


Staff Briefing Papers

Meeting Date	April 18, 2019	Agenda Item 3**
Company	Northern States Power Company d/b/a Xcel Energy (Xcel, Company)	
Docket Nos.	E-002/M-15-1089	
	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	
	E-002/M-17-828	
	In the Matter of the Petition of Northern States Power Company for Approval of the 2019-2021 Triennial Nuclear Decommissioning Study and Assumptions	
Issue	When and how should Xcel refund the Department of Energy's ninth settlement payment?	
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 Relevant Documents	Date
Xcel Energy – Refund Plan for Ninth DOE Settlement Payment	March 1, 2019
Department Of Commerce – Comments	March 8, 2019
Xcel Energy – Reply Comments	March 20, 2019

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I. Statement of the Issue

When and how should Xcel refund the Department of Energy's ninth settlement payment?

II. Background

Under the Nuclear Waste Policy Act, utilities, such as Northern States Power Company d/b/a Xcel Energy (Xcel, Company), were required to enter into contracts with the U.S. Department of Energy (DOE) for the disposal of spent nuclear fuel. Utilities contributed 1.0 mil (\$0.001) for every nuclear power-generated kilowatt-hour of electricity. In exchange, the DOE committed to transport and dispose of the spent nuclear fuel beginning no later than January 31, 1998.

Because the DOE never accepted any spent nuclear fuel, Xcel filed two lawsuits seeking to recover damages associated with storage of spent nuclear fuel at the Prairie Island and Monticello nuclear generation plants. The first lawsuit sought damages through 2004 and the second sought damages through 2008. On July 7, 2011, the Company reached a settlement with DOE on both lawsuits which provided a mechanism for Xcel to recover its spent nuclear fuel storage damages through December 31, 2013. The Settlement has been repeatedly extended with the latest extension allowing for recovery of spent fuel storage damages through December 31, 2019.

On August 5, 2011, Xcel submitted a petition¹ requesting approval of a credit mechanism for funds received from the 2011 Settlement Agreement and, in its December 16, 2011 Order,² the Commission approved a credit mechanism to return the funds in the form of one-time bill credits.

Subsequent to the December 16, 2011 Order, in Xcel's 2012-2014 Triennial Nuclear Plant Decommissioning Accrual filing, the Company proposed and the Commission approved that future DOE settlement payments be used for the nuclear decommissioning accrual.³ After

¹ Docket E-002/M-11-807

² ORDER ESTABLISHING REFUND PLAN, In the Matter of a Petition by Xcel Energy for Approval of a Credit Mechanism for a Department of Energy Settlement Payment With Deferred Accounting, Docket E-002/M-11-807 (December 16, 2011)

³ ORDER APPROVING NUCLEAR DECOMMISSIONING PLAN AND MODIFYING REFUND PLAN, In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of the 2012-2014 Triennial Nuclear Plant Decommissioning Accrual, Docket E-002/M-11-939, and In the Matter of a Petition by Xcel Energy for Approval of a Credit Mechanism for a Department of Energy Settlement Payment With Deferred Accounting, Docket E-002/M-11-807 (December 2, 2012) "2. The refund requirement set in the December 16, 2011 Order in Docket E-002/M-11-807 shall be modified to require Xcel to place the Department of Energy settlement payments for year-end 2012 and 2013 immediately into the decommissioning fund when received." And "3. Xcel shall discuss the year-end 2014 Department of Energy settlement payment in the 2014 decommissioning study, and preserve the funds for consideration in the 2014 decommissioning filing."

funding the nuclear decommissioning accrual, the excess funds from the fourth and fifth payments were used for rate moderation in Xcel’s 2013 electric rate case.⁴

The sixth, seventh and eighth payments were returned to ratepayers in the form of refunds.

Table 1 – Historical Usage of DOC Settlement Funds

Payment No.	Damage Period	Initial Notice of Payment Compliance Filing Date	MN Allocated \$ Amount, in millions	Bill Credit to Customers	Nuclear Decommissioning Trust Account Deposits	Rate Moderation	PUC-Approved Expenses
1	Jan 31, 1998 - Dec 31, 2008	August 5, 2011	\$74.122	\$70.516	\$0.000	\$0.000	\$3.900 ⁵
2	Jan 1, 2009 - Dec 31, 2010	April 3, 2012	\$13.671	\$13.671	\$0.000	\$0.000	\$0.000
3	Jan 1, 2011 - Dec 31, 2011	November 14, 2012	\$15.321	\$0.000	\$14.189	\$0.000	\$0.000
4	Jan 1, 2012 - Dec 31, 2012	December 6, 2013	\$31.544	(\$0.267)	\$14.189	\$17.622	\$0.000
5	Jan 1, 2013 - Dec 31, 2013	January 12, 2015	\$24.392	\$2.090	\$14.189	\$8.113	\$0.000
6	Jan 1, 2014 - Dec 31, 2014	December 31, 2015	\$9.742	\$9.742	\$0.000	\$0.000	\$0.000
7	Jan 1, 2015 - Dec 31, 2015	November 21, 2016	\$13.831	\$13.831	\$0.000	\$0.000	\$0.000
8	Jan 1, 2016 - Dec 31, 2016	December 8, 2017	\$11.207	\$11.207	\$0.000	\$0.000	\$0.000

III. Parties’ Comments

A. Xcel Energy - Compliance Filing

In its March 1, 2019 filing, Xcel confirmed that, on November 21, 2018, the Company received the ninth DOE payment totaling \$15,412,139.03, (\$11,352,711 MN-jurisdiction) and, consistent with the Commission’s June 3, 2016 Order in this docket, the Company deposited the funds into the external interest bearing account.

In order to return this ninth DOE payment to ratepayers and to be consistent with the Commission’s Orders related to the previous three DOE refunds,⁶ Xcel proposed to issue a one time-credit. Also consistent with previous refunds, Xcel explained that the final, total refund amount would add interest and deduct bank fees. If approved, Xcel will calculate refunds based on its customers’ previous 12 month usage.

⁴ Docket E-002/GR-13-868

⁵ As ordered in Docket No. E-002/M-11-807, \$2 million was set aside for the Power On program (Order Point No. 5) and \$1.9 million was used for litigation expense (Order Point No. 9). Order Establishing Refund Plan, December 16, 2011

⁶ Order, Refund #6, June, 3, 2016; Order, Refund #7, January 16, 2017; and Refund #8, February, 16, 2018; 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. E-002/M-15-1089

However, due to Xcel's scheduled implementation of multiple Tax Cuts and Jobs Act (TCJA) refunds and other billing credits in its other jurisdictions and the Company's billing system's inability to process only one refund transaction at a time, Xcel estimated that it would be unable to issue this refund until the first quarter of 2020. Because Xcel anticipates getting the DOE's tenth payment in late 2019, the Company proposed to refund the ninth and tenth payments at the same time.

B. Department of Commerce Comments

The Department described Xcel's proposal to defer the ninth DOE refund until the first quarter of 2020 to be unreasonable and noted that the Commission's eighth settlement refund Order highlighted witness Perkett's testimony in the Company's most recent rate case:⁷

In response, witness Perkett stated that the Company proposes that **settlement payments received from the DOE related to spent nuclear fuel storage costs be refunded to ratepayers at the time the amount is known.**

Since Xcel's compliance filing was made November 21, 2018, the Department asked Xcel to fully explain why its billing system is unable to process more than one refund at a time, and what changes could be made (including a timeline) to create that capability.

The Department noted that the 2018 TCJA refund for Xcel Electric is expected to occur in May 2019 and the 2019 TCJA refund is expected to occur in October 2019. As a result, the Department recommended that Xcel's ninth DOE settlement refund be completed no later than July 31, 2019.

C. Xcel Energy - Reply Comments

Xcel explained that the software application they use to process refunds requires extraction of customer usage data from the billing system and retention of this data until the refunds begin posting to customer accounts. The reason Xcel can only process one refund at a time is because any data imported into the refund program overwrites any previous data.

To expedite the refund process, Xcel proposed adding this DOE refund to the 2019 Tax Cuts and Jobs Act (TCJA) refund.⁸ The 2019 TCJA refund is scheduled to post to customer accounts from October 7-21, 2019.

The Department did not respond to Xcel's revised proposal; however, Staff confirmed that, since October is much sooner than the first quarter in 2020, the Department would not oppose adding the DOE refund to the 2019 TCJA refund.

⁷ Docket E-002/GR-15-826.

⁸ Docket E, G-999/CI-17-895.

IV. Staff Analysis

Although Xcel's proposal to add the DOE settlement refund to the 2019 TCJA refund would return the 2019 DOE settlement money faster, the Commission's Order in the tax docket⁹ indicated the desire to preserve "clean" (i.e. transparent) TCJA-related refunds. Adding the \$11.353 million to the 2019 TCJA refund could send the following mixed signals:

- Some ratepayers may consider the combined refund to be all TCJA-related and erroneously think their "tax refund" was higher than it really was.
- Any ratepayer that does not realize that both refunds were issued at the same time may think they never received a 2019 "nuclear refund".

As an alternative for the DOE refund, the Commission may want to consider requiring Xcel to deposit the proceeds of the ninth DOE settlement payment into the Nuclear Decommissioning Trust (NDT) Fund. Although this alternative runs counter to recent Commission decisions, as shown in Table 1, the third, fourth and fifth DOE settlement payments were, at a minimum, partially poured into the NDT. If the Commission chooses this alternative, then it may want to instruct Xcel to complete the pour-over within a specified period of time – 30 days, for instance.

Finally, consistent with Orders related to previous DOE settlement refunds, the Commission may want to order the following:

- Require Xcel to make a compliance filing within 30 days of completing the disposition of the ninth DOE settlement funds.
- Require Xcel to make a compliance filing that provides information and documentation consistent with the Commission's December 16, 2011 Order, Point 11, in Docket E-002/M-11-807, within 30 days of receiving future DOE payments.

V. Decision Alternatives

Compliance Filing

1. Approve Xcel's compliance filing regarding the ninth DOE settlement payment. (Xcel, DOC)

Handling of Refund

2. Authorize Xcel to issue refunds related to the ninth DOE settlement in conjunction with the tenth DOE settlement payment. (Xcel, March 1 compliance filing position)
3. If decision option #2 is adopted, order the combined refund to issue in the first quarter of 2020. (Xcel, compliance filing position)

⁹ Id.

4. Require Xcel issue to refunds related to the ninth DOE settlement by July 31, 2019. (DOC, initial recommendation)
5. Authorize Xcel to issue refunds related to the ninth DOE settlement in conjunction with the 2019 TCJA-related refund. (Xcel, March 20 alternative position)
6. Require Xcel to deposit funds related to the ninth DOE settlement in the Nuclear Decommissioning Trust for the benefit of Minnesota jurisdictional customers only. Require Xcel to make the deposit within 30 days of the Commission's Order. (Staff provided alternative)

Miscellaneous

7. Require Xcel to make a compliance filing within 30 days of completing the disposition of the ninth DOE settlement funds. (Staff)
 8. Require Xcel to make a compliance filing that provides information and documentation consistent with the Commission's December 16, 2011 Order, Point 11, in Docket E-002/M-11-807, within 30 days of receiving future DOE payments.¹⁰ (Staff)
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