

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

121 7th Place East, Suite 350
St. Paul, MN 55101-2147

In the Matter of the Application of Northern
States Power Company d/b/a Xcel Energy for
Authority to Increase Rates for Electric
Service in the State of Minnesota

MPUC Docket Nos. E002/GR-21-630,
G-002/GR-23-413
OAH Docket No. 22-2500-37994

REPLY COMMENT

I. INTRODUCTION

Pursuant to the Minnesota Public Utilities Commission’s (“MPUC” or “Commission”) March 6, 2025, Notice of Comment Period (“Notice”),¹ the Xcel Large Industrials (“XLI”)² submit this Reply Comment (“XLI Reply Comment”) to respectfully reiterate their request that the Commission not reopen the record in this matter, but instead simply supplement its underlying decision, via a Notice and Comment process, to (1) exclude prepaid pension asset (“PPA”) from Xcel Energy, Inc.’s (“Xcel” or “the Company”) rate base; and (2) reduce Xcel’s proposed expense for executive compensation. Additionally, XLI recommends the Commission deny the Department of Commerce’s request to retain a technical consultant to address remanded issues.

II. COMMENTS

A. The Commission Should Supplement Its Order Regarding the PPA Without Reopening the Record.

The Commission should modify its July 17, 2023, Findings of Fact, Conclusions, and Order (“July 17 Order”), using evidence in the record to explain why it rejected Xcel’s request to recover

¹ *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, MPUC Docket Nos. E-002/GR-21-630, G-002/GR-23-413, Notice of Comment Period (March 6, 2025) (eDocket No. 20253-216139-01) (establishing an April 15, 2025, due date for reply comments).

² XLI is an ad hoc consortium of Commercial and Industrial Demand (“C&I” or “C&I Demand”) customers served by Northern States Power Company d/b/a Xcel Energy.

PPA.³ Minnesota Statute § 216.27 does not require the record to be reopened, and similarly, the Court of Appeals stated the Commission could reopen the record at its discretion. The Commission should review its determination and supplement its decision, without reopening the record to allow Xcel an opportunity to present new arguments.

B. Xcel Failed to Make a Threshold Demonstration Showing its PPA was Investor Funded and Should Not Get a Second Chance to Offer New Evidence.

Xcel failed to make a threshold demonstration showing its PPA was solely funded by investors and the Commission should not grant it a new opportunity to do so by reopening the record. As stated in XLI Witness Billie LaConte’s direct testimony, Xcel did not demonstrate that investors funded its PPA, only that “payments to the pension exceed[ed] the negative pension expense.”⁴ While that naturally resulted in a PPA, it derived from excess earnings on the pension trust, not investor contributions.⁵ Further, Ms. LaConte explained that because ratepayers fund pension expenses, “[i]t is difficult to determine how much of the prepaid pension asset is funded by shareholders, returns on the pension asset, and customer contributions.”⁶ If Xcel wants to recover PPA from rate base, it must properly show such funding comes from shareholders – Ms. LaConte’s testimony makes clear that Xcel failed to make any such demonstration.⁷

The threshold analysis to determine a PPA’s funding source before allowing recovery through rate base remains unchanged. On appeal, the Court of Appeals only said that the

³ *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, MPUC Docket Nos. E-002/GR-21-630, G-002/GR-23-413, Findings of Fact, Conclusions, and Order (July 17, 2023) (eDocket No. 20237-197559-01). In its July 17 Order, the Commission determined that (1) Xcel had not justified its rate-base treatment of prepaid pension asset, requiring removal of the PPA from rate base, and (2) Xcel should not be allowed to fully recover executive compensation expenditures for its ten highest paid executives, instead applying a proxy salary based on the Minnesota governor’s salary.

⁴ LaConte Direct at 45:20-21.

⁵ *Id.* at 45:21 – 46:3.

⁶ *Id.* at 3:24-28.

⁷ *Id.* at 17-19 (responding in the negative when asked whether Xcel demonstrated its PPA was funded by investor capital, explaining a PPA can also be created where a utility makes zero cash contributions, and the pension expense is negative).

Commission's "finding includes little explanation."⁸ Because Xcel did not demonstrate shareholders alone fund its PPA, the Commission should simply supplement its underlying decision by providing a more thorough explanation of how Xcel has failed this necessary demonstration and continue to find recovery of PPA through Xcel's rate base inappropriate.

C. The Department of Commerce Could Retain an Expert for Xcel's Pending Rate Case, but It Need Not Retain an Expert for These Matters on Remand.

Regarding the Department of Commerce's request to incur costs for specialized technical professional investigative services pursuant to Minn. Stat. § 216B.62, subd. 8, XLI does not believe such action is necessary to address these issues on remand. Remand of these issues is not an opportunity for Xcel to relitigate its positions and makes arguments anew. The Commission has discretion as to whether the record should be reopened, and it should apply that discretion to decline to reopen the record, thus nulling the need for a technical consultant to rehash these issues. If anything, the Department could retain an expert to analyze PPA in the pending Xcel rate case (Docket No. 24-320), but consulting services are not required to analyze the issues on remand in this Xcel rate case (Docket No. 21-630).

D. The Commission Can and Should Resolve Disputed Issues Regarding Executive Compensation Using Evidence That Exists in the Record.

Regarding the recoverability of executive compensation, the Commission can clarify its decision, and make additional findings as to the appropriate salary proxy for rate recovery purposes, without reopening the record. The Commission's underlying reasoning regarding executive compensation remains proper, proceeding from Xcel's failure to meet its burden to

⁸ The Court of Appeals Order regarding Docket No. 21-630 did not attack the Commission's reasoning as to the threshold determination, but stated "[a]s we recognized in *Minnesota Power 2024*, 'the evaluation of prepaid pension assets involves technical and complicated accounting issues in ratemaking proceedings.'" *Id.* Given this complexity, and in light of our decision in *Minnesota Power 2024*, we conclude that the commission has not made sufficient findings and we reverse its decision." *In the Matter of the Application by Northern States Power Company d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, 2025 Minn. App. Unpub. Lexis 52, Case No. A23-1672, Nonprecedential Opinion at 20 (Minn. App. 2025) ("Order on 21-630").

demonstrate recovery of \$7 million annually from ratepayers for compensation of its ten highest-paid executives was reasonable.⁹ Despite its finding that the Commission's substitution of a comparative salary based on that of Minnesota's governor was arbitrary and capricious, the Court of Appeals found substantial evidence supports the Commission's decision to deny Xcel's proposed expense for executive compensation for its ten highest-paid executives.¹⁰ Therefore, the Commission does not need to alter its reasoning regarding treatment of Xcel's proposed expense for executive compensation. Rather, the Commission may simply explain why the governor's salary is an appropriate proxy for determining the recoverable executive compensation, or propose an alternative appropriate proxy. Reopening the record on this issue would simply allow Xcel an unwarranted opportunity to refresh its arguments, which arguments this Commission has already lawfully declined to hear. The Commission can resolve disputed issues raised by the Appellate Court regarding the appropriate proxy salary without reopening the record to offer Xcel a second bite at the apple, and without disturbing its underlying decision and accompanying rationale for denying Xcel's proposed expense for executive compensation.

III. CONCLUSION

For the reasons provided herein above, XLI respectfully requests the Commission decline to reopen the record in this matter, but instead supplement its underlying decision to (1) exclude PPA from Xcel's rate base; and (2) reduce Xcel's proposed expense for executive compensation, via the Notice and Comment process.

⁹ *Id.*

¹⁰ Order on 21-630 at 21.

Dated: April 15, 2025

Respectfully submitted,

STOEL RIVES LLP

/s/ Eden A. Fauré

Eden A. Fauré

Amber S. Lee

Andrew P. Moratzka

33 South Sixth Street, Suite 4200

Minneapolis, MN 55402

Telephone: 612-373-8800

Fax: 612-373-8881

ATTORNEYS FOR THE XCEL LARGE
INDUSTRIALS