

February 26, 2021

Mr. Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Commerce Department, Division of Energy Resources**  
Docket Nos. E002/M-21-69 and E002/M-15-1089

Dear Mr. Seuffert:

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

Xcel Energy's Petition for Approval of a Credit Mechanism to Return to Customers  
Department of Energy Settlement Payments.

The Petition was filed on January 21, 2021 by:

Gail A. Baranko  
Manager, Regulatory Projects  
Xcel Energy Services, Inc. 414 Nicollet Mall, 401-7  
Minneapolis, MN 55401

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the petition, pending the submission of additional information by Xcel**. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ ANGELA BYRNE  
Financial Analyst

ACB/ja  
Attachment



## Before the Minnesota Public Utilities Commission

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### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket Nos. E002/M-21-69 and E002/M-15-1089

#### **I. BACKGROUND INFORMATION**

Under the Nuclear Waste Policy Act, the United States Department of Energy (DOE) committed to transport and dispose of spent nuclear fuel beginning no later than January 1998. In exchange, utilities were required to contribute 1 mill (\$0.001) for every kilowatt-hour of electricity generated by their nuclear power plants. To date, the DOE has not accepted any spent nuclear fuel.

In 1998, Northern States Power Company, doing business as Xcel Energy (Xcel or the Company) filed lawsuit against the DOE seeking damages for partial breach of contract. The Company reached a settlement with the U.S. Government in July 2011, awarding Xcel damages for 2009 through 2013. In January 2014, the parties agreed to extend damage payments through 2016. In February 2017, the parties again agreed to extend the settlement, this time through 2019.

#### **II. SUMMARY OF THE FILING**

On January 21, 2021, Xcel submitted its compliance filing pursuant to the Minnesota Public Utilities Commission's (Commission) December 16, 2011 Order in Docket No. E002/M-11-807 (Order Point 11) addressing the receipt of the eleventh DOE payment covering spent fuel storage damages incurred in 2019. The Company received \$13,130,727 on December 22, 2020, of which \$9,589,930 is applicable to Xcel's Minnesota Jurisdiction.

In compliance with the Commission's June 3, 2016 Order in Docket No. E002/M-15-1089, the Company deposited the funds into a separate external interest-bearing account. Attachment A of Xcel's filing is evidence of the wire transfer, redacted to remove Company-sensitive banking information, confirming the amount received. Attachment B of Xcel's filing shows the jurisdictional calculations, allocations by customer class, and the estimated credit per customer. Attachment C is a summary of all eleven payments from the DOE, including the damage period, the payment dates, and the Minnesota jurisdictional amounts.

Xcel is seeking approval of its proposed bill credit to return the eleventh DOE payment to ratepayers. The Company stated that it would, "begin implementation of the initial one-time bill credit, including bill message, based on customers' most recent twelve months of usage in third or fourth quarter of 2021."<sup>1</sup> Additionally, as with previous DOE payments, Xcel proposed to file a compliance filing within

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<sup>1</sup> Petition, page 5.

30 days after completion of the bill credit, and any future bill credits, providing a summary of the settlement payment, interest credited, class allocations and the actual average customer credit per customer class.<sup>2</sup>

### III. DEPARTMENT ANALYSIS

#### A. CONFIRMING 2019 REFUND AMOUNT

The eleventh payment under the DOE Settlement, representing damages for costs incurred in 2019, was received by Xcel in the amount of \$13,130,727 on a Total Company basis. In Attachment A of its compliance filing, the Company included a copy of the wire transfer receipt showing the full amount deposited into Xcel's account.

Attachment B of Xcel's filing provided the 2019 allocators for the 36-month coincident peak to allocate the DOE payment between Northern States Power Company – Minnesota (NSPM) and Northern States Power Company – Wisconsin (NSPW) and the 12-month coincident peak allocator to allocate the DOE payment between Minnesota, North Dakota, and South Dakota. The Department tied the NSPW interchange allocator of 0.838864 to the 2019 Interchange Agreement in Docket No. E002/PR-19-225 in Appendix A, page 1, and the state jurisdictional allocator of 0.870633 to Xcel's 2019 Annual Report, tab E16 in Docket No. E,G999/PR-20-4. Using the DOE payment of \$13,130,727 multiplied by the two allocators (resulting in an overall allocator of 0.730343) results in \$9,589,930 allocated to the Minnesota Jurisdiction as shown on the Company's Attachment B.

#### B. DOE REFUND IMPLEMENTATION

Consistent with the prior DOE refunds, Xcel placed the funds from the refund into a separate interest-bearing account and proposed to include the actual amount of interest earned, net of bank fees, in the credit to ratepayers.

Also consistent with prior DOE refunds, the Company proposed the following bill message regarding the refund,<sup>3</sup>

The Minnesota Public Utilities Commission has ordered Xcel Energy to credit customers for funds received as part of a settlement with the U.S. Department of Energy regarding nuclear fuel storage. Your credit is shown as "Nuclear Fuel Settlement" on this billing statement.

Finally, if the bill credit proposed in this instant docket is approved by the Commission, Xcel proposed to initiate one-time bill credits in the third or fourth quarter of 2021. Typically, the Department recommends that refunds be credited to ratepayers within 60 days of the Commission Order. The

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<sup>2</sup> *Id.*

<sup>3</sup> Petition, page 5.

Department requests that Xcel discuss in reply comments why the refund of this DOE payment would be delayed until the second half of 2021.

*C. CONTINUATION OF SETTLEMENT PAYMENTS*

The currently reported eleventh payment is the final payment agreed to under the second extension to the original settlement agreement with the DOE. Since the U.S. Government still has not accepted any spent nuclear fuel to date, the Department requests that Xcel discuss in reply comments whether negotiations for a third extension to the settlement are underway or complete.

**IV. CONCLUSION AND RECOMMENDATIONS**

Based on the above discussion, and pending the submission of further information by Xcel, the Department recommends that the Commission:

- Approve the one-time bill credit method for refunding \$9,589,930 to the Minnesota Jurisdiction, including all interest accumulated and net of related bank fees, for the eleventh DOE payment;
- Require the Company to provide a compliance filing within 30 days after completing the related bill credits; and
- Require Xcel to continue to file information and documentation consistent with the Commission's December 16, 2011 Order, Point 11, in Docket No. E002/M-11- 807 within 30 days of receiving future DOE payments pursuant to the Extended Settlement Agreement.

Additionally, the Department requests that Xcel discuss the following in its reply comments:

- the reason the bill credit for the eleventh DOE payment is proposed for the second half of 2021, rather than within 60 days of the Commission's order; and
- whether negotiations for a third extension to the DOE Settlement are underway or complete.

/ja

**CERTIFICATE OF SERVICE**

I, Linda Chavez, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, 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 – COMMENTS**

Docket Nos. **E002/M-21-69**  
**E002/M-15-1089**

Dated this **26th** day of **February, 2021**.

/s/Linda Chavez

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Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_15-1089_M-15-1089
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