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July 1, 2022

—Via Electronic Filing—

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

RE: REPLY COMMENTS  
PRAIRIE ISLAND FUEL STORAGE  
DOCKET NO. E002/CN-08-510

Dear Mr. Seuffert:

Northern States Power Company, doing business as Xcel Energy, submits the enclosed Reply Comments to the Minnesota Public Utilities Commission (Commission) regarding the Company's proposed change to the Certificate of Need (CON) authorizing spent fuel storage at the Prairie Island Nuclear Generating Plant at the Independent Spent Fuel Storage Installation (ISFSI).

As noted in our April 30, 2021 Request for Change in Spent-Fuel Storage Technology, replacing the CON's specific authorization to acquire TN-40 casks with an authorization to utilize any NRC-approved storage technology will allow the Company to select the most economical technology and facilitate shipment to an offsite location at the earliest possible date. We appreciate the work the Department of Commerce Energy Environmental Review and Analysis (EERA) in preparing the April 2022 Supplemental Environmental Impact Statement, which finds that the proposed change is expected to have minimal non-radiological and radiological impacts. And we appreciate the recommendations from both the Prairie Island Indian Community (PIIC) and Department of Commerce, Division of Energy Resources (DOC-DER), both of which recommend approval of the Company's request with conditions. We believe the record developed in this matter shows the proposed change is appropriate and should be approved. Below we address certain conditions and requests for information from both EERA and PIIC.

## ***Response to Minnesota Department of Commerce Energy Environmental Review and Analysis Comments***

In its comments filed on June 17, 2022, the Minnesota Department of Commerce Energy Environmental Review and Analysis (EERA) recommended various mitigation measures the Commission could place on any approval of the Company's request to change cask design at the Prairie Island Nuclear Generating Plant. In general, we do not oppose any of the requested conditions, though we do have comments on and suggested revisions to several of the following proposed conditions.

First, EERA recommends the Commission approve “[a] condition requiring Xcel Energy to file those documents made available for or provided to the NRC for use of a cask or canister other than a ‘TN-40HT’ cask at Prairie Island.”

We understand this recommendation to specifically refer to the required evaluations performed by Xcel Energy under Nuclear Regulatory Commission (NRC) regulation 10 CFR § 72.212 (b), which requires documentation that use of any NRC-approved cask design is consistent with the terms, conditions, and specifications of the NRC's cask approval. For sake of clarity, we believe any such condition adopted by the Commission should reference these evaluations specifically.

These evaluations, moreover, are made available to—but are not required to be submitted to—the NRC for their review. The NRC typically reviews these evaluations during a pre-operational inspection of a site planning to use a certified cask design.<sup>1</sup> Any transmittal of these evaluations requires involved reviews to redact confidential proprietary and security information from both potential cask vendors and the Company. Rather than filing such information with the Commission, we propose the Company file a summary of the evaluation performed and make the full evaluation available for Commission or Department staff to review upon request. This aligns with the process for the NRC review of these and similar documents for both the operating power plant and ISFSI, where a summary is required to be submitted to the NRC and the full documents are made available for inspection upon their request.

As such, should the Commission wish to adopt this condition, we recommend the condition to be modified as follows:

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<sup>1</sup> The NRC documented their review of the Monticello 72.212 evaluation in their December 31, 2008 Pre-Operational Inspection Report 072-00058/2008-003(DNMS) (NRC Adams number ML083660296).

*A condition requiring Xcel Energy to file a summary of the ~~those documents~~ evaluations required to be performed under 10 CFR 72.212 prior to use of an approved cask and made available for or provided to the NRC for use of a cask or canister other than a TN-40HT cask at Prairie Island. The Company shall also make the full evaluations available to Department or Commission staff for review upon request.*

Second, EERA recommends the Commission adopt “[a] condition requiring the Commission to implement a planning process or framework for institutional control of spent nuclear [fuel] at Prairie Island (or in Minnesota, generally) or adapt an existing planning process or framework that addresses institutional control to make it relatively more public-facing, transparent, and inclusive.”

The issue of institutional controls concerning spent nuclear fuel are critically important and have been addressed over time by a variety of regulatory bodies. For example, the Nuclear Regulatory Commission (NRC) addressed the importance of continued institutional controls in Appendix B, Section B.3.4 of its September 2014 Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (GEIS).<sup>2</sup> As the NRC noted in the GEIS, “[t]o ensure adequate protection of public health and safety, the institutional controls provided by the NRC’s regulatory structure and that of sister agencies, as well as by Federal, State and local governments in general, must be maintained over time.”

We, therefore, support development of a process or framework regarding the state’s institutional controls regarding spent fuel, but note that such a process should be taken in context of controls provided by the NRC, other federal agencies, and local governments. Moreover, we do not believe that such a process should hold up the Commission’s approval of the Company’s proposed change to the CON in this docket. As the NRC concluded in the GEIS, “it [is] reasonable to assume that institutional controls would remain in place,” but it also is reasonable to periodically reassess those controls:

*For example, the Board on Radioactive Waste Management, in its study on long-term institutional management, stated: “No plan developed today is likely to remain protective for the duration of the hazards. Instead, long-term institutional management requires periodic, comprehensive reevaluation of those legacy waste sites still presenting risk to the public and the environment to ensure that they do not fall into neglect and that advantage is taken of new opportunities*

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<sup>2</sup> NUREG-2157, available at <https://www.nrc.gov/docs/ML1419/ML14196A105.pdf>.

*for their further remediation” (NAS 2000). While regulations may need to be updated over time, the NRC does not view possible future regulatory updates as an impediment to a current understanding of likely environmental impacts of continued storage. Further, future regulatory development would be expected to be undertaken to enhance and improve the effectiveness of regulatory oversight.*

We do not understand EERA to be suggesting that a proceeding to assess institutional controls be completed prior to approving the proposed change to the CON, only that one be commenced on a parallel track, and we support that direction.

### ***Response to Prairie Island Indian Community Comments***

In addition to supporting the Company’s proposed change in dry cask technology and the conditions recommended by EERA, PIIC requested additional information from the Company in its June 24, 2022 letter. First, PIIC asked the Company to “provide a general accounting of how much money Minnesota taxpayers have paid for the partial breach (of the Standard Contract) as well as all taxpayers in the U.S.” While we could provide an accounting of how much money the Company has received (and returned to customers) from the U.S. Department of Energy (DOE), we do not have information regarding how much money the DOE has paid to other entities related to the storage of spent fuel. The DOE’s settlements are confidential, and therefore we do not have and cannot provide such information to the Commission.

Second, PIIC requested that the Company provide additional information on the potential transportation of fuel stored in the TN-40 casks currently in use. In particular, they expressed concerns over the weight of the cask and the ability to ship packages of that size on railroads. The Company is happy to address this question as well as any other related to the transportation of used nuclear fuel, either through a specific requirement by the Commission or directly to the PIIC.

Regarding the specific question concerning the ability to ship a TN-40 over existing rails, the TN-40 (as well as most spent fuel rail shipping casks licensed today) are designed to be shipped over the U.S. rail system. Depending on the weight of a load to be carried, rail cars rely on additional axels to distribute the weight over the rails. Standard rail cars with 4 axels can carry up to 286,000 pounds; weights above this require additional axels to support the weight. Commercial rail carriers have cars that include up to 44 axels that can transport up to 1,200 metric tons. The TN-40, at a shipping weight of 136 tons (includes cask,

impact limiters, and associated tie down hardware), would be transported on an 8-axel rail car, which are widely available.

We have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on the parties on the attached service list. Please contact me at [bria.e.shea@xcelenergy.com](mailto:bria.e.shea@xcelenergy.com) or (612) 330-6064 if you have any questions regarding this filing.

Sincerely,

/s/

BRIA. E. SHEA  
REGIONAL VICE PRESIDENT, REGULATORY POLICY

c: Service List

## CERTIFICATE OF SERVICE

I, Christine Schwartz, hereby certify that I have this day served copies of the foregoing document on the attached lists of persons.

xx by depositing a true and correct copy thereof, properly enveloped  
with postage paid in the United States mail at Minneapolis, Minnesota

xx electronic filing

**Docket No.            E002/CN-08-510**

Dated this 1<sup>st</sup> day of July 2022

/s/

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Christine Schwartz

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