



414 Nicollet Mall  
Minneapolis, MN 55401

October 15, 2015

—Via Electronic Filing—

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101

RE: PETITION  
AMENDMENT TO 2003 SETTLEMENT AGREEMENT  
DOCKET NO. E002/M-15-\_\_\_\_\_

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission its Petition for approval of an Amendment to the 2003 Settlement Agreement with the Prairie Island Indian Community for an increased payment amount of an additional \$1.05 million annually.

Pursuant to Minn. Stat. § 216.17, subd. 3, we have electronically filed this document, and served copies of the Petition Summary on the parties on the attached service list. If you have any questions regarding this filing please contact me at (612) 330-6270 or [allen.krug@xcelenergy.com](mailto:allen.krug@xcelenergy.com).

Sincerely,

/s/

ALLEN D. KRUG  
ASSOCIATE VICE PRESIDENT  
STATE REGULATORY POLICY

Enclosures

c: Service List

Ron Johnson, Prairie Island Indian Community

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones	Chair
Heydinger	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Betsy Wergin	

IN THE MATTER OF THE PETITION OF  
NORTHERN STATES POWER COMPANY  
FOR APPROVAL OF AN AMENDMENT TO  
THE 2003 SETTLEMENT AGREEMENT  
WITH THE PRAIRIE ISLAND INDIAN  
COMMUNITY

DOCKET NO. E-002/M-15-\_\_\_\_

**PETITION**

**INTRODUCTION**

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission this Petition for approval of an Amendment to the May 22, 2003 Settlement Agreement between Xcel Energy and the Prairie Island Indian Community (Tribal Community) pursuant to Minn. Stat. § 216B.1645, Subd. 4.

On August 20, 2015, Xcel Energy and the Tribal Community amended our original 2003 Settlement Agreement (2003 Agreement). As captured in Minn. Stat. § 216B.1645, Subd. 4, the 2003 Agreement was meant to resolve outstanding disputes regarding the provisions of Laws 1994, Chapter 641, Article 1, Section 4 between Xcel Energy and the Tribal Community that allows for compensation of up to \$2.5 million annually. However, as discussed below, circumstances have changed since the 2003 Agreement was executed that warranted an amended agreement. Specifically, in 2009 the U.S. Department of Energy (DOE) ended its efforts to obtain a license to construct a nuclear disposal facility at Yucca Mountain causing growing uncertainty as to how long spent fuel will be stored at our Prairie Island nuclear facility. Further, the recommendations advanced by the Blue Ribbon Commission on America's Nuclear Future in 2012, and the resulting strategy to implement the Blue Ribbon Commission's recommendations published by the Department of Energy in 2013, have not been acted upon by Congress.

That uncertainty was further increased when the Nuclear Regulatory Commission (NRC) found that as part of its Waste Confidence rulemaking that nuclear plants could safely store used nuclear fuel on-site following plant shutdown for 60 years or longer. Finally, in 2012 the Commission found that a 60-year period for spent fuel management following plant shutdown for decommissioning accrual purposes should be used instead of the 36-year period recommended by Xcel Energy.

Under the 2003 Agreement, payments were structured to pay the Tribal Community \$2.25 million beginning in 2003. However, the payments were subsequently reduced to \$1.45 million annually beginning in 2012 as we approached the end of the original licensed plant lives in 2013 and 2014. In addition to the changing circumstances describe above, the plant's licenses have now been renewed to allow plant operations until 2033 and 2034 increasing the amount of used nuclear fuel that could potentially be stored from the levels that were understood in 2003 when the original settlement agreement was entered. With the prescribed reduction in payments, as noted above, we have recovered this amount through the State Energy Policy Rider<sup>1</sup>. The recently executed Amendment increases the settlement amount we will pay to the Tribal Community by \$1.05 million, up to \$2.5 million annually as authorized by statute, beginning January 1, 2016. We will seek to recover the increase through our next electric rate case filing this fall.

## **I. SUMMARY OF FILING**

A one-paragraph summary is attached to this filing pursuant to Minn. R. 7829.1300, subp. 1.

## **II. SERVICE ON OTHER PARTIES**

Pursuant to Minn. R. 7829.1300, subp. 2, the Company has served a copy of this filing on the Office of the Attorney General – Antitrust and Utilities Division. We have also distributed copies of our filing to those on our Miscellaneous Electric service list.

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<sup>1</sup> See April 6, 2004 *ORDER APPROVING STATE ENERGY POLICY RIDER, AS MODIFIED* in Docket No. E,G002/M-03-1544 (approving inclusion of the PI Settlement payments in SEP rider); and December 11, 2013 *ORDER* in Docket No. E002/M-13-959 (Setting Electric SEP rate to \$0).

### **III. GENERAL FILING INFORMATION**

Pursuant to Minn. R. 7829.1300, subp. 3, the Company provides the following information.

**A. Name, Address, and Telephone Number of Utility**

Northern States Power Company, doing business as:  
Xcel Energy  
414 Nicollet Mall  
Minneapolis, MN 55401  
(612) 330-5500

**B. Name, Address, and Telephone Number of Utility Attorney**

Alison C. Archer  
Assistant General Counsel  
Xcel Energy  
414 Nicollet Mall, 5<sup>th</sup> Floor  
Minneapolis, MN 55401  
(612) 215-4662

**C. Date of Filing**

The date of this filing is October 15, 2015. The Company requests that approval of this Petition be effective upon the date of the Commission Order.

**D. Statute Controlling Schedule for Processing the Filing**

This filing is made pursuant to Minn. Stat. § 216B.1645, Subd. 4. The processing of this filing is controlled by Minn. R. 7829.1300 and 7829.1400.

**E. Utility Employee Responsible for Filing**

Allen D. Krug  
Associate Vice President, State Regulatory Policy  
Xcel Energy  
414 Nicollet Mall, 7<sup>th</sup> Floor  
Minneapolis, MN 55401  
(612) 330-6270

#### **IV. MISCELLANEOUS INFORMATION**

Pursuant to Minn. R. 7829.0700, the Company requests that the following persons be placed on the Commission's official service list for this proceeding:

Alison C. Archer  
Assistant General Counsel  
Xcel Energy  
414 Nicollet Mall, 5<sup>th</sup> floor  
Minneapolis, MN 55401  
alison.c.archer@xcelenergy.com

SaGonna Thompson  
Records Analyst  
Xcel Energy  
414 Nicollet Mall, 7<sup>th</sup> Floor  
Minneapolis, MN 55401  
regulatory.records@xcelenergy.com

Any information requests in this proceeding should be submitted to Ms. Thompson at the Regulatory Records email address above.

#### **V. DESCRIPTION AND PURPOSE OF FILING**

##### **A. Background**

In 1991, we filed an Application for Certificate of Need with the Commission seeking permission to build a spent fuel waste facility at our Prairie Island Nuclear Generating Plant (PINGP). Hearings were held before an administrative law judge (ALJ) in November and December 1991. In April 1992 the ALJ recommended that the Commission deny the application. However despite the ALJ's recommendations, the Commission approved the facility but reduced the number of casks allowed from 48 to 17. During the contested case the Tribal Community, among others, opposed the storage facility and appealed to the Minnesota Supreme Court, which gave the decision-making authority to the 1994 state legislature, which eventually gave the Company permission to add more casks.

After the DOE failed to meet a January 1, 1998 deadline to accept nuclear waste, the Company filed breach of contract lawsuits against the DOE. By 2003 the storage space issue was once again before the legislature where bills were introduced to allow additional storage at PINGP. Following a special legislative session the new law became effective on May 30, 2003, that authorized additional casks and essentially voided the 1994 laws. The 2003 laws also included several provisions, including 2003 Agreement with the Tribal Community and annual payments up to \$2.5 million. The 2003 Agreement, is provided as Attachment A to this filing.

Due to changed circumstances more fully set forth below, Xcel Energy and the Tribal Community entered into an agreement on August 20, 2015 to modify various terms to the original 2003 Agreement with the Tribal Community.

The circumstances that changed since the original Agreement was executed are as follows:

- (1) The DOE's decision in 2009 to end pursuit of its license application to construct a nuclear waste disposal facility at Yucca Mountain. This effort undermines a key mutually held belief that Yucca Mountain was on schedule to eventually become the site of a permanent waste repository in the first quarter of the 21<sup>st</sup> century. This action means that spent fuel could remain at Prairie Island beyond the time periods anticipated in 2003;
- (2) The recommendations advanced by the Blue Ribbon Commission on America's Nuclear Future in 2012 and the resulting strategy to implement the Blue Ribbon Commission's recommendations published in 2013 by the Department of Energy not being acted on by Congress;
- (3) The finding by the NRC as part of its Waste Confidence rulemaking that nuclear plants could safely store used nuclear fuel for 60 years following plant shutdown; and
- (4) The Commission's finding in 2012 that a 60-year period for spent fuel management following plant shutdown for decommissioning accrual purposes should be used instead of the 36-year period recommended by Xcel Energy.

Additional years of safe generation will benefit Xcel Energy customers, the State and Nation by providing affordable, carbon free base load power. In addition, this Amendment guarantees that the parties will cooperate and work collaboratively on nuclear storage & disposal issues, which in the long-term are cost-saving measures will be the avoidance of costly litigation and dispute resolution actions between the parties. However, should the extended life of the Plant occur, this will also increase the volumes of spent fuel stored on the site and most likely extend further the time horizon before spent fuel will be transported offsite.

As mentioned above, the Amendment, provided as Attachment B to this filing, and resulting increase in payment to the Tribal Community, up to the \$2.5 million level

as authorized by statute beginning January 1, 2016, will be an increase of \$0.25 million from the \$2.25 million we paid beginning in 2003, and an increase of \$1.05 million, from the \$1.45M currently being paid.

## **B. Standard of Review**

This request is made pursuant to Minn. Stat. § 216B.1645, Subd. 4 that allows the Company to make payments to the Tribal Community, not to exceed \$2,500,000 annually with the funds to be used for, among other purposes, acquiring up to 1,500 contiguous or noncontiguous acres of land in Minnesota within 50 miles of the tribal community's reservation at Prairie Island to be taken into trust by the federal government for the benefit of the tribal community for housing and other residential purposes.

The proposed August 20, 2015 Amendment is a good faith effort of the Company and the Tribal Community to recognize the change in circumstances in a manner that is consistent with the terms and intentions of the original 2003 Settlement Agreement. The August 20, 2015 Amendment is reasonable and consistent with the public interest for the continued long-term investment in our nuclear power fleet.

## **VI. EFFECT OF CHANGE UPON XCEL ENERGY REVENUE**

The original \$1.45 million annual amount we currently pay was rolled into base rates as part of our 2014 Test Year rate case in Docket No. E002/GR-13-868. We intend to seek cost recovery for the annual additional amount from our customers as part of the request in our next general electric rate case which will be filed on November 2, 2015, and will include the additional \$1.05 million in the 2016 Test Year.

## **CONCLUSION**

We respectfully requests approval of this Petition for approval of an amendment to the 2003 Settlement Agreement with The Prairie Island Indian Community. This agreement is reasonable and consistent with the public interest for the continued long-term investment in our nuclear power fleet.

Dated: October 15, 2015

Northern States Power Company

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones  
Heydinger  
Nancy Lange  
Dan Lipschultz  
John Tuma  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

IN THE MATTER OF THE PETITION OF  
NORTHERN STATES POWER COMPANY  
FOR APPROVAL OF AN AMENDMENT TO  
THE 2003 SETTLEMENT AGREEMENT  
WITH THE PRAIRIE ISLAND INDIAN  
COMMUNITY

DOCKET NO. E-002/M-15-\_\_\_\_

**PETITION**

**SUMMARY OF FILING**

Please take notice that on October 15, 2015, Northern States Power Company, doing business as Xcel Energy, submitted to the Minnesota Public Utilities Commission a Petition for approval of an Amendment to the 2003 Settlement Agreement with the Prairie Island Indian Community for an increased payment amount of an additional \$1.05 million annually.

## SETTLEMENT AGREEMENT

### RECITALS

WHEREAS, Northern States Power Company ("NSP") is a party to an Agreement with the State of Minnesota dated, May 20, 1994 ("the 1994 Agreement"); and

WHEREAS, the Prairie Island Indian Community in the State of Minnesota, also known as the Prairie Island Mdewakanton Dakota Community at Prairie Island, a federally recognized Indian Tribe, ("Tribal Community") is an intended third party beneficiary of the 1994 Agreement; and

WHEREAS, the Community believes it is in the best interests of the Community to have an alternative to living next to the Prairie Island nuclear plant and that the Community receive reasonable compensation and reimbursement for the storage of spent nuclear fuel at the Prairie Island plant; and

WHEREAS, NSP believes it is in the best interests of the Company and its customers to settle potential outstanding disputes and associated uncertainties such that it could continue to cooperate the Prairie Island nuclear plant beyond 2007; and

WHEREAS, NSP and the Tribal Community desire to enter into a new relationship governed by the terms set forth below ("the Agreement") and to settle and resolve their respective rights under the 1994 Agreement.

NSP and the Tribal Community (together "the Parties") enter into this Agreement.

1. NSP agrees to pay the Tribal Community as follows:

- i. Commencing on January 1, 2004, \$1,000,000 each year during Prairie Island plant operations;
- ii. Commencing on January 1, 2004, \$450,000 each year for the placement of storage casks at the Prairie Island generating plant ;
- iii. Commencing on January 1, 2004, \$700,000 each year for Community expenses associated with acquisition of land to be taken into trust by the United States of America for the benefit of the Tribal Community, construction of Community infrastructure , movement of a transmission line or other Community purposes;
- iv. Commencing on July 1, 2003, \$100,000 each year for expenses associated with a health study, emergency management activities or other Community purposes.

2. The payments in paragraph 1 (i) shall continue during any year in which the Prairie Island generating plant (either Unit 1 or Unit 2) operates.


3. The payments in paragraph 1 (ii) shall continue until such time as NSP removes all spent nuclear fuel stored in dry casks that were placed on the pad and filled at the Prairie Island generating plant during the operational life of the plant. This payment provision shall terminate upon removal of the spent nuclear fuel described above. This provision shall not apply to spent nuclear fuel placed and stored in dry casks and placed on the site after operations have ceased and preparation for decommissioning of the facility has begun.
4. The payments in Section 1(iii) shall terminate as of December 31, 2013.
5. The payments in Section 1(iv) shall terminate as of December 31, 2012.
6. NSP agrees to pay \$25,000 to the Tribal Community so it may conduct a preliminary engineering study or for other activities to help facilitate construction of an overpass over the railroad that crosses Sturgeon Lake Road.
7. NSP further agrees to use its best efforts in cooperation with the Tribal Community to secure \$4,000,000 in State and/or Federal funding for the railroad overpass by July 1, 2004.
8. NSP shall move the 345 kV transmission lines located on the site of the Prairie Island generating facility as described in Attachment A hereto, provided that (1) the Tribal Community pays NSP for the cost of moving the power lines; (2) all necessary regulatory approvals to move such transmission lines are obtained; and (3) the timing of construction is allowed to be scheduled as part of ongoing work consistent with Good Utility Practice. NSP shall use all reasonable efforts to obtain all regulatory approvals and to use all reasonable efforts to manage the cost of the project under \$2,000,000. The Parties agree to enter a service agreement that details performance and payment responsibilities.
9. NSP shall not store any waste from any other nuclear generating facility at its Prairie Island generating facility site.
10. The Parties shall support the Agreement before the Minnesota Legislature as a just and reasonable resolution of outstanding issues and defend the Agreement against any legislation that directly or indirectly attempts to expand, narrow or would otherwise have the effect of changing its terms.
11. The Parties shall support and defend legislation in the form described in Attachment B before the Minnesota Legislature. The Parties agree to work cooperatively to respond to legislative developments as they arise.
12. The Tribal Community agrees that any position it may take, if any, on an application to relicense the Prairie Island generating facility will be limited to intervention and advocacy of its position before the Nuclear Regulatory Commission and agrees not to intervene, advocate or otherwise participate in any

state administrative or state legislative decision-making process or state judicial proceeding related to relicensing or authorizing additional dry cask storage at the Prairie Island generating facility through the relicensing period.


13. This Agreement is effective as of the date of execution.
14. Paragraphs 1(i)-(iii), 2, 3, 4, 12, 15 (b) and (c) and 16 are contingent upon and shall become effective only upon: enactment of a law in the 2003 Minnesota legislative session that: (a) allows for sufficient dry cask storage at the Prairie Island generating facility to support continued operation of the Prairie Island generating facility through at least the end of its current license, without further state approvals under a Certificate of Need proceeding or a regulatory proceeding following the same procedures; (b) allows for full and timely cost recovery of the costs associated with this Agreement from ratepayers through an automatic adjustment of charges provision pursuant to or consistent with the terms of Minn. Stat. 216B.1645; and (c) does not materially alter the terms of this Agreement including provisions for compensation to be paid to the Tribal Community for acquisition of land to be taken into trust for the Tribal Community by the United States of America
15. Payments shall be made to the Tribal Community as follows:
  - a. The first payment under Paragraph 1(iv) and the payment under Paragraph 6 shall be due July 1, 2003.
  - b. All payments for the year 2004 shall be due on January 1, 2004.
  - c. All subsequent payments under the Agreement shall be made on a quarterly basis on January 1, April 1, July 1, and October 1, beginning in 2005.
16. To the extent that legislation that satisfies the contingencies enumerated in Paragraph 14 becomes law, all provisions of this Agreement are in full force and effect, and the Tribal Community will not challenge or otherwise contest either the termination or modification of the 1994 Agreement between NSP and the State of Minnesota and this Agreement will be a full and final settlement of all rights the Tribal Community may have under the 1994 Agreement.
17. This Agreement applies to each of the Parties and shall be binding on the successors and assigns of the Parties and any transferee or subsequent owner of a material portion of the Prairie Island nuclear generating facility. This Agreement shall not be assigned by any party to another party without the consent of the non-assigning party, which consent shall not be unreasonably withheld. This Agreement shall not be deemed to constitute an admission by any Party that any allegation or contention is true and valid except as to the terms provided for in the Agreement.

18. Each of the provisions of this Agreement is in consideration for each and every other provision.
19. NSP represents that it has full authority to enter into this Agreement and that the Agreement is binding upon NSP.
20. The Tribal Community represents that it has full authority to enter into this Agreement and that the Agreement is binding upon the Tribal Community.
21. The provisions of this Agreement are not severable.
22. Any legal proceeding to contest or enforce provisions of this Agreement shall be venued in District Court in the State of Minnesota. In order to effectuate this provision in the event that NSP alleges a material breach of the Agreement by the Tribal Community, NSP as its exclusive remedy shall first give written notice to the Tribal Community of the alleged breach. If the parties cannot resolve the dispute within 15 days or any other period agreed to by the parties, NSP shall notify the Tribal Community in writing that it will withhold funds that may be due under the Agreement and that the Tribal Community can then sue to enforce the Agreement in state court.
23. Nothing in this Agreement shall be construed or interpreted to effect a waiver of the Tribal Community's sovereign immunity, nor shall the Agreement be interpreted or construed to subject NSP to the jurisdiction of the Tribal Court.
24. This Agreement may be executed in identical counterparts with the same effect as if a single copy were executed.
25. Nothing herein is or may be construed to be a waiver, abrogation or settlement of any actual or potential claim of the Tribal Community or any individual Tribal member against NSP, any federal, state or local government or any other party except as specifically set forth in Paragraph 16.

Northern States Power Company  
(Minnesota)

By:   
Title: Chairman, President and Chief  
Executive Officer  
Date: 5-22-03

Mdewakanton Dakota Tribal Community  
at Prairie Island

By:   
Title: PRESIDENT  
Date: 5-19-03



**Note: Tower locations may change for construction Outage planning requirements for any of the 345kv circuits involved.**

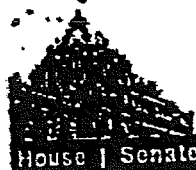
This technical drawing illustrates a proposed canal system, labeled "PROPOSED CANAL" and "PROPOSED LINE 0976". The drawing is overlaid on a grid with various annotations and numerical values.

Key features and annotations include:

- APPROX. 1300 FT**: A horizontal dimension line across the middle of the drawing.
- APPROX. 500 FT**: A horizontal dimension line in the upper right corner.
- PLANT SERVICE RD.**: A road running vertically on the right side of the drawing.
- R/W LINE**: A line running horizontally on the right side, near the Plant Service Rd.
- PROPOSED LINE 0976**: A line running vertically on the left side of the drawing.
- PROPOSED LINE 0972**: A line running vertically on the left side, to the left of Line 0976.
- PROPOSED LINE 0974**: A line running vertically on the left side, to the left of Line 0972.
- PROPOSED LINE 0978**: A line running vertically on the left side, to the left of Line 0974.
- PROPOSED LINE 0979**: A line running vertically on the left side, to the left of Line 0978.
- PROPOSED LINE 0980**: A line running vertically on the left side, to the left of Line 0979.
- PROPOSED LINE 0981**: A line running vertically on the left side, to the left of Line 0980.
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- PROPOSED LINE 0983**: A line running vertically on the left side, to the left of Line 0982.
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- PROPOSED LINE 0999**: A line running vertically on the left side, to the left of Line 0998.

The drawing also includes numerous numerical values, such as 100, 200, 300, 400, 500, 600, 700, 800, 900, 1000, 1100, 1200, 1300, 1400, 1500, 1600, 1700, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600, 3700, 3800, 3900, 4000, 4100, 4200, 4300, 4400, 4500, 4600, 4700, 4800, 4900, 5000, 5100, 5200, 5300, 5400, 5500, 5600, 5700, 5800, 5900, 6000, 6100, 6200, 6300, 6400, 6500, 6600, 6700, 6800, 6900, 7000, 7100, 7200, 7300, 7400, 7500, 7600, 7700, 7800, 7900, 8000, 8100, 8200, 8300, 8400, 8500, 8600, 8700, 8800, 8900, 9000, 9100, 9200, 9300, 9400, 9500, 9600, 9700, 9800, 9900, 10000.

A small inset map in the bottom left corner shows the location of the proposed canal system within a larger geographical context.



# Minnesota House of Representatives

House | Senate | Legislation & Bill Status | Laws, Statutes & Rules | Joint Depts. & Commissions

EX: ~~stricken~~ = old language to be removed  
underscored = new language to be added

NOTE: If you cannot see any difference in the key above, you need to change the display of stricken and/or underscored language.

Authors and Status ■ List versions

LF No. 775, as introduced: 83rd Legislative Session (2003-2004) Posted on Mar 10, 2003

- 1.1 A bill for an act
- 1.2 relating to energy; amending the definition of a
- 1.3 radioactive waste management facility; specifying the
- 1.4 applicability of the renewable development fund;
- 1.5 authorizing sufficient dry cask storage capacity to
- 1.6 allow the nuclear reactors at the Prairie Island
- 1.7 nuclear generation facility to operate until the end
- 1.8 of their current licenses; requiring a public utility
- 1.9 that owns a nuclear generation facility to seek
- 1.10 commission approval for additional storage capacity
- 1.11 for spent nuclear fuel; amending Minnesota Statutes
- 1.12 2002, sections 116C.71, subdivision 7; 116C.779;
- 1.13 216B.1645, subdivision 2; proposing coding for new law
- 1.14 in Minnesota Statutes, chapter 116C.
- 1.15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.16 Section 1. Minnesota Statutes 2002, section 116C.71,
- 1.17 subdivision 7, is amended to read:
- 1.18 Subd. 7. [RADIOACTIVE WASTE MANAGEMENT FACILITY.]
- 1.19 "Radioactive waste management facility" means a geographic site,
- 1.20 including buildings, structures, and equipment in or upon which
- 1.21 radioactive waste is retrievably or irretrievably disposed by
- 1.22 burial in soil or permanently stored. An independent spent fuel
- 1.23 storage installation located on the site of a Minnesota nuclear
- 1.24 generation facility for dry cask storage of spent nuclear fuel
- 1.25 generated solely by that facility is not a radioactive waste
- 1.26 management facility.
- 1.27 Sec. 2. Minnesota Statutes 2002, section 116C.779, is
- 1.28 amended to read:
- 1.29 116C.779 [FUNDING FOR RENEWABLE DEVELOPMENT.]
- 1.30 Subdivision 1. [APPLICABILITY.] This section applies only
- 2.1 to the first 12 casks filled and placed at the Prairie Island
- 2.2 independent spent fuel storage installation.
- 2.3 Subd. 2. [RENEWABLE DEVELOPMENT FUND.] (a) The public
- 2.4 utility that ~~operates~~ owns the Prairie Island nuclear generating
- 2.5 plant must transfer to a renewable development account \$500,000
- 2.6 each year for each dry cask containing spent fuel that is
- 2.7 located at the independent spent fuel storage installation at
- 2.8 Prairie Island after January 1, 1999. The fund transfer must be
- 2.9 made if waste is stored in a cask for any part of a year in
- 2.10 which the plant is in operation. Funds in the account may be
- 2.11 expended only for development of renewable energy sources.
- 2.12 Preference must be given to development of renewable energy
- 2.13 source projects located within the state.
- 2.14 (b) Expenditures from the account may only be made after
- 2.15 approval by order of the public utilities commission upon a
- 2.16 petition by the public utility.

HF No. 775, as introduced

Minnesota Power Company

## Sec. 3. [116C.83] [AUTHORIZATION FOR ADDITIONAL DRY CASK STORAGE.]

(a) Subject to the cask storage limits of the federal license for the independent spent fuel storage installation at Prairie Island, the public utility that owns the Prairie Island nuclear generation plant has authorization for sufficient dry cask storage capacity at that installation to allow:

(1) the unit 1 reactor at Prairie Island to operate until the end of its current license in 2013; and

(2) the unit 2 reactor at Prairie Island to operate until the end of its current license in 2014.

(b) Notwithstanding any law to the contrary:

(1) except as provided in paragraph (a), authorization of any future nuclear storage facility or dry casks at either nuclear generation facility in this state is limited to approval by the public utilities commission pursuant to section 216B.243 and the commission's certificate of need rules;

(2) in any proceeding pursuant to clause (1), the commission may make a decision that could result in a shut down of a nuclear generation facility; and

(3) the storage of spent nuclear fuel in the pool and in dry casks at the Prairie Island nuclear generating plant must be managed to facilitate the shipment of waste out of state to a permanent or interim storage facility as soon as feasible in a manner that allows the continued operation of the plant consistent with sections 116C.71 to 116C.83 and 216B.1645, subdivision 2.

Sec. 4. Minnesota Statutes 2002, section 216B.1645, subdivision 2, is amended to read:

Subd. 2. [COST RECOVERY.] The expenses incurred by the utility over the duration of the approved contract or useful life of the investment and expenditures made pursuant to section 116C.779 and agreements with the Mdewakanton Dakota Tribal Council at Prairie Island regarding the provisions of Laws 1994, chapter 641, article 1, section 4, shall be recoverable from the ratepayers of the utility, to the extent they are not offset by utility revenues attributable to the contracts, investments, or expenditures. Upon petition by a public utility, the commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover the expenses or costs approved by the commission, which, in the case of transmission expenditures, are limited to the portion of actual transmission costs that are directly allocable to the need to transmit power from the renewable sources of energy. The commission may not approve recovery of the costs for that portion of the power generated from sources governed by this section that the utility sells into the wholesale market.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day following final enactment.

## Sec. 2.

Subdivision 1 [APPLICABILITY] This section applies only to the first 17 casks filled and placed at the Prairie Island independent spent fuel storage installation.

## Subd. 2 [RENEWABLE DEVELOPMENT FUND]

(a) The public utility that operates owns the Prairie Island nuclear generating plant must transfer to a renewable development account \$500,000 each year for dry cask containing spent fuel that is located at the independent spent fuel storage installation at Prairie Island after January 1, 1999. The fund transfer must be made if waste is stored in a cask for any part of a year in which the plant is in operation.

Funds in the account may be expended only for (1) payment by the public utility under a settlement agreement with the Mdewakanton Dakota Tribal Council at Prairie Island, a federally recognized Indian tribe, such payments to be made for resolving outstanding disputes and to be used for, among other purposes, acquiring land in the state of Minnesota for placement in trust; - and (2) development of renewable energy source projects located within the state. Payments from the fund in any year shall first be made to satisfy the terms of the settlement agreement described in (1) above.

(b) Expenditures from the account for the purposes of the development of renewable energy source projects may only be made after approval by order of the public utilities commission upon petition by the public utility.

## Sec. 4

Subd. 2 The expenses incurred by the utility over the duration of the approved contract or useful life of the investment and expenditures made pursuant to section 116C.779 and expenditures under an agreement dated March , 2003 and agreements with the Mdewakanton Dakota Tribal Council at Prairie Island regarding the provisions of Laws of Minnesota 1994, chapter 641, article 1, section 4, to the extent that funds collected pursuant to Section 116C.779 in any given year are insufficient to cover these settlement costs, shall be recoverable from the ratepayers of the utility, to the extent they are not offset by utility revenues attributable to the contracts, investments or expenditures. Upon petition by a public utility, the commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover the expenses or costs approved by the commission, which, in the case of transmission expenditures, are limited to the portion of actual transmission costs that are directly allocable to the need to transmit power from the renewable sources of energy. The commission may not approve recovery of the costs for that portion of the power generated from sources governed by this section that the utility sells into the wholesale market.

## 2015 AMENDMENT TO THE 2003 SETTLEMENT AGREEMENT

### RECITALS

WHEREAS, Northern States Power Company ("NSP") and the Prairie Island Indian Community in the State of Minnesota, also known as the Prairie Island Mdewakanton Dakota Community at Prairie Island, a federally recognized Indian Tribe ("Tribal Community"), entered into a Settlement Agreement on May 22, 2003; and

WHEREAS, circumstances have changed since the 2003 Settlement Agreement was executed. Most significantly is the U.S. Department of Energy's termination of its efforts to develop a permanent spent-nuclear fuel repository at Yucca Mountain, and the uncertainty of the Federal Government's future program for spent fuel disposal. In its place a Presidential Blue Ribbon Commission was convened which made recommendations to the President and other policy-makers. Subsequently, DOE issued its "strategy" for managing spent nuclear fuel. Neither the Commission's recommendations nor the DOE's strategy have been implemented; and

WHEREAS, the Nuclear Regulatory Commission ("NRC") has promulgated regulations that address the generic environmental impact from the continued onsite storage of spent nuclear fuel after the end of the reactor's licensed life, perhaps for periods of 60 years or longer; and

WHEREAS, the Minnesota Public Utilities Commission ("Commission") adopted a 60 year decommissioning accrual period for the storage and removal of spent nuclear fuel from Prairie Island, 24 years longer than what had previously been assumed, and

WHEREAS, NSP believes it is in the best interests of the Company and its customers to revisit the 2003 Agreement and make appropriate revisions based on the changed circumstances; and

WHEREAS, NSP and the Tribal Community desire to modify the 2003 Settlement Agreement for the mutual benefit to both parties.

NSP and the Tribal Community (together "the Parties") enter into this Amendment to modify terms 1, 2, 3, 4 and 5 of the 2003 Settlement Agreement.

1. NSP agrees to pay the Tribal Community as follows:

- i. Commencing on January 1, 2004, \$1,000,000 per year during Prairie Island plant operations;
- ii. Commencing on January 1, 2004, \$450,000 per year for the placement of storage casks at the Prairie Island Independent Spent fuel Storage Installation ("ISFSI");
- iii. Commencing on January 1, 2016, \$700,000 per year for Community expenses associated with acquisition of land to be taken into trust by the United States of America for the benefit of the Tribal Community, construction of Community infrastructure, movement of a transmission line or other Community purposes;

Northern States Power Company

- iv. Commencing on January 1, 2016, \$350,000 per year for expenses associated with a health study, emergency management activities or other Community purposes.
2. The payments in paragraphs 1 (i) – (iv) shall continue until such time as all spent nuclear fuel stored at the Prairie Island nuclear plant has been removed.
3. Terms 3, 4 and 5 are hereby deleted.

In addition, the Parties agree as follows:

The Tribal Community will support, or refrain from challenging, the environmental aspects of any federal cask and ISFSI licensing efforts associated with the utilization of the 64 casks approved by the state of Minnesota necessary to operate Prairie Island Units 1 and 2 through the periods of the renewed licenses ending in 2033 and 2034 respectively.

The Parties will continue to work cooperatively to address the need for the development of long-term storage and permanent disposal of spent nuclear fuel.


The Parties may revisit the terms of this Settlement Amendment if:

- NSP pursues license requests to extend the operating life of Prairie Island Units 1 or 2 beyond their current licensed operating life.
- NSP pursues Extended Power Uprate (EPU) projects at Prairie Island Units 1 or 2.
- NSP seeks to increase the number of casks that can be stored at the Prairie Island ISFSI beyond the 64 casks approved by the state of Minnesota.
- NSP pursues license request to extend the ISFSI license beyond its first renewal term.


The terms of this Amendment are contingent upon the Minnesota Public Utilities Commission's (MPUC) approval of rate recovery of the payments required herein. The Parties agree to mutually seek the approval of the MPUC.

All terms in the 2003 Settlement Agreement, except those modified herein, shall remain in full force and effect.

Northern States Power Company  
(Minnesota)

By:   
Title: President, NSPM  
Date: 8/18/15

Prairie Island Indian Community

By:   
Title: Tribal Council President  
Date: 8-20-15

## CERTIFICATE OF SERVICE

I, Carl J. Cronin, hereby certify that I have this day served copies of the foregoing document or a summary thereof on the attached lists of persons:

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

xx via electronic filing

### **XCEL ENERGY'S MISCELLANEOUS ELECTRIC SERVICE LIST**

Dated this 15<sup>th</sup> day of October 2015

/s/

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Carl J. Cronin

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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