for active customers. The appropriate credit factor will then be applied to each active customer's actual kWh usage for that time period to determine the actual credit amount for each customer. Customers that have an active account on the date the credit is calculated will receive a bill credit based on their usage for their current address. The credit will appear as one line item on customers' bills. For residential customers, the average credit resulting from the Sherco settlement will amount to

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approximately **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**. See Attachment B for details.

VI. EFFECT OF THE CHANGE UPON XCEL ENERGY REVENUE

There is no effect on the Company's revenues.

CONFIDENTIAL INFORMATION

Pursuant to South Dakota Admin. R. 20:10:01:41, we provide the following support for our request to classify the Settlement Amount and calculations based on the Settlement Amount as confidential trade secret data.

- (1) An identification of the document and the general subject matter of the materials or the portions of the document for which confidentiality is being requested.**

We request confidential treatment of the Settlement Amount because it is subject to a confidential settlement agreement between the Company and GE, the terms of which prohibit the Company from publicly disclosing the Settlement Amount.

- (2) The length of time for which confidentiality is being requested and a request for handling at the end of that time. This does not preclude a later request to extend the period of confidential treatment.**

The Company requests that the Settlement Amount and calculations based on the Settlement Amount be recognized as trade secret data in perpetuity.

- (3) The name, address, and phone number of a person to be contacted regarding the confidentiality request.**

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- (4) The statutory or common law grounds and any administrative rules under which confidentiality is requested. Failure to include all possible**

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grounds for confidential treatment does not preclude the party from raising additional grounds in the future.

The claim for confidential treatment is based on South Dakota Admin. R. 20:10:01:39 (4) and S.D. Codified Laws Chapter 1-27-30. The information contained within the referenced documents meets the definition of “trade secret” under S.D. Codified Laws Chapter 37-29-1(4)(1), the South Dakota Uniform Trade Secrets Act, which is defined as information that “Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and... is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” The information also meets the definition of “proprietary information” under S.D. Codified Laws Chapter 1-27-28, which is defined as “information on pricing, costs, revenue, taxes, market share, customers, and personnel held by private entities and used for that private entity’s business purposes.”

(5) The factual basis that qualifies the information for confidentiality under the authority cited.

The Settlement Amount is subject to a confidential settlement agreement between the Company and GE, the terms of which prohibit the Company from publicly disclosing the Settlement Amount, or calculations that could reveal the Settlement Amount.

CONCLUSION

The Company respectfully requests the Commission approve a credit mechanism to provide the Company’s electric customers in the State of South Dakota their jurisdictional portion of the funds received pursuant to a settlement agreement stemming from litigation with GE in connection with the November 2011 outage at Sherco 3. We propose to credit the Settlement proceeds in the form of a one-time bill credit combined with the ninth DOE bill credit already scheduled for implementation in August 2019.

Dated: April 26, 2019

Northern States Power Company