COMMERCE DEPARTMENT

April 23, 2019

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/M-18-765

Dear Mr. Wolf:

Attached are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

> Petition of Northern States Power Company for Approval of a Power Purchase Agreement with Dakota Range III, LLC.

The Department recommends that the Commission **approve the Petition, with reporting requirements.** The Department is available to answer any questions that the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ CRAIG ADDONIZIO
Financial Analyst

CA/ja
Attachment

Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce
Division of Energy Resources

Docket No. E002/M-18-765

I. INTRODUCTION

On December 13, 2018, Northern States Power Company (NSPM, or the Company), doing business as Xcel Energy (Xcel), petitioned the Minnesota Public Utilities Commission (Commission) for approval of a Power Purchase Agreement (PPA) between the Company and Dakota Range III, LLC for new wind energy generation from a 151.2-megawatt facility (Dakota Range III) located in South Dakota. NSPM acquired the PPA to meet the terms of the Company's proposed electric service agreement (ESA) with Google.[1]

On March 4, 2019, the Department filed comments (Comments) requesting additional information related to:

- NSPM's acquisition process for the PPA;
- the Company's Strategist modeling results;
- the expected regulatory treatment of the PPA in non-Minnesota jurisdictions; and
- the status of other required permits and approvals, and other relevant regulatory processes.

On March 14, 2019, the Company filed reply comments (Reply Comments) addressing the Department's requests for additional information.

II. DEPARTMENT ANALYSIS

A. THE ACQUISITION PROCESS

In its Comments, the Department noted that the Commission's January 11, 2017 *Order Approving Plan with Modifications and Establishing Requirements for Future Resource Plan Filings* in Docket No. E002/RP-15-21 (the 2015 Integrated Resource Plan, or IRP, Order) imposed certain requirements on NSPM's acquisition process for new wind and solar resources. The Department requested that NSPM explain whether and how those requirements applied to its acquisition of the Dakota Range III PPA. In its Reply Comments, the Company stated that

[1] See Docket No. E002/M-19-39 (the Google ESA Docket).

because the need for the PPA is driven by its proposed ESA with Google, rather than an IRP, the Company does not believe it was required to follow the formal bidding processes required by the 2015 IRP Order. The Company also stated that the negotiation process with Google, and the time constraints it imposed, rendered a full, competitive request for proposals (RFP) process impractical.

While the Department generally supports the use of formal RFP processes as an efficient means to procure least-cost resources, the Department also understands that in some circumstances, formal RFP processes are not always practical or necessary. For example, in Docket No. E002/M-17-694, the Commission approved a new wind project proposed by NSPM despite the fact it was not selected via a competitive RFP because it provided significant ratepayer benefits and its price compared favorably to other recent wind projects which were selected via an RFP process.

The Department concludes that NSPM's explanation of why it did not use a formal RFP process to select the Dakota Range III PPA is reasonable. Additionally, as described in the Department's Comments, while the Company did not use a formal RFP process to select the PPA, the PPA's price is reasonably comparable to the prices of the wind projects approved in Docket Nos. E002/M-16-777 and E002/M-17-694.

Lastly, the Department notes that it addressed the process for future resource additions pursuant to the Google ESA in its March 11, 2019 Comments in the Google ESA Docket. The Department recommended that the Commission approve the Company's proposed "negative check-off proposal" for future renewable resource acquisitions on the condition that NSPM provide certain information in their petition for approval. The Department notes that it did not recommend that the Commission require the Company to use an RFP process to select future resource additions, but rather recommended that the Commission require NSPM to describe its acquisition process. In any such filing, NSPM will bear the burden of demonstrating that its process was reasonable.

Based on the above discussion, the Department concludes that Xcel's decision to acquire the Dakota Range III PPA without using a competitive bidding process was reasonable in this instance.

B. NEED FOR THE PPA

In its Comments, the Department requested that the Company provide additional information related to the pattern of cost savings observed in the Strategist modeling results presented in its Petition to demonstrate the need for the Dakota Range III PPA. In particular, the Company's modeling indicated that the addition of the Dakota Range III PPA would result in modest increases to the Company's annual revenue requirements during the early years of the PPA's term. In its Reply Comments, the Company explained that, in its Strategist modeling, the addition of the PPA led to an increase in excess energy[2] over the period 2021-2024, and due to limits placed on wholesale market sales, much of that excess energy became dump energy, meaning it was not sold into the wholesale market, just dumped (or effectively sold at a price of $0/MWh). In the model, the Company still incurred the costs associated with generating the dump energy, but received no revenues for it, resulting in increased net costs. It is likely that there are hours when the output from the Dakota Range III PPA displaces more expensive generation resources, which creates savings in those hours. However, in the Company's modeling, with limits place on market sales, during the first few years of the PPA, the cost impact of the incremental dump energy outweighed any such savings. The Company also stated that the limits on wholesale sales used in its Strategist modeling were conservative and that new transmission projects that have been placed into service recently will likely increase NSPM's ability to sell its excess energy.

The Company also explained that the planned 2024 retirement of Sherco Unit 2 reduced the amount of dump energy in the model such that the PPA results in modest cost savings from 2024 through 2029.

Additionally, in its Reply Comments, NSPM explained that the significant cost decreases shown in the modeling results in the later years (2030-2032) of the PPA term were largely the result of deferring the addition of a new combustion turbine until after the PPA expires. This deferral is made possible due to the capacity provided by Dakota Range III. As explained in the Company's Reply Comments, the Midcontinent Independent System Operator (MISO) has approved Energy Resource Interconnection Service (ERIS) for Dakota Range III, which, by itself, would not provide the facility with any capacity accreditation. However, the Company stated that it expects to pursue Network Integration Transmission Service (NITS) for Dakota Range III, which will qualify it as a capacity resource beginning in the 2024/2025 planning year. The Department's understanding is that the Company's NITS application will trigger a study process through which MISO will determine whether sufficient transmission capability will be available to provide NITS for the Dakota Range III facility. MISO may determine that NSPM needs to make upgrades to the transmission system in order to accommodate NITS and provide capacity accreditation for Dakota Range III, and thus the decision to pursue NITS and the reasonableness of the costs of any such potential upgrades may need to be evaluated in the NSPM's next integrated resource plan, which is scheduled to be filed July 1, 2019.

[2] There are times when the output from a utility's generation resources exceeds the its load, even though its dispatchable units are operating at their lowest possible level. The portion of the Company's generation that exceeds its load at a given time is referred to as excess energy, and utilities try to sell this excess energy into the wholesale market.

The Department appreciates the additional information provided by NSPM in its Reply Comments regarding its modeling results, and concludes that, even with conservative limits placed on wholesale sales, the PPA is cost effective.

The Department notes, however, that ultimately, the need for this PPA is driven by the proposed ESA with Google, not by a lack of generation resources sufficient to serve the Company's native load with the addition of Google, or by any potential cost savings the PPA offers on its own. In its February 15, 2019 Comments in the Google ESA Docket, the Department concluded that the proposed ESA is reasonable and beneficial for the Company's existing customers, and recommended that the Commission approve it, which would create a need for the PPA. Therefore, if the Commission does not approve the ESA, further evaluation will be necessary to establish the need for the PPA.

C. NON-JURISDICTIONAL TREATMENT

In its Comments, the Department noted that Article 6.1(D) of the proposed PPA provides the Company with the option to seek approval from the North Dakota Public Service Commission and the South Dakota Public Utilities Commission to accept that the energy produced by Dakota Range III will not be used to serve NSPM's retail load in those jurisdictions, and that ratepayers in those jurisdictions will bear no costs associated with the facility. The same article also gives NSPM the right to seek approval from the Federal Energy Regulatory Commission to amend its interchange agreement between NSPM and Northern States Power Company Wisconsin (NSPW) to achieve similar treatment in Wisconsin. Therefore, the Department requested that NSPM indicate whether it sought non-jurisdictional treatment of the Dakota Range III PPA in any non-Minnesota jurisdiction.

In its Reply Comments, NSPM stated that it is not seeking "Non-Jurisdictional Regulatory Treatment," as that term is defined in the Dakota Range III PPA, for any other jurisdiction. The Company stated that it is seeking to recover from Minnesota retail customers, through the Company's Fuel Clause Rider, only the Minnesota jurisdictional portion of the amounts incurred by the Company during the full term of the PPA. The Department concludes that this treatment is reasonable.

D. PROVISIONS INCLUDED IN THE PPA

In its Comments, the Department concluded that the terms of the PPA will reasonably protect ratepayers from financial and operational risks associated with Dakota Range III, and that the PPA contained reasonable curtailment provisions.

As in past proceedings, the Department recommends that the Commission require NSPM to report in its annual automatic adjustment filings (AAA) the amount of any curtailment payments it is required to make pursuant to the PPA.[3] The Department reviews those filings and reserves the right to make recommendations regarding the appropriateness of any curtailment payment beyond a reasonable level.

E. ELIGIBILITY FOR COST RECOVERY VIA THE FUEL CLAUSE

On page 13 of its Petition, the Company stated that it seeks Commission approval to recover the costs associated with the Dakota Range III PPA through the Fuel Cost Charge of the Fuel Clause Rider. The Department notes that the Minnesota Rules governing the fuel clause adjustment (FCA) allow only the cost of energy delivered to customers to be included in FCA rates.[4] Often, PPA prices are structured to have a unitary charge for both the energy and capacity components of the associated resource, rather than pricing the two components separately. In those cases, the capacity component of the charge must be estimated and removed from the fuel clause unless either the Commission grants a variance, or the recovery of the capacity component is specifically permitted by statute.[5] In this case, the Dakota Range III PPA includes only a single, per-megawatt hour charge, but as described above, that charge includes no capacity accreditation. The capacity accreditation will be achieved only if the Company's request for NITS is approved. If MISO approves NSPM's request for NITS subject to the completion of transmission upgrades by NSPM, the costs of any such upgrades will not be eligible for recovery via the FCA. Therefore, the Department concludes that the costs of the proposed PPA are eligible for recovery via the fuel clause, as the Company has requested.

III. DEPARTMENT CONCLUSIONS AND RECOMMENDATIONS

After review the Department concludes that the proposed ESA with Google creates a need for the Dakota Range III PPA, and that the terms of the PPA are reasonable. The Department recommends that, if it approves the ESA with Google, the Commission:

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[3] In Docket No. E999/CI-03-802 (*In the Matter of the Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*), the March 1, 2019 Joint Comments of the electric utilities and consumer advocates recommended that wind curtailment reporting would be provided in the utilities' Annual True-Up Filings.

[4] See Minn. Rules 7825.2390-7825.3000.

[5] In several past Dockets, the Commission has found that Minn. Stat. §216B.1645 permits the recovery of the capacity component of PPAs with unitary price structures for PPAs associated with the renewable development fund.

- approve the Dakota Range III PPA;
- allow NSPM to recover the costs of the Dakota Range III PPA through the fuel clause rider; and
- require NSPM to report in its annual fuel clause true-up filings the amount of any curtailment payments, along with explanations for the curtailments.

/ja

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Response Comments

Docket No. E002/M-18-765

Dated this 23rd day of April 2019

/s/Sharon Ferguson

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