



500 West Russell Street
Sioux Falls, SD 57101-0988

January 8, 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: PETITION FOR APPROVAL OF A CREDIT MECHANISM FOR A DOE
SETTLEMENT PAYMENT
DOCKET NO. EL16-_____

Dear Ms. Van Gerpen:

Northern States Power Company, doing business as Xcel Energy, submits to the South Dakota Public Utilities Commission its Petition requesting approval of a credit mechanism for funds received from an extension of the 2011 Settlement (Settlement) with the United States Department of Energy (DOE) for the DOE's partial breach of its contract to take spent nuclear fuel.

Please call me at (605) 339-8303 if you have any questions regarding this filing.

Sincerely,

/s/

JAMES C. WILCOX
PRINCIPAL MANAGER

Enclosures

c: Laura McCarten
Brett Koenecke

PUBLIC UTILITIES COMMISSION
STATE OF SOUTH DAKOTA

Chris Nelson
Kristie Fiegen
Gary Hanson

Chairman
Vice Chair
Commissioner

IN THE MATTER OF THE PETITION OF
NORTHERN STATES POWER COMPANY
FOR APPROVAL OF A CREDIT MECHANISM
TO RETURN TO CUSTOMERS DEPARTMENT
OF ENERGY SETTLEMENT PAYMENTS

DOCKET No.: EL16-____

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 an extended Settlement (Settlement) with the United States Department of Energy (DOE) for the partial breach of its contract to take spent nuclear fuel. The Company and the Government reached an agreement in January 2014 to extend the 2011 Settlement for the recovery of spent fuel storage damages for an additional three-year period, 2014 through 2016. We file this Petition for approval to return the amount the Company has received to date of approximately \$685,514 to our current South Dakota electric customers in the form of a one-time bill credit.

On November 5, 2015, the Company received a payment from the DOE of \$13.1 million on a total Company basis (see Attachment A), or \$685,514 on a South Dakota jurisdictional basis, for damages incurred during the period of January 1, 2014 to December 31, 2014. As indicated in our December 1, 2014, informational filing in Docket No. EL11-023, these additional Settlement amounts have been recovered for the benefit of customers and we file this Petition for approval to return the South Dakota jurisdiction's allocated amount in an administratively efficient and timely way to our South Dakota electric customers in the form of a one-time bill credit.

The Company has placed these funds into a separate external interest bearing account and will include the interest received, minus bank fees, in calculating the amount of the credit. Consistent with the standards set out in the Commission's January 30,

2012 Order in our prior case,¹ our goal is to once again seek an administratively efficient and timely return of the funds to our customers as they are received. Specifically, we request returning the settlement payments to our current South Dakota electric customers as they are received in the form of one-time bill credits based upon the customers' most recent calendar year usage.

I. GENERAL FILING INFORMATION

A. Utility Employee Responsible for Filing

Jim Wilcox
Principal Manager
Xcel Energy
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(605) 339-8350
james.c.wilcox@xcelenergy.com

B. Name, Address and Telephone Number of Utility Attorney

Brett Koenecke
Attorney at Law
May, Adam Gerdes Law Firm
503 S. Pierre St.
Pierre, SD 57501
(605) 224-8803
Brett@mayadam.net

C. Date of Filing and Date Modified Rates Take Effect

Xcel Energy submits this Petition for approval on January 8, 2016. The effective date and method used to credit the Settlement payment is to be determined by the Commission.

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 with the DOE. The Company also requests the approval to include the interest earned on the single purpose account established to receive the initial payment.

¹ *In the Matter of the Filing by Northern States Power company dba Xcel Energy for Approval of a Credit Mechanism for a Department Of Energy Settlement Payment with Deferred Accounting and Approval to Depart From its Fuel Clause Tariffs, as Necessary*, Docket No. EL11-023, ORDER APPROVING CREDIT MECHANISM; ORDER APPROVING DEFERRED ACCOUNTING TREATMENT OF FUTURE SETTLEMENT PROCEEDS (Jan. 30, 2012).

In support of this filing, Xcel Energy provides:

- History of the case and background;
- A description of the Company's proposed credit mechanism; and
- Public interest benefits of the Settlement.

III. HISTORY OF THE CASE AND BACKGROUND

A. 2011 Settlement

Under the Nuclear Waste Policy Act, utilities such as Xcel 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 suits against the DOE seeking to recover damages associated with 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 U.S. Government on these suits on July 7, 2011. The 2011 Settlement Agreement provided a mechanism for the Company to recover its spent nuclear fuel storage damages through December 31, 2013.

On August 16, 2011 Xcel Energy submitted a petition in Docket No. EL11-023 (prior Docket) requesting approval of a credit mechanism for funds received from the original settlement (2011 Settlement) with the United States Department of Energy (DOE). The 2011 Settlement provided for payments for damages incurred for the period 1998 to 2013. The Commission issued its Order on January 30, 2012. In summary, the approved credit mechanism was found to be reasonable and in the public's interest and the Company was ordered to return the funds in the form of one-time bill credits, based on the customers' usage during the most recent twelve – month calendar year.

The Company received five payments under the 2011 Settlement Agreement and applied these payments in the form of customer credits based on Commission Orders. In summary, the five payments under the 2011 Settlement Agreement were returned to South Dakota electric customers as follows:

Payment Date	SD Allocated Amount	Period of Damages
Combined 1 st Payment (Rec'd: Aug 1, 2011), and 2 nd Payment (Rec'd: Mar 15, 2012)	\$4,828,034 in total	Jan 31, 1998 – Dec. 31, 2008 Jan 1, 2009 – Dec. 31, 2010
3 rd Payment Rec'd: Oct 16, 2012	\$1,000,645	Jan 1, 2011 – Dec. 31, 2011
4 th Payment Rec'd: Nov. 7, 2013	\$2,169,529	Jan 1, 2012 – Dec. 31, 2012
5 th Payment Rec'd: Dec 18, 2014	\$1,640,257	Jan 1, 2013 – Dec. 31, 2013

B. Extended Settlement Agreement

The Company and the Government reached an agreement on January 24, 2014, to extend the July 11, 2011 Settlement for the recovery of spent fuel storage damages for the three-year period of 2014 through 2016. On December 1, 2014, the Company made a compliance filing in Docket No. EL11-023, which notified the Commission of this extension and that any future payment amounts would be based on the submission of damage claims and subsequent negotiations between the parties.

On November 5, 2015, a payment was received in the amount of \$13,126,958 on a total Company basis (see Attachment A), or approximately \$685,514 on a South Dakota jurisdictional basis (see Attachment B) and represents damages for costs incurred in 2014. This payment was placed into a segregated bank account established specifically and solely for the settlement proceeds similar to the Company's treatment of the first payments under the 2011 Settlement Agreement.

We currently do not have any specific information as to the timing and/or payment amounts that will be negotiated between the parties for future 2015 and 2016 damage payments, to be received in 2016 and 2017. However, as future settlement payments are received, the Company will make a Compliance filing within 30-days following the receipt of any future payments and shall provide the same form of documentation, consistent with the Commission's Order in Docket EL11-023.

IV. PROPOSED CREDIT MECHANISM

A. One-time Bill Credit

We are formally requesting a one-time bill credit which is consistent with Commission

precedent as it was the approved method for the 2011 Settlement in Docket No. EL11-023. Consistent with the procedures used in that docket, the DOE payment would be allocated to customer classes using the applicable allocator from the Company's most recent Class Cost of Service Study. The allocator used for nuclear plant investment costs was developed using a stratification process that resulted in an allocation factor that was approximately 80.9% "energy-related" and 19.1% "capacity-related."² Future credits would be allocated using the then most recently approved nuclear plant cost allocator.

As outlined in Attachment B to this Petition, once the credit amounts have been allocated to each customer class, a credit factor will be calculated for each customer class based on the most recent 12 months of actual 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. Using 12-months of usage avoids the problems inherent with selecting a particular point in time to calculate the credit (e.g. the fluctuating usage of seasonal customers).

B. Interest

The Company has placed the funds in a separate interest-bearing account to protect both customers and the Company and to ensure the funds are accurately accounted for pending the actual bill credit. The interest bearing sweep account earns 0.12% annually and the interest is posted daily. The Company requests that the credit amount include the actual amount of interest earned by the Company, minus any bank fees or charges on these funds. Placing the funds in a separate interest-bearing account is consistent with treatment of the funds from the 2011 Settlement.

In contrast to setting up the funds in a separate account, the Company could have included the funds in our operations, such as if the funds had been used to reduce short-term debt. However, such action would greatly increase the difficulty of managing the credit. Accordingly, we deposited the funds in the separate interest bearing account as the preferable alternative.

C. Compliance Filings

If the Commission approves the Company's proposed bill credit, we will begin implementation of the initial one-time bill credit, including a bill message, based on the customers' most recent twelve months of usage, arising from its November 5, 2015 DOE Settlement payment within 90 days following the Commission's Order. The Company will also file a compliance report within 30 days after completion of

² See Attachment B.

this bill credit, and any future bill credits, providing a summary of the settlement payment, interest credited, class allocations and the actual average customer credit per customer class as was done in Docket No. EL11-023.

Also consistent with Docket No. EL11-023, we propose providing the same compliance filing within 30 days after receipt of each future payment, and including documentation like that provided in Attachments A and B in this filing for Commission Staff review. We would begin implementation of the bill credit within 90 days of the DOE payment receipt with a compliance report within 30 days after completion of the bill credit, summarizing payment details including interest credited, class allocations and average actual credit per customer class.

V. THE SETTLEMENT IS IN THE PUBLIC INTEREST

As was similarly stated in our prior case, the Company believes the extended Settlement is in the public interest. The Settlement continues to fairly represent the status of current federal law on this issue and, in addition, holds the DOE to higher standards than the DOE had accepted in litigation. In particular, the DOE's obligations are not limited to a certain level of spent nuclear fuel per year and the DOE agrees to damages covering O&M, overhead and other operating costs.³

The Settlement also continues to provide a mechanism for the Company to recover its spent nuclear fuel storage damages from January 1, 2014 through December 31, 2016 on a timely basis, as negotiated by the parties, without pursuit of further litigation.

VI. EFFECT OF THE CHANGE UPON XCEL ENERGY REVENUE

There is no effect on the Company's revenues since the Settlement payments will be returned to customers with interest.

VII. JURISDICTIONAL ALLOCATIONS

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 (North Dakota, South Dakota, Minnesota and then to customer classes. Finally, they will be credited to individual customers. Consistent with the method used in Docket No. EL11-023 we propose

³ The proceeds from the Settlement will be in the form of one-time payments for capital and O&M costs recovered in past and current base rates. These costs were not recovered through the fuel clause adjustment.

using allocators from the year the damages were incurred. Thus for the sixth payment, we would use the appropriate vintage allocator for 2014 between North Dakota retail, South Dakota retail, and Minnesota retail.

VIII. MISCELLANEOUS INFORMATION

The Company requests that the following persons be placed on the Commission's official service list for this matter:

Brett Koenecke
Attorney at Law
May, Adam Gerdes Law Firm
503 S. Pierre St.
Pierre, SD 57501
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414 Nicollet Mall
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Regulatory.Records@xcelenergy.com

CONCLUSION

The Company respectfully requests the Commission approve a credit mechanism to provide the Company's electric customers of the State of South Dakota retail portion of the proceeds received as a result of the extended Settlement reached with the DOE. The mechanism will credit customers the initial and future payments under the extended Settlement in the form of three one-time bill credits based upon the customers' most recent calendar year usage. The payments will be deposited in a separate interest-bearing bank account and if approved by the Commission, the actual interest earned minus bank fees will be included with the credit provided to customers.

Dated: January 8, 2016

Northern States Power Company

**Northern States Power Company
 DOE Settlement -- Sixth Payment
 Class Credits For South Dakota Jurisdiction**

**Docket No. EL16-____
 Initial Filing: 1-8-16
 Attachment B - 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>	
Actual 2014 12 CP Allocator		100.0000%	87.5284%	6.3128%	6.1588%	0.0000%
<u>Overall Actual Allocator *</u>	<u>100.0000%</u>	<u>84.7923%</u>	<u>74.2173%</u>	<u>5.3528%</u>	<u>5.2222%</u>	<u>0.0000%</u>
Total Credit	\$13,126,958	\$11,130,650	\$9,742,480	\$702,656	\$685,514	\$0

<u>Item</u>	<u>NSPW</u>	<u>Retail</u>			<u>Wisc Whlsle</u>
		<u>Wisc</u>	<u>Mich</u>		
Actual 2014 12 CP Allocator	100.0000%	97.9103%	2.0897%		0.0000%
<u>Overall Actual Allocator *</u>	<u>15.2077%</u>	<u>14.8899%</u>	<u>0.3178%</u>		<u>0.0000%</u>
Total Credit	\$1,996,308	\$1,954,592	\$41,717		\$0

* The MN Co / WI Co split uses a 36 CP allocator

South Dakota Retail						
Stratification Components	Weight *	Res	Sm Non Dm	C&I Demand	Lighting	Total
Capacity Component (D10S) ***	19.10%	41.10%	5.21%	53.69%	0.00%	100.00%
Energy Component (E8760) ***	80.90%	35.96%	4.67%	58.80%	0.58%	100.00%
Wtd Combination	100.00%	36.94%	4.77%	57.82%	0.47%	100.00%
[1] Sixth Credit, by Customer Class		\$253,247	\$32,700	\$396,378	\$3,190	\$685,514
[2] MWh Sales Nov 2014 - Oct, 2015 ****		<u>717,225</u>	<u>93,280</u>	<u>1,244,050</u>	<u>12,985</u>	<u>2,067,539</u>
[3] Prelim Credit / kWh, = [1] / [2]		\$0.000353	\$0.000351	\$0.000319	\$0.000246	\$0.000332
[4] Customer Count Nov 2014 - Oct 2015		78,340	8,682	3,565	424	91,011
[5] Est. kWh / Cust, = 1,000 x [2] / [4]		<u>9,155</u>	<u>10,744</u>	<u>348,921</u>	<u>30,661</u>	<u>22,718</u>
[6] Est. Credit / Customer, = [3] x [5]		\$3.23	\$3.77	\$111.17	\$7.53	\$7.53

** Nuclear Plant Stratification from Docket No. EL14-058 (Test Year 2013)

*** Class Allocation Factors from Docket No. EL14-058 (Test Year 2013)

**** Actual MWh sales