

**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 A WAIVER TO RETURN
TO CUSTOMERS DEPARTMENT OF
ENERGY SETTLEMENT PAYMENTS

DOCKET NO. EL11-023
EL16-001
EL19-002
EL21-035
EL24-____

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 the Fourth Extended Settlement with the United States Department of Energy (DOE) for the partial breach of its contract to take spent nuclear fuel. In addition, the Company requests additional time to return the first payment received pursuant to the Fourth Extended Settlement (the fifteenth in the series.)

In March of 2023, the Company and the DOE agreed to the Fourth Extended Settlement for partial breach of the DOE’s contract to take spent nuclear fuel through December 31, 2025. This extension includes the period of January 1, 2023 to December 31, 2025 with payments fifteen, sixteen, and seventeen payable annually 2024 through 2026.

On October 31, 2024, the Company received the first payment under the Fourth Extended Settlement (the fifteenth payment in the series) from the DOE in the amount of \$10,617,252 on a total Company basis, or \$605,967 on a South Dakota jurisdictional basis (Settlement Payment #15), for costs incurred during the period of January 1, 2023 to December 31, 2023.

The Commission’s January 20, 2022 Order in EL21-035 requires the Company to comply with the previous Orders related to the DOE settlement payments.¹² Those previous Orders require the Company to return the South Dakota jurisdictional

¹ ORDER DENYING REQUEST TO SUSPEND THE ORDER APPROVING CREDIT MECHANISM, Docket No. EL11-023, (January 30, 2012)

² ORDER APPROVING CREDIT MECHANISM, Docket No. EL16-001, (February, 17, 2016).

portion to customers via a one-time credit within 90 days of the receipt of payment. We file this Petition to request a one-time waiver to the 90-day requirement for Settlement Payment #15 and request an additional sixteen weeks to credit that payment.

The Company has placed the DOE settlement 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 forth in the Commission's Order in our prior cases,³ the Company's goal is once again to seek an administratively efficient return of the funds to our customers as soon as practicable. Specifically, we request approval to return the Fourth Extended DOE Settlement funds to our current South Dakota electric customers in the form of one-time bill credits based upon the customers' most recent and available twelve months of usage. We will receive two additional payments in the fourth quarter of 2025 and 2026 for damages incurred in calendar years 2024 and 2025 respectively, and we request approval to return these payments to our customers when they are received.

I. GENERAL FILING INFORMATION

A. Utility Employee Responsible for Filing

Steve Kolbeck
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B. Date of Filing and Date Modified Rates Take Effect

Xcel Energy submits this Petition for approval on November 27, 2024. The effective date to credit Settlement Payment #15 is to be determined by the Commission.

³ Docket No. EL11-023, ORDER APPROVING CREDIT MECHANISM; ORDER APPROVING DEFERRED ACCOUNTING TREATMENT OF FUTURE SETTLEMENT PROCEEDS (Jan. 30, 2012); Docket No. EL16-001, ORDER APPROVING CREDIT MECHANISM (Feb. 17, 2016), and Docket No. EL19-002, ORDER APPROVING CONTINUATION OF CREDIT MECHANISM AND APPROVING BILL CREDIT (Feb. 22, 2019).

II. DESCRIPTION AND PURPOSE OF FILING

The Company requests Commission approval of a credit mechanism to return the payments received as a result of the Fourth Extended Settlement to South Dakota electric customers. The Company also requests a one-time waiver to the 90-day requirement for Settlement Payment #15 and requests an additional sixteen weeks to credit that payment to customers.

In support of this filing, Xcel Energy provides:

- History of the case and background;
- Background on past credit implementation; and
- A description and support of the Company's proposed waiver.

III. BACKGROUND AND NEED FOR WAIVER

A. 2011 Settlement

Under the Nuclear Waste Policy Act, utilities such as Xcel Energy were required to enter into contracts for the disposal of spent nuclear fuel; utilities contributed 1.0 mill for every kilowatt-hour of electricity generated by their nuclear power plants. In exchange, the DOE committed to transport and dispose of the spent nuclear fuel beginning no later than January 31, 1998. However, the DOE has not accepted any spent nuclear fuel to date.

In 1998, the Company filed the first of two lawsuits against the DOE seeking to recover damages associated with 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 lawsuits on July 7, 2011. The settlement 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 requesting approval of a credit mechanism for funds received from the original settlement (2011 Settlement) with the DOE. The Commission issued its Order approving a credit mechanism on January 30, 2012.

B. First Extended Settlement Agreement

On January 24, 2014, the Company and the U.S. Government reached an agreement to extend the 2011 Settlement for the recovery of spent fuel storage damages for the three-year period of 2014 through 2016. On January 8, 2016, the Company submitted a petition in Docket No. EL16-001, notifying the Commission of the receipt of the first payment under the First Extended Settlement and requesting approval of a credit mechanism. The Commission issued its Order approving a credit mechanism on February 17, 2016.

C. Second Extended Settlement Agreement

On February 23, 2017, the Company and the U.S. Government agreed to extend the settlement another three years to allow for recovery of damages through December 31, 2019 (Payments 9, 10, and 11). On January 21, 2019, the Company submitted a petition in Docket No. EL19-002 notifying the Commission of the receipt of the first payment under the Second Extended Settlement and requesting approval of a credit mechanism. The Commission issued its Order approving a credit mechanism on February 22, 2019.

D. Third Extended Settlement Agreement

On August 24, 2020, the Company and the U.S. Government again agreed to extend the settlement an additional three years to allow for the recovery of damages through December 31, 2022 (Payments 12, 13, 14). On December 3, 2021, the Company submitted a petition in Docket No. EL21-035 notifying the Commission of the receipt of the first payment under the Third Extended Settlement and requesting approval of a credit mechanism. The Commission issued its Order approving a credit mechanism on January 20, 2022.

E. Customer Credits 2011 to 2023

The Company received fourteen payments under the 2011 Settlement Agreement and the First, Second, and Third Extended Settlement Agreements. Attachment A provides a summary of the South Dakota jurisdictional portion of the DOE payments which were returned to customers in the form of bill credits.

F. Fourth Extended Settlement Agreement

In March 2023, the Company and the U.S. Government again agreed to extend the settlement an additional three years to allow for the recovery of damages through

December 31, 2025 (Payments 15, 16, 17). The first payment under this fourth extension was received on October 31, 2024. Attachment B is a copy of the Automated Clearing House (ACH) payment confirming the amount received and has been redacted to remove Company-sensitive banking information. Attachment C provides a derivation of the South Dakota jurisdictional portion of \$605,967, along with the estimated credit by customer class. This payment was placed into a segregated bank account established specifically and solely for the settlement proceeds similar to the Company's treatment of the previous proceeds under the 2011 Settlement Agreement and the extended settlements

G. Need for Waiver

The first fourteen DOE payments were completed and returned to South Dakota customers as prescribed by prior Commission Orders. However, due to previously scheduled refunds in our NSP states, along with our billing system's ability to handle only one refund at a time, we are requesting a one-time waiver and an additional sixteen weeks to return Settlement Payment #15.

IV. PROPOSED WAIVER

The Commission's Orders in Docket Nos. EL11-023, EL16-001, EL19-002 and EL21-035 require that we begin implementation of customer credits within 90 days of the Commission's order or receipt of the subsequent payments. For Settlement Payment #15, we request a one-time waiver to the 90-day requirement, and we request sixteen weeks of additional time for implementation, proposing to post the credits to customers' accounts no later than May 21, 2025. The Company's software that processes refunds can only process one refund at a time. Due to already scheduled refunds in our NSP states, we request this additional time only for Settlement Payment #15. The DOE Settlement payments have historically arrived between October and even as late as early January which creates challenges in coordinating implementation around already scheduled refunds.

V. CREDIT MECHANISM

A. One-Time Bill Credit

For Settlement Payments 15, 16 and 17, we are formally requesting a one-time bill credit which is consistent with Commission precedent as the approved method for the 2011 Settlement and Extended Settlement Agreements in Docket Nos. EL11-023, EL16-001, EL19-002, and EL21-035. Consistent with the procedures used for the previous DOE payments, Settlement Payment #15 will be allocated to customer

classes using the applicable allocator from the Company's most recent Class Cost of Service Study.⁴ The allocator used for nuclear plant investment costs was developed using a stratification process that resulted in an allocation factor that was approximately 81 percent energy-related and 19 percent capacity-related.⁵

As outlined in Attachment C 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 and available 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. 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. Using 12 months of usage avoids the issues inherent with selecting a particular point in time to calculate the credit (e.g. the fluctuating usage of seasonal customers).

B. Interest

The Company 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 currently earns 3.75 percent annually, and the interest is posted daily. The credit amount will 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 previous payments.

C. Compliance Filings

For the future payments, and consistent with Docket Nos. EL11-023, EL16-001, EL19-002, and EL21-035, we propose submitting the same compliance filing within 30 days after receipt of each payment and will include documentation similar to that which is provided in Attachments A and B to this filing.

For all payments, the Company will file a compliance report within 30 days after completion of each credit providing a summary of the settlement payment, interest credited, class allocations, and the actual average customer credit per customer class as was done with the previous DOE payments.

⁴ Docket No. EL22-017.

⁵ See Attachment C.

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 Nos. EL11-023, EL16-001, EL19-002, and EL21-035, we propose using allocators from the year the costs were incurred. Thus for Settlement Payment #15, we would use the appropriate vintage allocator for 2023 between North Dakota retail, South Dakota retail, and Minnesota retail.

VIII. MISCELLANEOUS INFORMATION

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

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CONCLUSION

The Company respectfully requests the Commission issue an Order approving a credit mechanism for funds received pursuant to the Fourth Extended Settlement with the United States Department of Energy for the partial breach of its contract to take spent nuclear fuel. In addition, the Company requests a one-time waiver to the standing Orders in Docket Nos. EL11-023, EL16-001, EL19-002, and EL21-035 to return future Settlement proceeds to customers within 90 days of receipt of payment from the DOE. The Company is requesting approval of an additional sixteen weeks to complete the return of Settlement Payment #15 to South Dakota customers.

The mechanism will credit customers Settlement Payment #15 under the extended Settlement in the form of a one-time bill credit based upon the customers' most recent twelve months of usage. The payment has been deposited in a segregated interest-bearing bank account. The refund will include the actual interest earned minus bank fees.

Dated: November 27, 2024

Northern States Power Company