

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Hwikwon Ham
Audrey C. Partridge
Joseph K. Sullivan
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Xcel Energy
for a Certificate of Need for the Lyon County
Generating Station in Lyon County, Minnesota

SERVICE DATE: May 14, 2025
DOCKET NO. E-002/GS-25-145

The above-entitled matter was considered by the Commission on May 8, 2025, and the following disposition made:

- 1. Approved Xcel Energy's requested exemptions and data substitutions relating to the following content requirements.**
 - a. Minn. R. 7849.0270 Forecasting;**
 - b. Minn. R. 7849.0280 System Capacity Description;**
 - c. Minn. R. 7849.0290 Conservation Programs;**
 - d. Minn. R. 7849.0300 Consequence of Delay;**
 - e. Minn. R. 7849.0340 No Facility Alternative.**
- 2. Required Xcel Energy to file updated forecast information in this docket when it files its annual report in Docket No. E-999/PR-25-11 and include an explanation of discrepancies that appear between the forecasts presented in the application and the forecasts submitted in the annual report consistent with Minn. R. 7849.0270 subp. 3(G).**

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order.¹ This Order shall become effective immediately.



BY ORDER OF THE COMMISSION

Will Seuffert

Will Seuffert
Executive Secretary

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

¹ All parties agreed with the decisions in this order.

March 28, 2025

Will Seuffert
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce
Docket No. E002/CN-25-145

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

In the Matter of the Application of Xcel Energy for a Certificate of Need for the Lyon County Generating Station in Lyon County, Minnesota.

The Petition was filed by Northern States Power Company d/b/a Xcel Energy on March 14, 2025.

The Department recommends **approval** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Sydnie Lieb, Ph.D.
Assistant Commissioner, Department of Regulatory Affairs

SR/ad
Attachment



**COMMERCE
DEPARTMENT**

Before the Minnesota Public Utilities Commission
Comments of the Minnesota Department of Commerce

Docket No. E002/CN-25-145

I. INTRODUCTION

Northern States Power Company, doing business as Xcel Energy (Company or Xcel) intends to apply for a certificate of need (CN) for the Lyon County Generating Station (Project) pursuant to Minn. Stat. § 216B.243 by May 1, 2025. The proposed Project would be constructed on property to be owned by Xcel and consists of two combustion turbines totaling approximately 420 megawatts (MW) along with associated facilities to be located in Lyon County, Minnesota. Associated facilities include onsite operations facilities and three 750-kilowatt emergency diesel generators to provide emergency power. The proposed site allows the Project to interconnect to the Midcontinent Independent System Operator, Inc. (MISO) transmission system via the Minnesota Energy Connection (MNEC).¹ For fuel supply, the proposed Project would connect to the Northern Border natural gas pipeline, which runs through the southwest corner of the proposed site. The Company plans to place the proposed Project in-service in late 2028.

The proposed Project was bid into the request for proposals in Docket No. E002/CN-23-212 (Firm Dispatchable Docket). The Firm Dispatchable Docket was established following Minnesota Public Utilities Commission (Commission) approval of Xcel's *2020-2034 Upper Midwest Integrated Resource Plan* (2019 IRP). In the Firm Dispatchable Docket, Xcel submitted three proposals, including the proposed Project, for the Commission's consideration in meeting the Company's need for firm dispatchable generation. In February 2025, the Commission verbally approved a Settlement Agreement² related to both the Firm Dispatchable Docket and the Company's *2024-2040 Upper Midwest IRP* (2024 IRP). In doing so, the Commission approved selection of the proposed Project. However, the Commission also required Xcel to seek a CN for the proposed Project.³

Given the unique circumstances—submitting a CN petition for a project selected in a competitive bidding process—Xcel believes that certain CN application content requirements of Minn. Rules 7849 need to be modified to allow the Company to provide alternative information that will be more relevant than the required information.

¹ For information on the MNEC project see Docket Nos. E002/CN-22-131 and E002/ TL-22-132.

² *In the Matter of Xcel Energy's Competitive Resource Acquisition Process for up to 800 Megawatts of Firm Dispatchable Generation*. Northern States Power Company. Settlement Agreement. Docket No. E002/CN-23-212. October 2, 2024. (eDockets) [202410-210671-01](https://www.puc.state.mn.us/eDockets/202410-210671-01).

³ The Commission order had not been issued when Xcel submitted its request for approval of exemptions.

II. PROCEDURAL BACKGROUND

- March 14, 2025 Xcel filed the Company’s *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition) requesting exemptions from certain CN Application content requirements of Minn. Rules 7849.⁴
- March 19, 2025 The Commission issued a *Notice of Comment Period on Request for Exemption from Certain Certificate of Need Filing Requirements*.⁵

According to the Notice the following topic is open for comment “Should the Commission grant the exemptions to the CN application content requirements as requested by Xcel Energy?”

III. DEPARTMENT ANALYSIS

A. GOVERNING STATUTES AND RULES

Xcel filed the Exemption Petition pursuant to Minnesota Rules, part 7849.0200 subpart 6, which states, in part:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application.

Based on this standard the Commission may grant exemptions when the data requirements are shown to be unnecessary to determine need or can be satisfied by submitting alternative information. In the Exemption Petition Xcel requests to be exempted from certain data requirements of parts 7849.0010 to 7849.0400. Specifically, the Exemption Petition requests exemptions from the following requirements:

- Minn. Rules 7849.0270 (Forecasting);
- Minn. Rules 7849.0280 (System Capacity Description)
- Minn. Rules 7849.0290 (Conservation Programs)
- Minn. Rules 7849.0300 (Consequence of Delay); and
- Minn. Rules 7849.0340 (No Facility Alternative).

⁴ *In the Matter of the Application of Xcel Energy for a Certificate of Need for the Lyon County Generating Station in Lyon County, Minnesota*, Northern States Power Company, Exemption Petition, Docket No. E002/CN-25-145, March 14, 2025. (eDockets) [20253-216416-01](#), (Hereinafter, “Exemption Petition”).

⁵ *In the Matter of the Application of Xcel Energy for a Certificate of Need for the Lyon County Generating Station in Lyon County, Minnesota*, Notice of Comment Period on Request for Exemption from Certain Certificate of Need Filing Requirements, Docket No. E002/CN-25-145, March 19, 2025, (eDockets) [20253-216578-01](#), (Hereinafter, “Notice”).

B. ANALYSIS OF EXEMPTION REQUESTS

B.1. Minn. Rules 7849.0270

Minn. Rules 7849.0270 requires an applicant to provide certain, detailed forecasting information. Xcel proposes to provide, as a substitute, the forecasting information provided in the Firm Dispatchable and 2024 IRP dockets.⁶

Xcel explains the claimed need as follows:

The Project proposed here is needed to provide replacement firm dispatchable resources to continue to reliably serve customers after the retirement of the Company's few remaining coal-fired units. Similarly, the Project will also provide stability support to MNEC, which will facilitate thousands of megawatts of new renewable generation on Xcel Energy's system.⁷

Xcel justifies the exemption and provision of alternative data as follows:

As part of its decision on Xcel Energy's 2024 IRP and in the Firm Dispatchable Docket, the Commission already assessed the forecasts supporting the need for the Project. Xcel Energy would instead provide the 2024 IRP forecast and methodology analyzed in those dockets. Xcel Energy respectfully submits that such data will better inform the record than the specific, individual data requirements identified in this Rule.⁸

The Department notes three items. First, under the CN decision criteria of Minn. Rules 7849.0120 A, Xcel has the burden of proof regarding need and forecasting. Therefore, if the forecasting data Xcel provides is inadequate, then a CN will not be approved. Xcel suffers from the provision of insufficient forecast data. Second, recent forecast data for Xcel is available for any party to use in Docket No. E999/PR-24-11 and new information will be filed this summer in Docket No. E999/PR-25-11.⁹ If any party wishes to review additional forecasting data and use that data in analysis, that party can easily do so. Third, the proposed Project is somewhat unusual in that it was selected via a Commission approved bidding process but still is going through a CN proceeding.

The Department agrees with Xcel that, in general, the data that led to the proposed Project being selected in a bidding process is the appropriate data to be analyzed in this CN. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0270 with the provision of the proposed alternative data.

⁶ Specifically, Xcel proposes to provide the information in Chapter 3 and Appendix E of the 2024 IRP.

⁷ Exemption Petition at 5.

⁸ Exemption Petition at 5.

⁹ Xcel intends to file the Petition May 1, 2025 while the data in Docket No. E999/PR-25-11 is due July 1, 2025. Therefore, the usefulness of the data in Docket No. E999/PR-25-11 depends upon the due date for comments or direct testimony.

B.2. Minn. Rules 7849.0280

Minn. Rules 7849.0280 requires an applicant for a CN to provide information that describes the ability of its existing system to meet forecasted demand—in essence, load and capability information. Xcel proposes to provide, as a substitute, the information provided in the Firm Dispatchable and 2024 IRP dockets.¹⁰ For this exemption Xcel relies upon the same justification as provided in the exemption request for Minn. Rules 7849.0270.

Again, the Department notes that updated load and capability information is available for any party to use in Docket No. E999/PR-24-11 and new information will be filed this summer in Docket No. E999/PR-25-11. If a party wishes to review updated load and capability information and use that data in analysis, that party can easily do so. Finally, the Department agrees with Xcel that the data that led to the proposed Project being selected in a bidding process is the appropriate data to be analyzed in this CN. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0280 with regard to the provision of the proposed alternative data.

B.3. Minn. Rules 7849.0290

Minn. Rules 7849.0290 requires an applicant for a CN to provide conservation program information and a quantification of the impact of conservation programs on the forecast data. Xcel proposes to provide, as a substitute, the information provided in the Firm Dispatchable and 2024 IRP dockets.¹¹ For this exemption Xcel again relies upon the same justification as provided in the exemption request for Minn. Rules 7849.0270.

Since, in the exemption requests above, the Department recommended approval of Xcel providing alternative data—specifically the information provided in the Firm Dispatchable and 2024 IRP dockets—the Department concludes that it is reasonable for Xcel to be allowed to provide the information from the Firm Dispatchable and 2024 IRP dockets for conservation program information as well. The proposed information would allow the conservation information to be tied to the forecast and load and capability information the conservation impacts. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0290 with the provision of the proposed alternative data.

B.4. Minn. Rules 7849.0300 and 7849.0340

Minn. Rules 7849.0300 requires an applicant for a CN provide detailed information regarding the consequences of delay at three specific, statistically-based levels of demand and energy consumption. Minn. Rules 7849.0340 requires an applicant for a CN provide a discussion of the impact on existing generation and transmission facilities at the three levels of demand specified in part 7849.0300 for the no-build alternative. Xcel requests exemption from providing analysis using three statistically-based levels and to provide substitute data, i.e. provide information on the consequence of delay and the no

¹⁰ Specifically, Xcel proposes to provide the information in Chapter 3 of the 2024 IRP. See Exemption Petition at 5-6.

¹¹ Specifically, Xcel proposes to provide the information in Appendix J of the 2024 IRP. See Exemption Petition at 6.

facility alternative but not at the three statistical levels. Xcel notes that similar requests have been approved in several other recent CN dockets.¹²

The Department agrees with Xcel that, with respect to Minnesota Rules 7849.0300 and 7849.0340, an exemption from use of three specific, statistically-based levels has commonly been granted in the past. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0300 and 7849.0340 with the provision of the proposed alternative data.

C. *VARIANCE REQUEST*

Minn. Rules 7829.3200 states that the Commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest;
and
- C. granting the variance would not conflict with standards imposed by law.

Xcel intends to submit a CN application on May 1, 2025; and, as required, the Exemption Petition was submitted at least 45 days prior to that date.¹³ However, Xcel requests a variance to allow for earlier submittal of a CN application, if feasible. An earlier submittal would require a variance to Minn. Rules 7849.0200, subp. 6, which requires an exemption petition be filed at least 45 days before submitting a CN application.

Xcel indicates that all three factors for a variance are met as follows:

- A. Enforcing the 45-day rule could delay submission of Xcel Energy's CN application, whereas granting the variance would not adversely affect the public interest because the requested variance would not impact public notice of or participation in this proceeding.
- B. The Company is requesting exemptions in order to rely on data and information that has already been the subject of extensive regulatory review.
- C. Granting the variance will not conflict with any legal standards.

The Department agrees with Xcel's variance analysis and recommends the Commission approve the proposed variance to Minn. Rules 7849.0200, subp. 6.

¹² Exemption Petition at 6 (Footnote 10).

¹³ 45 days prior to May 1, 2025 would be March 17, 2025.

IV. DEPARTMENT RECOMMENDATIONS

Based on analysis of the Exemption Petition and the information in the record, the Department has prepared recommendations, which are provided below. The recommendations correspond to the subheadings of Section III above.

B. ANALYSIS OF EXEMPTION REQUESTS

- B.1. The Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0270 with the provision of the proposed alternative data.
- B.2. The Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0280 with the provision of the proposed alternative data.
- B.3. The Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0290 with the provision of the proposed alternative data.
- B.4. The Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0300 and 7849.0340 with the provision of the proposed alternative data.

C. VARIANCE REQUEST

- C.1. The Department agrees with Xcel's variance analysis and recommends the Commission approve the proposed variance to Minn. Rules 7849.0200, subp. 6.

CERTIFICATE OF SERVICE

I, Robin Benson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission ORDER

Docket Numbers: **E-002/GS-25-145**

Dated this **14th** day of **May, 2025**

/s/ Robin Benson

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
1	Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.		60 South Sixth Street Suite 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	Official 25-145
2	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		No	Official 25-145
3	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	Official 25-145
4	Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA		60 S Sixth St Ste 1500 Minneapolis MN, 55402 United States	Electronic Service		No	Official 25-145
5	Carol A.	Overland	overland@legalelectric.org	Legalelectric - Overland Law Office		1110 West Avenue Red Wing MN, 55066 United States	Electronic Service		No	Official 25-145
6	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		No	Official 25-145
7	Christine	Schwartz	regulatory.records@xcelenergy.com	Xcel Energy		414 Nicollet Mall, MN1180-07-MCA Minneapolis MN, 55401-1993 United States	Electronic Service		No	Official 25-145
8	Will	Seuffert	will.seuffert@state.mn.us		Public Utilities Commission	121 7th PI E Ste 350 Saint Paul MN, 55101 United States	Electronic Service		No	Official 25-145
9	Melissa	Sheffer	sheffer.melissa@epa.gov	EPA Region 5			Electronic Service		No	Official 25-145
10	Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.		60 S Sixth St Ste 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	Official 25-145