500 West Russell Street
Sioux Falls, SD 57104

December 19, 2025

—Via Electronic Filing—

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

RE: RESPONSE TO COMMISSION QUESTION
2026 TRANSMISSION COST RECOVERY ELIGIBILITY AND ADJUSTMENT FACTOR
DOCKET NO. EL25-031

Dear Ms. Mohr:

Northern States Power Company, doing business as Xcel Energy, submits to the South Dakota Public Utilities Commission this response to a question from Commissioners at the December 16, 2025 hearing on our 2026 Transmission Cost Recovery (TCR) Rider Petition in the above-noted docket. At the hearing, the Company was asked about our position on the pending MISO ROE complaints at FERC. We provide our response below.

On October 17, 2024, FERC issued an order on remand from the D.C. Circuit. On March 25, 2025, FERC issued a rehearing order upholding its October 17 order. In these remand orders, FERC established a new base ROE of 9.98 percent for the MISO Transmission Owners. The Commission then backdated this 9.98 percent rate to September 28, 2016, and ordered the Transmission Owners to pay retroactive refunds with interest for the subsequent eight-year period. Additionally, FERC affirmed its decision to allow a second complaint proceeding to move forward, which the Transmission Owners contend was used to improperly extend their refund liability beyond the statutory fifteen-month limit.

Two D.C. Circuit appeals of these remand orders were filed, one by the MISO Transmission Owners (TO) and Ameren, and one by the Louisiana Public Service Commission (LPSC) et al. These appeals remain pending. In the LPSC appeal, the MISO TOs are intervenors in support of FERC. NSP is a party to both appeals as one of the MISO TOs.

In the MISO TO appeal, the TOs argue that FERC in 2024 exceeded its authority under FPA section 206 by setting a new ROE with retroactive effect and ordering refunds with interest dating back to 2016. The TOs contend that section 206(a) authorizes only prospective rate-setting through a rate "to be thereafter observed and in force," and that section 206(b) provides the sole limited refund remedy through a single 15-month refund period. On that basis, the TOs argue the remand and rehearing orders are contrary to law and arbitrary and capricious to the extent the orders require refunds for the additional period from 2016 through 2024. The TOs also argue FERC should not have entertained the Second Complaint because the Second Complaint challenged the same ROE and operated to circumvent the section 206(b) refund limit, and the TOs seek vacatur on these grounds.

In the LPSC appeal, the MISO TOs support FERC on the Second Complaint issues raised by the Louisiana Commission and argue that, even though the Second Complaint should have been dismissed at the outset, FERC correctly denied Second Complaint refunds. The TOs contend the statute limits refunds to 15 months for a rate challenge and that using the original 12.38 percent ROE to generate a second refund period would unlawfully extend refunds beyond that limit. The TOs also argue refunds are unavailable in the Second Complaint proceeding because FERC did not set a new just and reasonable rate "to be thereafter observed and in force" in that proceeding. The TOs further urge the Court to reject Louisiana's renewed challenges to FERC's ROE methodology that have already been resolved.

Please contact me at (605) 339-8350 or steven.t.kolbeck@xcelenergy.com if you have any questions regarding this filing.

Sincerely,

/s/

STEVE KOLBECK
DIRECTOR, STATE AFFAIRS AND BUSINESS RELATIONS

cc: Service List