

**BEFORE THE MINNESOTA COURT OF ADMINISTRATIVE HEARINGS  
600 North Robert Street  
St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
121 7th Place East Suite 350  
St. Paul, Minnesota 55101-2147**

**MPUC Docket No. E002/GR-24-320  
CAH Docket No. 28-2500-40515**

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**IN THE MATTER OF THE APPLICATION OF NORTHERN STATES POWER COMPANY, D/B/A XCEL  
ENERGY,  
FOR AUTHORITY TO INCREASE RATES  
FOR ELECTRIC UTILITY SERVICE IN MINNESOTA**

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**INITIAL BRIEF OF THE CITIZENS UTILITY BOARD OF MINNESOTA**

**JANUARY 28, 2026**

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## I. INTRODUCTION

The Citizens Utility Board of Minnesota (“CUB”) respectfully submits this initial brief to provide recommendations to the Administrative Law Judge (“ALJ”) and the Minnesota Public Utilities Commission (the “Commission”) regarding the petition by Northern States Power Company, d/b/a Xcel Energy (“NSPM” or the “Company”) for authority to increase electric rates in Minnesota. CUB is a non-partisan, Minnesota-based nonprofit organization representing the interests of residential utility consumers across the state. CUB’s role in this proceeding is to advocate for residential consumers’ interests by scrutinizing several aspects of the Company’s request to increase its rates and ensure that all rates charged are just and reasonable.

As discussed in more detail below, CUB makes the following recommendations with respect to the Company’s proposed rate increase:

- The Commission should deny the Company’s request to raise its authorized ROE.
- The Commission should set the Company’s authorized ROE at 9.0 percent.
- The Commission should prohibit the Company from recovering more than 50 percent of its investor relations-related costs.
- The Commission should prohibit the Company from charging late fees to customers with overdue balances.
- If the Commission prohibits late payment fees, then it should also deny the Company’s proposal for a Residential Arrears Management Program
- If the Commission does not prohibit late payment fees, then it should require fee waivers and lower the amount assessed against customers to be reflective of costs borne by the Company.
- The Commission should eliminate the imposition of reconnection fees for residential customers.
- If the Commission does not fully eliminate reconnection fees, then:
  - it should consider waiving such fees for low-income households and those indicating they are unable to pay; and
  - it should consider excluding labor costs from fee calculations.

## II. PROCEDURAL HISTORY

On November 1, 2024, NSPM filed with the Commission an Application for Authority to Increase Rates for Electric Service in Minnesota.<sup>1</sup> The Company proposed a two-year multi-year rate plan (“MYRP”) through which it sought to raise rates for all customer classes by \$353.3 million (9.6 percent) in 2025,

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<sup>1</sup> Ex. Xcel-3 (Application Vol. 1).

followed by an incremental \$137.5 million (3.6 percent) in 2026, resulting in an aggregate increase in gross revenues of \$844.1 million across the test and plan years.<sup>2</sup>

On November 5, 2024, the Commission issued a notice requesting interested parties to comment on whether the Company's application complied with applicable filing requirements.<sup>3</sup> The Commission also requested comments on whether the matter should be referred to the Court of Administrative Hearings for a contested case and if so, what the scope of the hearing should be.<sup>4</sup>

On December 30, 2024, the Commission accepted NSPM's application as substantially complete, suspended rates to permit an adequate examination of reasonableness, and referred the matter to the Court of Administrative Hearings for contested case proceedings.<sup>5</sup> By separate order, the Commission approved NSPM's request to implement interim rates, but found that certain wildfire mitigation expenses were not of "the same nature and kind" as those allowed in the Company's prior rate cases.<sup>6</sup> As a result, NSPM was ordered to remove \$64.3 million in capital costs and \$28.3 million in operations and maintenance costs from its interim rate calculations.<sup>7</sup> The resulting interim rates, which went into effect beginning January 1, 2025, amounted to an increase of approximately \$192 million which was applied as a uniform 7.14 percent interim rate adjustment to the base rate portion of customers' bills.<sup>8</sup> The Commission deferred action on the Company's request to increase interim rates in 2026.<sup>9</sup>

CUB was granted party status as an intervenor in the contested case on December 30, 2024.<sup>10</sup> In addition to CUB and NSPM, the following parties have engaged in the contested case proceeding:

- Minnesota Department of Commerce, ("Department");
- Minnesota Office of the Attorney General, Residential Utilities Division ("OAG");

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<sup>2</sup> See *Id.* at 3-4. While the Company describes its request as "an increase in present revenues of \$490.7 million, or 13.2 percent," this figure was calculated solely by adding the first- and second-year requests together. Given that the Company is seeking an *incremental* increase in gross revenues for the second year, the \$353.3 million recovered in 2025 would likewise be recovered in 2026, rendering the Company's description of the rate increase wildly below the requested level of recovery.

<sup>3</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Notice of Comment Period on Completeness and Procedures (Nov. 5, 2024).

<sup>4</sup> *Id.*

<sup>5</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Order Accepting Filing and Suspending Rates (Dec. 30, 2024); Notice of and Order for Hearing (Dec. 30, 2024).

<sup>6</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Order Setting Interim Rates at 5-7 (Dec. 30, 2024).

<sup>7</sup> *Id.* at 6-7.

<sup>8</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Interim Rate Compliance Filing at 1-2 (Dec. 31, 2024).

<sup>9</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Order Setting Interim Rates at 7 (Dec. 30, 2024).

<sup>10</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Notice of and Order for Hearing (Dec. 30, 2024).

- Xcel Large Industrials (“XLI”);
- Environmental Law & Policy Center, Cooperative Energy Futures, and Minnesota Interfaith Power & Light (collectively, “Joint Intervenors”);
- Suburban Rate Authority;
- Energy CENTS Coalition; and
- Walmart Inc.

NSPM submitted supplemental direct testimony on March 17, 2025 and rebuttal testimony on October 10, 2025. As a result of MYRP adjustments recommended or adopted by the Company, the 2025 test year revenue deficiency decreased to \$208.4 million (5.8 percent), while the 2026 plan year deficiency increased to \$156.9 million (4.2 percent).<sup>11</sup> Together, the Company’s updated financial statements would result in a customer rate impact of \$573.7 million over the two-year MYRP period.<sup>12</sup>

CUB filed direct and surrebuttal testimony for two expert witnesses—Dr. Steve Kihm and Annie Levenson-Falk—on August 22, 2025 and November 25, 2025, respectively. An evidentiary hearing was held on December 17-18, 2025, where all parties were given the opportunity to cross-examine witnesses sponsored by other parties. CUB now submits this initial brief.

### **III. APPLICABLE LEGAL STANDARD**

#### **A. Minnesota Statutes Chapters 216B and 216C grant the Commission authority to consider a variety of factors when setting regulated utility rates.**

Minnesota Statutes §§ 216B.08 and 216B.16 provide the Commission with general authority to regulate public utilities in Minnesota, including regulation of the service rates that public utilities charge to their customers. A public utility cannot change service rates except by filing a notice of rate change with the Commission.<sup>13</sup> Several additional Minnesota statutes, summarized below, further establish the Commission’s authority and responsibility related to rate setting.

##### ***i. Minn. Stat. § 216B.16 - Rate Change; Procedure; Hearing***

Minn. Stat. § 216B.16 establishes the procedures by which a public utility changes its rates, subject to the Commission’s approval. Minn. Stat. § 216B.16, subd. 6 states that the Commission “shall give due consideration to the public need for adequate, efficient, and reasonable service and to the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its utility property used and useful in rendering service to the

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<sup>11</sup> Ex. Xcel-19 at 3 (Halama Rebuttal).

<sup>12</sup> This calculation accounts for the incremental nature of the proposed increase for 2026.

<sup>13</sup> Minn. Stat. § 216B.16, subd. 1.

public, and to earn a fair and reasonable return upon the investment in such property.” Minn. Stat. § 216B.16, subd. 15 further provides, in relevant part, that “[t]he commission must consider ability to pay as a factor in setting utility rates[.]”

***ii. Minn. Stat. § 216B.01 - Legislative Findings***

Minn. Stat. § 216B.01 provides, in relevant part:

It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates, consistent with the financial and economic requirements of public utilities and their need to construct facilities to provide such services or to otherwise obtain energy supplies, to avoid unnecessary duplication of facilities which increase the cost of service to the consumer and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers.

***iii. Minn. Stat. § 216B.03 - Reasonable Rate***

Minn. Stat. § 216B.03 reads, in relevant part, that “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable.” The statute clarifies that “any doubt as to reasonableness should be resolved in favor of the consumer.”

**B. A regulated utility’s costs are recoverable through rates only if the costs were incurred in a prudent fashion.**

In order to ensure utility rates are just and reasonable, utilities are not permitted to recover imprudently incurred costs. Utilities do not enjoy a presumption of prudence.<sup>14</sup> Consistent with Minn. Stat. § 216B.03, any doubts as to reasonableness are resolved in favor of the consumer. In Minnesota, as in several other jurisdictions, there is longstanding precedent for prudence to be assessed based on “the facts that...[a utility] knew or should have known at the time of its action or decision.”<sup>15</sup> The Commission has previously assessed prudence based on whether the utility “exercised the care that

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<sup>14</sup> *In re a Comm’n Investigation into Xcel Energy’s Monticello Life-Cycle Management/Extender Power Uprate Project*, Docket No. E-002/CI-13-754, Order Finding Imprudence, Denying Return on Cost Overruns, and Establishing LCM/EPU Allocation for Ratemaking Purposes at 12 (May 8, 2015).

<sup>15</sup> *See In the Matter of a Commission Investigation into Xcel Energy’s Monticello Life-Cycle Management/Extended Power Uprate Project and Request for Recovery of Cost Overruns*, Docket No. E-002/CI-13-754, Order Finding Imprudence, Denying Return on Cost Overruns, and Establishing LCM/EPU Allocation for Ratemaking Purposes (May 8, 2015) (hereinafter “Commission May 8, 2015 Order”).

a reasonable person would exercise under the same circumstances at the time the decision was made.”<sup>16</sup>

**C. The Company bears the burden to prove rates are just and reasonable.**

Minn. Stat. § 216B.16, Subds. 4 and 19 provide that any utility seeking to amend its rates has the burden to prove by a preponderance of the evidence that its proposed rate change is just and reasonable.<sup>17</sup> Further, in contested case proceedings where the applicable substantive law does not assign a different burden or standard, Minnesota Rule 1400.7300, Subp. 5 provides that the party proposing that a certain action be taken bears the burden of proving the facts at issue by a preponderance of the evidence. If the utility has failed to meet its burden of proof, then the Commission must “either deny the rate increase or make ‘appropriate adjustment’ to the utility’s proposal.”<sup>18</sup>

**D. In determining the reasonableness of a proposed increase to a utility’s authorized return, the Commission must balance the interests of the utility’s shareholders vs. that of its ratepayers.**

The United States Supreme Court and Minnesota Supreme Court have recognized that, when establishing an authorized return, the rate-making process requires a “balancing of the investor and consumer interests.”<sup>19</sup>

***i. Bluefield Water Works & Improvement Co.. v. Public Service Commission.***

In 1923, the U.S. Supreme Court decided *Bluefield Water Works & Improvement Co. v. Public Serv. Commission*, one of the most-often cited cases in utility rate cases.<sup>20</sup> In this case, Bluefield Water Works had challenged a West Virginia Public Service Commission order fixing its rates, claiming that the Commission’s order deprived the utility of its property, in violation of the 14<sup>th</sup> Amendment to the U.S. Constitution.<sup>21</sup> The Court ultimately agreed, noting that a utility’s return should be: (1) “reasonably sufficient to assure confidence in the financial soundness of the utility;” and (2) “adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.”<sup>22</sup> However, in reaching this holding

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<sup>16</sup> *In the Matter of the Application of Interstate Power Co. for Auth. to Increase Its Rates for Elec. Serv. in the State of Minn.*, Docket No. E-001/GR-91-605, 1992 Minn. PUC LEXIS 182 at \*36 (1992).

<sup>17</sup> Minn. Stat. § 216B.16, subd. 4. *See also In re Application of Interstate Power Co.*, 500 N.W.2d 501, 504 (Minn. Ct. App. 1993).

<sup>18</sup> *In re Application of Interstate Power Co.*, 500 N.W.2d 501, 504 (Minn. Ct. App. 1993).

<sup>19</sup> *Fed. Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591, 603 (1944).

<sup>20</sup> *Bluefield Water Works & Improvement Co. v. Public Service Comm’n*, 262 U.S. 679 (1923)

<sup>21</sup> *Id.* at 692.

<sup>22</sup> *Id.* at 693 (1923).

the Court also clarified that an investor-owned utility “has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.”<sup>23</sup>

***ii. Federal Power Commission v. Natural Gas Pipeline Co.***

In 1942, the Court decided *Federal Power Commission v. Natural Gas Pipeline Company*.<sup>24</sup> In that case, cross-petitioners, Natural Gas Pipeline Company of America and Texoma Natural Gas Company challenged a Federal Power Commission (“FPC”) order that, among other things, lowered the return the utilities were permitted to collect after the FPC determined the utilities’ rates were “unjust, unreasonable and excessive.”<sup>25</sup> The Court upheld the FPC’s order.<sup>26</sup> In so doing, the Court clarified “[t]he requirements of ‘just and reasonable’ embrace, among other factors, two phases of the public interest: (1) the investor interest; (2) the consumer interest”<sup>27</sup> and that “[t]he consumer interest cannot be disregarded[.]”<sup>28</sup> Of the investor interest, the Court stated that “[b]y long standing usage in the field of rate regulation, the ‘lowest reasonable rate’ is one which is not confiscatory in the constitutional sense”<sup>29</sup> and “[i]f the rate permits the company to operate successfully and to attract capital all questions as to ‘just and reasonable’ are at an end so far as the investor interest is concerned.”<sup>30</sup>

The Court also clarified that regulators should use their judgment, not just formulas, to set a reasonable return:

It is not the function of the courts to prescribe what formula should be used. The fact that one may be fair to investors does not mean that another would be unfair. The decision in each case must turn on considerations of justness and fairness which cannot be cast into a legalistic formula. The rate of return to be allowed in any given case calls for a highly expert judgment. That judgment has been entrusted to the Commission. There it should rest.<sup>31</sup>

Finally, the Court introduced the concept of a “zone of reasonableness” within which the FPC had discretion to set rates of return based on its review and judgement of evidence of the record. Within that zone of reasonableness, the Commission was “free to fix a rate varying in amount and higher than a confiscatory rate . . . [or] to decrease any rate which is not the ‘lowest reasonable rate.’”<sup>32</sup>

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<sup>23</sup> *Id.* at 692-93.

<sup>24</sup> *Fed. Power Comm’n v. Natural Gas Pipeline Co.*, 315 U.S. 575 (1942)

<sup>25</sup> *Id.* at 580

<sup>26</sup> *Id.* at 586.

<sup>27</sup> *Id.* at 606-607.

<sup>28</sup> *Id.* at 608.

<sup>29</sup> *Id.* at 607, 585.

<sup>30</sup> *Id.* at 607.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 585-86.

***iii. Federal Power Commission v. Hope Natural Gas Co.***

In 1944, the Court decided *FPC v. Hope Natural Gas Company*, another case regularly cited in utility rate cases.<sup>33</sup> In this case, the FPC challenged an appellate court decision that set aside its order significantly lowering Hope Natural Gas Company's return. The U.S. Supreme Court *reversed* the lower court's ruling and upheld the FPC's original order, noting:

The fixing of prices, like other applications of the police power, may reduce the value of the property which is being regulated. But the fact that the value is reduced does not mean that the regulation is invalid.<sup>34</sup>

In other words, even though the FPC's order lowered the utility's annual income by around 62%, the *Hope* Court determined this action did not amount to the type of unconstitutional taking discussed in *Bluefield*. In explaining its reasoning, the Court reaffirmed that utilities are entitled to a return that: (1) is sufficient to cover operating expenses and capital costs of the business (including services on debt and dividends on stock); (2) is commensurate with returns on investments in other enterprises having corresponding risks; (3) assures confidence in the financial integrity of the enterprise; and (4) allows the company to maintain its credit and attract capital.<sup>35</sup> However, the Court also reiterated that "[t]he rate-making process [...] i.e., the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests"<sup>36</sup> and that "'regulation does not insure that the business shall produce net revenues."<sup>37</sup> Rather, the primary purpose of requiring just and reasonable rates is to "protect consumers against exploitation" at the hands of utilities.<sup>38</sup>

***iv. Permian Basin Area Rate Cases***

In 1968, the Court issued an opinion in the *In re Permian Basin Area Rate Cases*.<sup>39</sup> In this case, the Court reviewed several related challenges to the FPC's regulation of independent natural gas producers, including the FPC's ability to set maximum prices for producers in a region rather than individually. Prior to reaching the Supreme Court, an Appellate Court held that the FPC had authority to impose limitations on rates but that it had not satisfied the requirements discussed in *Hope* when imposing limitations on gas producers. On review of that decision, the Supreme Court affirmed the FPC's authority to implement area-based rate regulation and emphasized the deference it afforded to the FPC's expertise in regulatory matters. The Court specified:

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<sup>33</sup> *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 603 (1944).

<sup>34</sup> *Id.* at 601.

<sup>35</sup> *Id.* at 603.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* (citing *FPC v. Nat. Gas Pipeline*, 315 U.S. at 590).

<sup>38</sup> *Id.* at 610.

<sup>39</sup> *In re Permian Basin Area Rates*, 390 U.S. 747 (1968)

The Commission cannot confine its inquiries either to the computation of costs of service or to conjectures about the prospective responses of the capital market; it is instead obliged at each step of its regulatory process to assess the requirements of the broad public interests entrusted to its protection by Congress. Accordingly, the "end result" of the Commission's orders must be measured as much by the success with which they protect those interests as by the effectiveness with which they "maintain . . . credit and . . . attract capital."<sup>40</sup>

Expounding on the importance of considering the "end result" of the Commission's decision, the Court noted:

Cost and noncost factors do not, as the Court of Appeals supposed, race one against the other; they must be, as they are here, harnessed side by side. The Commission's responsibilities necessarily oblige it to give continuing attention to values that may be reflected only imperfectly by producers' costs; a regulatory method that excluded as immaterial all but current or projected costs could not properly serve the consumer interests placed under the Commission's protection."<sup>41</sup>

The Court further clarified, citing *Hope*, that "[t]he Commission's exercise of its regulatory authority must be assessed in light of its purposes and consequences, and not by references to isolated phrases from previous cases."<sup>42</sup> In other words, when a court is reviewing a utility regulator's determination in setting rates, the court should not *only* look at whether a regulator's action enables the utility to meet the *Hope* standards; rather, the court should consider whether the end result of the regulatory action balances the utility's interest in earning a fair return *and* consumers' interests in paying just and reasonable rates.

**v. St. Paul Area Chamber of Commerce v. Minnesota Public Service Commission**

In 1977, the *Minnesota Supreme Court* decided *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Commission*.<sup>43</sup> This case arose after the St. Paul Area Chamber of Commerce and the Minneapolis Association of Building Owners and Managers appealed a Minnesota Public Service Commission decision in a prior NSPM rate case. (Specifically, these entities challenged the Commission's decision on rate design.) In reaching its decision, the Minnesota Supreme Court stated its agreement with the U.S. Supreme Court's *Permian Basin Area Rate Cases* decision—namely, that the Commission's rate setting authority involves "balancing both cost and noncost factors and making choices among public policy alternatives."<sup>44</sup>

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<sup>40</sup> *Id.* at 791

<sup>41</sup> *Id.* at 815.

<sup>42</sup> *Id.* at 791, FN 60

<sup>43</sup> *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Comm.*, 312 Minn. 250, 251 N.W.2d 350 (1977)

<sup>44</sup> *Id.* at 358.

**vi. Hibbing Taconite Co. v. Minnesota Public Service Commission.**

In 1980, the Minnesota Supreme Court decided *Hibbing Taconite Co. v. Minnesota Public Service Commission*.<sup>45</sup> In that case, the Court reviewed the Minnesota Public Service Commission's decision in a Minnesota Power & Light Company ("MPL") rate case, aspects of which were appealed by both MPL and Hibbing Taconite, an MPL industrial customer. (Specifically, MPL appealed the Commission's return on equity determination.) A trial court remanded the decision to the Commission after finding, among other things, that the Commission had established an authorized return on equity below what the court determined to be an appropriate range. The Commission appealed the trial court's decision. Ultimately, the Minnesota Supreme Court affirmed "the result reached by the trial court," but noted the trial court's "finding as to the appropriate range for MPL's rate of return on common equity is not binding on the [Commission] on remand."<sup>46</sup> In reaching this conclusion, the Court noted that the Commission is "bound to follow certain legal criteria" when establishing an authorized return. Such criteria include compliance with Minn. Stat 216B.03 (requiring that rates be "just and reasonable") and Minn. Stat. 216B.16, subd. 6 (establishing that utilities have the right to "earn a fair and reasonable return").<sup>47</sup>

**IV. ARGUMENT**

**A. Affordability**

**i. The Commission must consider energy justice and customers' ability to pay when setting rates.**

Minnesota law dictates that "every rate made, demanded, or received by any public utility . . . shall be just and reasonable."<sup>48</sup> This statutory mandate requires the Commission to consider not only utility interests when setting rates, but also "the requirements of the broad public interests entrusted to its protection,"<sup>49</sup> including customers' ability to pay for energy costs.<sup>50</sup> Determining whether the rates proposed by a utility meet the just and reasonable standard therefore necessitates "balancing the interest of the utility companies, their shareholders, and their customers,"<sup>51</sup> with "any doubt as to reasonableness . . . resolved in favor of the consumer."<sup>52</sup>

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<sup>45</sup> *Hibbing Taconite Co. v. Minnesota Public Service Commission*, 1980 Minn. LEXIS 1643, 302 N.W.2d 5 (1980)

<sup>46</sup> *Id.* at 6.

<sup>47</sup> *Id.* at 10.

<sup>48</sup> Minn. Stat. § 216B.03.

<sup>49</sup> *In re Permian Basin Area Rates* at 7911.

<sup>50</sup> Minn. Stat. § 216B.16, Subd. 15.

<sup>51</sup> *In the Matter of Interstate Power Rates Change Request*, 574 N.W.2d 408, 411 (Minn. 1988); *see also Federal Power Comm. v. Hope Nat. Gas Co.* at 603 (stating that the ratemaking process "involves a balancing of the investor and consumer interests").

<sup>52</sup> Minn. Stat. § 216B.03

Against this background, it is important to consider the definition of “equity” adopted by Witness Martin and Department Witness Dr. Hirasuna, which provides for a “fair and just, but not necessarily equal, allocation intended to mitigate disparities in benefits and burdens.”<sup>53</sup> This definition recognizes that a proper balancing of interests must account for the varying impacts a rate increase could have on different customers and customer classes. The tenets of procedural and distributional energy justice likewise hold special weight. As the Commission recognized in NSPM’s last rate case, these principles entail fostering “meaningful and equitable participation and representation in energy decision making,” and “ensuring benefits and burdens are equitably distributed.”<sup>54</sup> This involves not only providing a forum for the public to make their voices heard, but also considering, weighing, and incorporating those perspectives into each step of the Commission’s balancing process to reach an outcome that “equitably reconcil[es] diverse and conflicting interests.”<sup>55</sup>

Filing public comments is the most accessible and direct method of participation for the Company’s ratepayers to engage in the instant proceeding. As Judge Meyer recognized in his prehearing order, “[m]embers of the public need not become formal parties” to speak at public hearings or offer oral or written testimony.<sup>56</sup> Thousands of public commenters opposed the Company’s rate proposal, many of whom raised concerns about how the increase would substantially impede their ability to pay for utility service.<sup>57</sup> Numerous others questioned the reasonableness of NSPM’s request to recover executive compensation expenses from ratepayers and increase shareholder returns through return on equity adjustments.<sup>58</sup> This opposition helps define and reflect the public interest that the Commission must weigh when setting utility rates. Other data and factors offered into evidence by Witnesses Kihm and Levenson-Falk reinforce the scale of affordability concerns, and the potential impact the Commission’s decisions could have on residential customers throughout the Company’s service territory.

As further detailed below, Witness Kihm’s testimony explains how the Company’s return on equity request is inconsistent with basic finance principles and substantially higher than necessary, resulting in customer cost increases of \$100 million per year.<sup>59</sup> Witness Levenson-Falk further discusses how the Company has been carrying out increasingly elevated numbers of service disconnections, and how

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<sup>53</sup> Ex. CUB-8 at 16 (Levenson-Falk Surrebuttal) (citing Ex. DOC-21 at 6 (Hirasuna Direct); Ex. Xcel-71 at 7 (Martin Rebuttal)).

<sup>54</sup> *In the Matter of the Application of Northern States Power Co. d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E002/GR-21-630, Findings of Fact, Conclusions, and Order at 138 (Jul. 17, 2023).

<sup>55</sup> *St. Paul Area Chamber of Comm. v. Minn. Pub. Serv. Comm.*, 312 Minn. 250, 262 (1977) (quoting and adopting the standard set in *In re Permian Basin Area Rate Cases* at 767).

<sup>56</sup> *In the Matter of the Application of Northern States Power Co. d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, CAH Docket No. 28-2500-40515, MPUC Docket No. E002/GR-24-320, First Prehearing Order at 2 (Jan. 31, 2025).

<sup>57</sup> *See, e.g.*, Ex. CUB-8 at 10-12 (Levenson-Falk Surrebuttal).

<sup>58</sup> *See, e.g.*, Ex. CUB-8 at 10 (Levenson-Falk Surrebuttal) (noting that more than half of the comments reviewed by CUB explicitly referenced the Company’s profits or return on equity, and about 20 percent expressed opposition to the Company’s executive pay).

<sup>59</sup> Ex. CUB-6 at 9 (Kihm Surrebuttal).

residential arrears have remained stubbornly high since the COVID-19 pandemic.<sup>60</sup> Together, this evidence underscores the affordability challenges NSPM's customers are facing, and the need for the Commission to carefully consider customers' ability to pay in its weighing of the instant proposal. Now, as always, the Commission is imbued with legislative authority to set rates that are consonant with the public interest, and to "make the pragmatic adjustments which may be called for by particular circumstances."<sup>61</sup>

**ii. *Setting reasonable rates consistent with customers' "ability to pay" necessitates consideration of economic factors and Company-specific evidence related to the affordability of service.***

The end goal of utility regulation is to ensure the provision of "adequate and reliable services at reasonable rates."<sup>62</sup> In recognition of these objectives, the Minnesota Supreme Court has long held the Commission's rate setting authority involves "balancing both cost and noncost factors and making choices among public policy alternatives."<sup>63</sup> Such factors do not "race one against the other," but instead must be "harnessed side by side" through holistic evaluation.<sup>64</sup> While utilities' expenses are relevant to the setting of rates, any "regulatory method that exclude[s] as immaterial all but current or projected costs could not properly serve the consumer interests placed under the Commission's protection."<sup>65</sup> Consistent with these statutory and legal directives, the Commission should—and indeed, must—consider the impact of the proposed rates on utility customers.

Affordability, or customers' ability to pay for utility service, is one such noncost factor that must be given primacy in the Commission's evaluation of the Company's rate proposal.<sup>66</sup> Energy burden—*i.e.* the percentage of income spent on heating and electricity—is one important indicator of affordability, but it often provides an imperfect estimation of customers' ability to pay.<sup>67</sup> As both Witness Levenson-Falk and the Company acknowledge, other expenses, obligations, or external factors may reduce a household's purchasing power.<sup>68</sup> For example, medications, rent, and taxes are forms of nondiscretionary expenditures that could lower the amount of income available to spend on utilities.<sup>69</sup>

Broader economic or governmental factors such as the COVID-19 pandemic; rising inflation; the shutdown of the federal government; and ongoing threats to federal assistance similarly affect energy

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<sup>60</sup> See generally Ex. CUB-3 at 7-11 (Levenson-Falk Direct); Ex. CUB-8 at 5-9 (Levenson-Falk Surrebuttal).

<sup>61</sup> *FPC v. Natural Gas Pipeline Co.* at 586.

<sup>62</sup> Minn. Stat. § 216B.01.

<sup>63</sup> *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Comm.* at 358.

<sup>64</sup> *Id.* at 355 (quoting *In re Permian Basin Area Rate Cases* at 815).

<sup>65</sup> *Id.*

<sup>66</sup> See Minn. Stat § 216B.16, Subd. 15 (requiring the Commission to "consider ability to pay as a factor in setting utility rates").

<sup>67</sup> Ex. CUB-3 at 5-6 (Levenson-Falk Direct)

<sup>68</sup> Ex. CUB-3 at 5-6 (Levenson-Falk Direct); Ex. Xcel 38- at 22-23 (Lindgren Direct) (stating that an evaluation of affordability "must not only consider the total bill, but also customer income, expenses, and overall obligations.")

<sup>69</sup> Ex. CUB-3 at 6 (Levenson-Falk Direct).

affordability.<sup>70</sup> Together, these events have increased costs—and removed safety nets—across numerous sectors of the economy, including healthcare, housing, food, and energy. Importantly, increased costs or reduced assistance in any of these areas means customers must devote more of their income to nondiscretionary expenses, further eroding their ability to pay for utility service.

Given the multitude of factors impacting energy affordability, it is not possible to isolate a single variable that definitively captures residential customers' ability to pay. However, there are numerous statistics and Company-specific data points that provide valuable insights, and which should inform the Commission's weighing of interests in this proceeding. These include evidence of rising utility arrears, disconnection, and difficult decisions being made by ratepayers about how to prioritize where their funds are spent.

***iii. Customers throughout the Company's service territory are exhibiting an inability to pay at unprecedented levels.***

Throughout Minnesota, ratepayers are struggling to pay for utility service. As Witness Levenson-Falk testifies, a 2024 poll conducted by the U.S. Census Bureau found “an estimated 59 percent of Minnesota households experienced difficulty paying for usual household expenses,” with that statistic rising to 68 percent for those earning less than \$75,000 annually.<sup>71</sup> Twenty-three percent of respondents indicated they went without food or medicine to pay utility bills.<sup>72</sup> For households earning less than \$25,000, those figures were even more drastic, with 46 percent stating they went without household necessities and 36 percent indicating they kept their homes at unsafe or unhealthy temperatures to conserve on energy and lower their utility bills.<sup>73</sup> Public commenters reinforce this data, with one stating they “stop[ped] going to doctor appointments” to afford utility bills, and another explaining she had to choose between buying groceries and keeping her home at a comfortable temperature.<sup>74</sup>

Concerns about ability to pay are especially pronounced in the Company's service territory. Total residential arrears averaged \$89.15 million in 2024, which is double the 2019 average of \$44.98

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<sup>70</sup> Ex. CUB-3 at 2-6 (Levenson-Falk Direct); Ex. CUB-8 at 2-5 (Levenson-Falk Surrebuttal); Ex. Xcel 38 at 33-34 (Lindgren Direct) (noting that the COVID-19 pandemic and ongoing inflationary pressures negatively impact energy affordability); Ex. Xcel-71 at 19-20 (Martin Rebuttal) (agreeing with CUB's concern about the COVID-19 pandemic and various federal actions impacting customers' ability to afford utility service).

<sup>71</sup> Ex. CUB-3 at 6 (Levenson-Falk Direct) (citing U.S. Census Bureau, *Phase 4.2 Cycle 09 Household Pulse Survey: Aug. 20 – Sep. 16, Spending Table 1, Tab MN* (Oct. 3, 2024)).

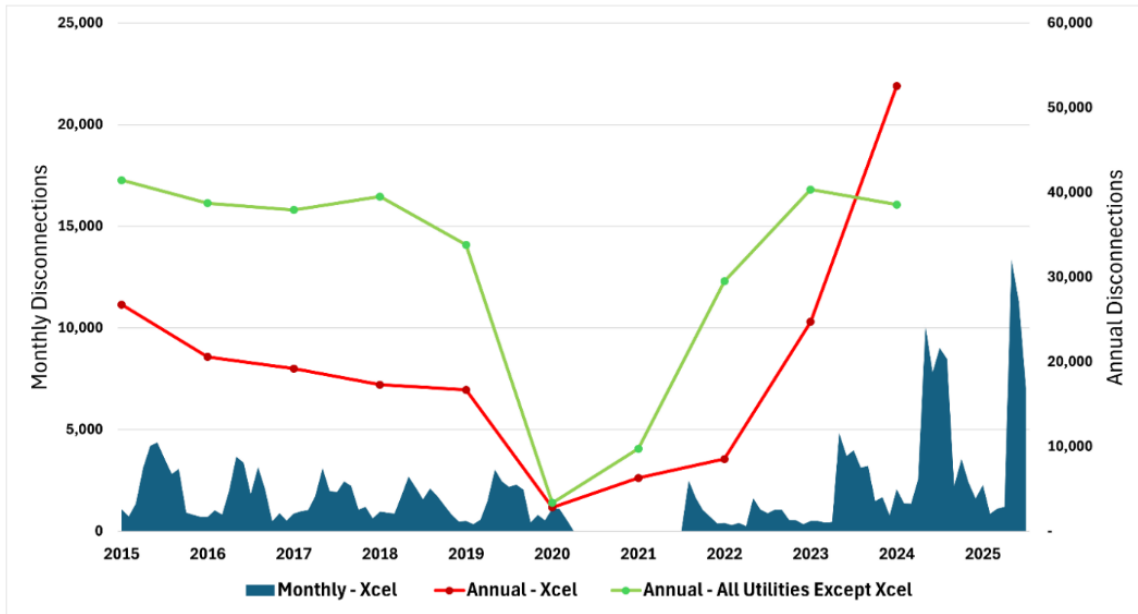
<sup>72</sup> Ex. CUB-3 at 6 (Levenson-Falk Direct) (citing U.S. Census Bureau, *Phase 4.2 Cycle 09 Household Pulse Survey: Aug. 20 – Sep. 16, Housing Table 4, Tab MN* (Oct. 3, 2024)).

<sup>73</sup> Ex. CUB-3 at 6 (Levenson-Falk Direct) (citing U.S. Census Bureau, *Phase 4.2 Cycle 09 Household Pulse Survey: Aug. 20 – Sep. 16, Housing Table 4, Tab MN* (Oct. 3, 2024)).

<sup>74</sup> Ex. CUB-8 at 11-12 (Levenson-Falk Surrebuttal) (quoting *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*, PUC Docket No. E-002/GR-24-320, CAH Docket No. 28-2500-40515, Public Comments of Victoria McLaney Harris (Jan. 2, 2025); Ann K. Brady (Feb. 19, 2025)).

million.<sup>75</sup> On a per-customer basis, this equates to an average past-due balance of approximately \$500, which is more than the \$300 disconnection minimum established at the beginning of 2025.<sup>76</sup>

**Figure 1: Monthly and Annual Involuntary Disconnections<sup>77</sup>**



Disconnections have been rising precipitously since the end of the COVID-19 pandemic moratorium. In 2024, NSPM involuntarily disconnected utility service to 52,549 residential customers.<sup>78</sup> This accounts for 58 percent of total utility disconnections and is more than all other rate-regulated utilities combined.<sup>79</sup> By October of 2025, the Company had already exceeded those figures, disconnecting 53,828 customers year-to-date.<sup>80</sup>

Together, these data points provide strong evidence that NSPM's residential customers are facing staggering affordability challenges that will be amplified by the proposed rate increase, further driving up arrears and the number of households subject to disconnection. Giving appropriate weight to these noncost factors is pivotal to arriving at an outcome that justly and reasonably balances

<sup>75</sup> Ex. CUB-3 at 7-8 (Levenson-Falk Direct).

<sup>76</sup> Ex. CUB-3 at 9, 13 (Levenson-Falk Direct); *see also* Ex. CUB-9, ALF-SR-23 at 9 (showing that through October 2025, the year-to-date average arrearage balance on a per-customer basis was exactly \$500).

<sup>77</sup> Ex. CUB-3 at 10, Figure 2 (Levenson-Falk Direct); Ex. CUB-5 at ALF-D-5 (Levenson-Falk Direct Schedules). The data presented in Figure 1 includes information for all gas and electric rate-regulated utilities subject to the Commission's oversight, including NSPM, Minnesota Power, Otter Tail Power Co., Dakota Electric Association, CenterPoint Energy, Minnesota Energy Resources Corporation, Great Plains Natural Gas Co., and Greater Minnesota Gas. Figure 1 does not include data for cooperative or municipal utilities that have not opted for regulation pursuant to Minn. Stat. § 216B.025 or 216B.026.

<sup>78</sup> Ex. CUB-3 at 10-11 (Levenson-Falk Direct).

<sup>79</sup> Ex. CUB-3 at 10 (Levenson-Falk Direct).

<sup>80</sup> Ex. CUB-8 at 8 (Levenson-Falk Surrebuttal).

consumer and investor interests and which achieves the “legitimate and rational goal of . . . protect[ing] . . . the consumer welfare.”<sup>81</sup>

## **B. Return on Equity**

Just as NSPMs customers face a growing affordability problem, the Company seeks to increase its authorized return on common equity (“ROE”) by 105 basis points, from 9.25 percent to 10.3 percent. Xcel initially estimated the “impact on the 2025 test year revenue requirement of utilizing a 10.30 percent return on equity (ROE) relative to the last authorized 9.25 percent ROE is \$102.2 million” and that “[t]he 2026 plan year includes an additional \$6.1 million related to the ROE change, when compared to the 2025 test year.”<sup>82</sup> Dr. Kihm initially estimated that impact would be higher, increasing Xcel’s annual revenue requirement by \$144 million.<sup>83</sup> However, after Xcel lowered its expected revenue requirement in subsequent filings, Dr. Kihm now estimates increasing NSPM’s authorized ROE to 10.3 percent would amount to a \$100 million increase to the Company’s annual revenue requirement.<sup>84</sup> Under any of the above estimates, Xcel’s proposed ROE increase, alone, accounts for a significant portion of the overall rate increase requested in this proceeding.

NSPM ratepayers are angry about this request. Over 7,500 public comments have been filed in this document—over 15 times the number filed in Xcel’s last rate case. CUB reviewed some 4,000 of those comments and found that over half of those reviewed mention frustration with rate increases used to increase Xcel’s corporate profits. These comments reflect a geographically and politically diverse group of NSPM’s customers, as exemplified by the following:

- Richard Kolkman (former Managing Director of Investor Relations at Xcel Energy, Inc. and previous witness in NSPM rate cases) testified:

While I believe the company needs to maintain -- remain financially strong, I believe the requested return on common equity is excessive.

[...]

I have not reviewed the entirety of Witness Nowak’s testimony, but what I have reviewed contains significant inaccuracies and is misleading. That leads me to

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<sup>81</sup> *Pennell v. San Jose*, 485 U.S. 1, 12-13 (1988) (citing *In re Permian Basin Area Rate Cases* at 770) (expressly rejecting the contention that considering tenant hardship was arbitrary and discriminatory when evaluating the reasonableness of rent increases under a rent control ordinance).

<sup>82</sup> Ex. JIN-1 at Attachment 4 (Chan Direct).

<sup>83</sup> Ex. CUB-1 at 47 (Kihm Direct).

<sup>84</sup> CUB-6 at 9 (Kihm Surrebuttal)

question the accuracy of his testimony that I have not reviewed. I urge the Commission not to take Nowak's recommendations at face value.<sup>85</sup>

- Conservative political group, Americans for Prosperity, observes:

Without question, if approved, this requested rate increase will impact thousands of Minnesotans already struggling to pay for basic necessities. Beyond that, this rate increase will result in higher electric costs at schools, churches and synagogues, and small businesses. In many instances, those businesses will in turn pass their increased electric utility costs on to their customers through increased costs for the goods and services they provide. The cascading effect throughout the economy will likewise have a widespread negative impact.

[...]

The return on equity request, whereby an electric utility may essentially charge its ratepayers a percentage amount of what the utility spends and for which the ratepayers already pay, appears both unfair and unreasonable.<sup>86</sup>

- Brenda Kellen of Pipestone writes:

Xcel has seen record profits and yet they have already raised rates and are proposing more. This is what happens when [there] is no competition and CEO's are being paid millions and billions of dollars. I am a public school teacher. I can not afford this! My wages have not gone up at the rate the billion dollar companies like Xcel have been raising rates and paying their CEO double the rate of a couple of years ago.<sup>87</sup>

- Jerimiah Stron of St. Louis Park writes:

Xcel has already benefited from a major approved increase of around 311 million dollars for the 2022 through 2024 period. That is summarized in their Minnesota rate case materials and investor reports. Yet their reliability numbers have not moved in a way that customers would recognize as meaningful improvement. Meanwhile, in Xcel's 2024 earnings release, the company told investors that its higher earnings were partly due to increased

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<sup>85</sup> Public Hearing Transcript, Edina Library (Sept. 23, 2025) at 20-21 (Richard Kolkmann).

<sup>86</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Public Comment of AFP Minnesota (Dec. 29, 2025).

<sup>87</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Public Comment of Brenda Kellen (Jan. 8, 2025).

recovery of infrastructure investments. So it is clear that past increases are already supporting returns.<sup>88</sup>

- Meghan McKinney notes:

Xcel Energy cites the importance of increasing profits for shareholders in their proposed rate hikes. Plainly stated, this means Xcel intends to charge Minnesotans directly so that they can increase the amount of money that their shareholders make. Xcel has high enough profits. Minnesotans do not. We need relief from high energy prices. This is not the right time or purpose for rate hikes. I do not have the option of taking my business elsewhere - I am stuck with Xcel. My bills have skyrocketed despite putting energy-efficient upgrades in my home and taking every step I can to reduce my consumption of electric power and gas. It is not right for a massive company that makes a profit to ask to take more money from hardworking people and put it directly in the pockets of their shareholders. I am concerned that these rate hikes, particularly when paired with rising water costs, sewer costs, recycling and garbage pickup costs, property taxes, and inflation will cause myself and my neighbors to lose the homes we've worked so hard for.<sup>89</sup>

- Pat Blacklock of Winona writes, "Let's be a state that does not put profit for shareholders over everyday Minnesotans."<sup>90</sup>
- Jill Meyer of Mankato writes:

Xcel made nearly 2 billion dollars in profit every year for the last five years. It is my opinion that they could instead of giving out bonuses, use some of that money to reach their corporate goals and not put the expense in the pockets of the people.<sup>91</sup>

The Company has the high burden to explain why such a large increase to its authorized ROE is warranted, and how the rate increase required to support it complies with Xcel's obligation to charge rates that are just and reasonable. In an attempt to meet this burden, the Company relies on the testimony of Joshua Nowak. However, there are fundamental problems with Witness Nowak's

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<sup>88</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Public Comment of Jerimiah Stron (Oct. 3, 2025).

<sup>89</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Public Comment of Meghan McKinney (Sept. 17, 2025).

<sup>90</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Public Comment of Pat Blacklock (Sept. 15, 2025).

<sup>91</sup> *In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E002/GR-24-320, CAH Docket No. 28-2500-40515, Public Comment of Jill Meyer (Jan. 3, 2025).

testimony. He mischaracterizes and misapplies both the regulatory and finance principles central to establishing a reasonable ROE. His recommendation should be soundly rejected.

**i. Witness Nowak mischaracterizes and misapplies the regulatory principles central to establishing a reasonable ROE.**

Citing the U.S. Supreme Court's *Hope* and *Bluefield* decisions and the Minnesota Supreme Court's *Hibbing Taconite* decision, Witness Nowak testifies: "[t]he foundations of public utility regulation require that utilities receive a *fair* rate of return sufficient to attract needed capital to maintain important infrastructure for customers at reasonable rates."<sup>92</sup> While we agree with this statement in isolation, Witness Nowak misapplies it in his analysis. He assesses "fairness" only by comparing Xcel's authorized return to that of other companies, not by balancing the interests of the utility and its shareholders against the interests of NSPM ratepayers. As a result, his analysis is inconsistent with applicable legal precedent.

While Witness Nowak's citation to a few passages of *Hope* and *Bluefield* might appeal to common practice for utility witnesses testifying in rate cases, it ignores the Court's observation that a utility regulator's "exercise of its regulatory authority must be assessed in light of its purposes and consequences, and not by references to isolated phrases from previous cases."<sup>93</sup> Further, though Witness Nowak claims that, "[t]o properly estimate the ROE, the financial, regulatory, and economic context must also be considered,"<sup>94</sup> he says nothing about how he analyzed—or even considered—how NSPM ratepayers will afford the significant rate increase needed to support his 10.3 percent ROE recommendation.<sup>95</sup> Dr. Kihm pointed this out in his direct testimony, noting Witness Nowak "does not seem to have considered affordability at all in his analysis."<sup>96</sup> Though Witness Nowak had an opportunity to respond to this criticism, he completely ignored it—along with considerable evidence of ratepayers' affordability challenges introduced by CUB, other intervening parties, and thousands of public commenters—in his rebuttal testimony.<sup>97</sup> The words "affordable" or "affordability" appear nowhere in Witness Nowak's pre-filed testimony. Likewise, none of the finance models he relies upon to support that recommendation include a variable accounting for the ratepayers' ability to pay the rate increase needed to implement it.

The Commission should not, and cannot, approve an ROE based on a one-sided analysis that only considers the interests of the utility and its shareholders.<sup>98</sup> After reviewing precedential decisions summarized in Part III, above, any court reviewing the Commission's ROE determinations in this

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<sup>92</sup> Ex. Xcel-24 at 7 (Nowak Direct) (emphasis added).

<sup>93</sup> *In re Permian Basin Area Rates* at 791, FN 60

<sup>94</sup> Ex. Xcel-24 at 9 (Nowak Direct)

<sup>95</sup> See Minn. Stat. 216B.16, Subd. 15 ("The commission must consider ability to pay as a factor in setting utility rates[.]")

<sup>96</sup> Ex. CUB-1 at 4 (Kihm Direct)

<sup>97</sup> See Levenson-Falk Direct, Chan Direct, etc.

<sup>98</sup> *Fed. Power Comm'n v. Natural Gas Pipeline Co.* at 585-86.

docket will find clear direction from the U.S. Supreme Court that “[t]he consumer interest cannot be disregarded” when establishing an authorized return in utility rate cases. Rather, the Commission is “obliged at each step of its regulatory process to assess the requirements of the broad public interests entrusted to its protection[.]”<sup>99</sup> Ultimately, the “end result” of the Commission’s orders must be measured as much by the success with which they protect those interests as by the effectiveness with which they “maintain . . . credit and . . . attract capital.”<sup>100</sup> In order to properly consider and address such interests, the Commission must look beyond Witness Nowak’s analysis to evidence that provides insight into how ratepayers would be affected by approving Mr. Nowak’s recommendation—or *any* increase to NSPM’s authorized return.

***ii. Witness Nowak’s recommendation misapplies applicable finance principles.***

Mr. Nowak also misapplies finance principles, manipulating them to support an unreasonably inflated ROE recommendation. This begins with incorrectly equating a utility’s cost of equity with its authorized return on equity.<sup>101</sup> Both Department Witness Addonizio and CUB Witness Kihm testify that that these are distinct variables. A utility’s *cost of equity* is the return investors require in order to invest in the utility.<sup>102</sup> A utility’s authorized return on equity is a variable established by the Commission based on its informed judgment—i.e., its assessment of cost and non-cost factors that balance the interests of the utility and its shareholders against those of its ratepayers.

***(a) Witness Nowak’s cost of equity estimate defies common sense.***

Witness Nowak estimates NSPM’s *cost of equity* to be 10.34 percent to 11.92 percent, suggesting that his 10.3 percent ROE recommendation is “conservative[ly]” within that range.<sup>103</sup> He suggests that such a high ROE is necessary to “ensure [the Company’s] ability to attract capital under a variety of economic and financial market conditions.”<sup>104</sup> This argument defies common sense. NSPM currently has an authorized return on equity of “only” 9.25 percent, yet record evidence shows that both NSPM and Xcel Energy, Inc. have ready access capital and are able to generate considerable returns for shareholders. For example:

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<sup>99</sup> *In re Permian Basin Area Rates* at 791.

<sup>100</sup> *Id.*

<sup>101</sup> See Ex. DOC-12 at 70 (Addonizio Direct) (the “cost of equity” is not synonymous with “return on equity”).

<sup>102</sup> See e.g., Ex. CUB-6 at 2 (Kihm Surrebuttal) (“The ROE and the cost of equity are distinct variables”); Ex. DOC-12 at 70-71 (Addonizio Direct), (“NSPM’s cost of equity is a reasonable starting point in determining a fair allowed ROE for NSPM, but it does not necessarily follow that the allowed ROE should be set equal to estimates of the cost of equity.”)

<sup>103</sup> Ex. Xcel-24 at 63 (Nowak Direct).

<sup>104</sup> Ex. Xcel-24 at 57 (Nowak Direct).

- The Company directly acknowledged that “NSPM has not experienced difficulties accessing capital markets since its last litigated base rate case.”<sup>105</sup> Record evidence corroborating this statement includes the following:
  - From January 1, 2023 through July 9, 2025, Xcel Energy, Inc. raised \$1.48 billion in public securities issuances and \$64.18 million in nonpublic securities issuances.<sup>106</sup>
  - NSPM successfully issued 700 million in bonds in February of 2024 under favorable terms because of its financial strength and credit rating.<sup>107</sup> Fitch Ratings assigned an A+ rating to this NSPM issuance.<sup>108</sup>
  - NSPM issued another \$1.1 billion in long-term debt in April of 2025.<sup>109</sup>
  - In both its 2023 and 2024 Annual Reports (Forms 10-K) Xcel Energy, Inc. informed its shareholders and prospective investors that “Xcel Energy expects to have adequate amounts of cash from operating and financing activities to meet both its short-term and long-term cash requirements.”<sup>110</sup>
- Xcel Energy, Inc. reported \$1.94 billion in 2024 GAAP earnings<sup>111</sup> and \$1.77 billion in 2023 GAAP earnings.<sup>112</sup> These same reports show that NSPM’s diluted earnings per share have increased in recent years, just as the earnings of most of Xcel’s other utility subsidiaries have not.<sup>113</sup>
- In October 2025, Xcel Energy, Inc.’s stock price hit an *all-time* record high—well above the stock price that NSPM claims went down following the Commission’s decision in NSPM’s last electric rate case.<sup>114</sup>
- In October of 2025, Fitch revised Xcel’s rating outlook from negative to stable.<sup>115</sup>

“By long standing usage in the field of rate regulation, the ‘lowest reasonable rate’ is one which is not confiscatory in the constitutional sense.”<sup>116</sup> “If the rate permits the company to operate successfully

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<sup>105</sup> Ex. XLI-7 at 9-10 (LaConte Surrebuttal), citing NSPM Response to XLI-40

<sup>106</sup> Ex. CUB-2 at SK-D-25 (Kihm Direct Schedules)

<sup>107</sup> Tr. Vol. 1 at 42 (Wehner)

<sup>108</sup> Tr. Vol. 1 at 43 (Wehner)

<sup>109</sup> Tr. Vol. 1 at 44 (Wehner)

<sup>110</sup> Tr. Vol. 1 at 50-51 (Wehner), citing Ex. DOC-26 (Xcel Energy Inc. 2024 Form 10-K) and Ex.DOC-25 (Xcel Energy Inc. 2023 Form 10-K).

<sup>111</sup> Ex. DOC-26 (Xcel Energy Inc. 2024 Form 10-K)

<sup>112</sup> Ex. DOC-25 (Xcel Energy Inc. 2023 Form 10-K)

<sup>113</sup> Ex. DOC-26 at 26 (Xcel Energy Inc. 2024 Form 10-K); Ex. DOC-25 at 27 (Xcel Energy Inc. 2023 Form 10-K). *See also* Tr. Vol. 1 at 52 (Wehner).

<sup>114</sup> Tr. Vol. 1 at 54-55 (Wehner).

<sup>115</sup> *Id.* at 44-45.

<sup>116</sup> *Fed. Power Comm’n v. Natural Gas Pipeline Co.* at 607, 585.

and to attract capital all questions as to 'just and reasonable' are at an end so far as the investor interest is concerned."<sup>117</sup> Before even considering Witness Nowak's modeling results, the Commission should share intervenors'—and thousands of public commenters'—skepticism that NSPM needs to considerably increase its authorized return to maintain this performance.

(b) Witness Nowak's cost of equity estimate is an outlier among other experts' estimates.

Witness Nowak's cost of equity estimate is also considerably higher than cost of equity estimates offered by other experts, including those that testified in this proceeding *and* outside neutral experts that did not. Dr. Kihm estimates NSPM's cost of equity to be approximately 7.7 percent.<sup>118</sup> Witness Addonizio estimates it to be approximately 8.82 percent.<sup>119</sup> Witness LaConte testifies that "it is clear that NSPM's cost of equity should not exceed 9.71%."<sup>120</sup> Witness Addonizio further observes that, in its pension expense calculations, NSPM assumes that the cost of equity for an "average" publicly traded company in the U.S. ranges from 8.53 percent to 8.79 percent, noting "[i]t is unlikely that a regulated electric utility, especially one of average risk, as Company witness Mr. Nowak asserted, would have a cost of equity that is 1.5 to 1.8 percentage points higher than an average publicly traded company."<sup>121</sup> Meanwhile, independent investment advisory services Morningstar and Wells Fargo also published cost of equity estimates for NSPM that are close to Dr. Kihm's and Witness Addonizio's estimates than Witness Nowak's.<sup>122</sup> As Dr. Kihm observes, "Morningstar is a well-established investment advisory service, and . . . if Mr. Nowak has a concern about my figure he should be concerned about Morningstar's figure as well."<sup>123</sup> The same goes for the Judge and the Commission reviewing the record in this case: accepting Witness Nowak's cost of equity estimate requires rejecting the estimates of Witnesses Kihm, Addonizio and LaConte, as well as Morningstar and Wells Fargo. The weight of the evidence on the record strongly suggests that NSPM's cost of equity is well below what Witness Nowak estimates it to be.

(c) Witness Nowak's ROE recommendation follows a pattern of recommending inflated ROEs regardless of the economic circumstances.

Witness Nowak testified that "an ROE range of 10.00 percent to 11.00 percent to be reasonable and somewhat conservative."<sup>124</sup> While this recommendation might be "conservative" when compared in a vacuum to Witness Nowak's model results, it is anything but when considered in its broader context.

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<sup>117</sup> *Id.* at 607

<sup>118</sup> Ex. CUB-1 at 37 (Kihm Direct).

<sup>119</sup> Ex. DOC-12 at 85 (Addonizio Direct).

<sup>120</sup> Ex. XLI-1 at 40 (LaConte Direct).

<sup>121</sup> Ex. DOC-12 at 70 (Addonizio Direct), citing Ex. Xcel-57 at RRS-D-8, p. 2 (Schrubbe Direct).

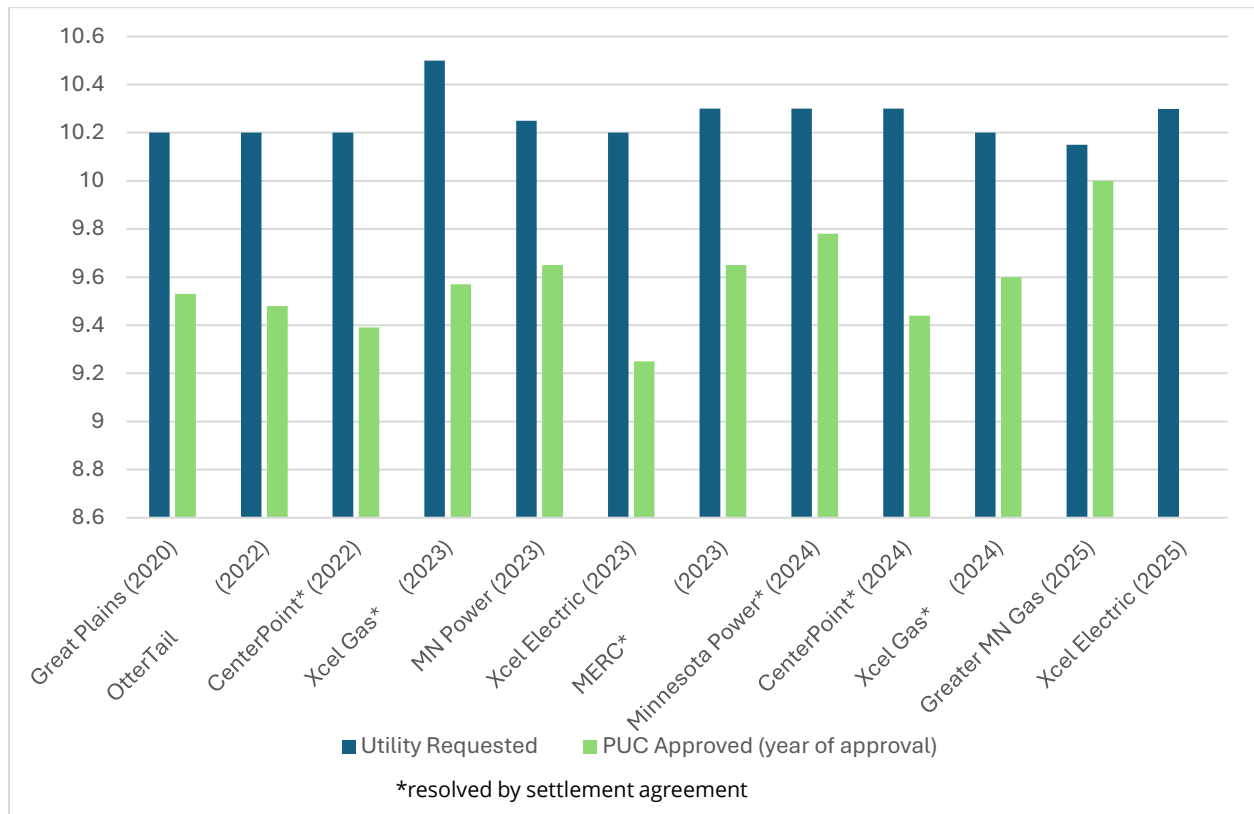
<sup>122</sup> Ex. DOC-12 at 67 (Addonizio Direct).

<sup>123</sup> Ex. CUB-6 at 2 (Kihm Surrebuttal).

<sup>124</sup> Ex. Xcel-24 at 63 (Nowak Direct).

Despite utilities’ consistent efforts to increase their authorized ROE, the Commission has not established an authorized ROE above 10 percent for any Minnesota utility in at least a decade. If the Commission were to approve an ROE of 10.3 percent in this case, NSPM would have the highest authorized ROE of any regulated utility in Minnesota—higher than Minnesota Power, well known to be exposed to unique risks not also applicable to NSPM, and higher even than Greater Minnesota Gas, a utility serving just 12,000 customers that the Commission determined “is uniquely situated, even among smaller utility companies.”<sup>125</sup>

**Figure 2: Recent ROE Decisions in Minnesota Rate Cases**



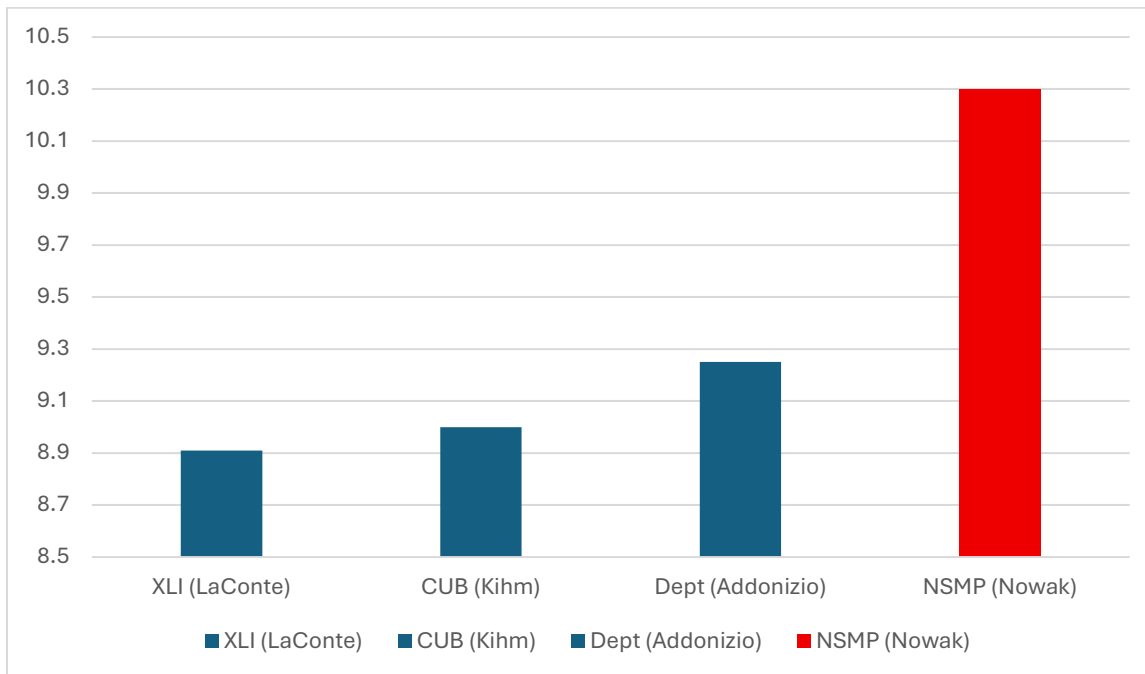
Moreover, Witness Nowak’s recommendation follows a predictable pattern of *always* recommending an ROE exceeding 10 percent, regardless of the circumstances. Figure 2, above, reflects the consistency of this pattern in recent Minnesota rate cases. Further, when challenged under cross examination, Witness Nowak could not identify a single rate case he has testified in since 2019 when he did not recommend an ROE above 10 percent.<sup>126</sup> When asked about six separate rate cases he previously testified in, he acknowledged that he recommended an ROE above 10 percent regardless

<sup>125</sup> *In the Matter of the Application of Greater Minnesota Gas, Inc. for Authority to Increase Rates for Natural Gas Utility Service in Minnesota*, MPUC Docket No. G-022/GR-24-350, Findings of Fact, Conclusions, and Order at 31 (Nov. 26, 2025).

<sup>126</sup> Tr. Vol. 1 at 88 (Nowak).

of whether the inflation rate at the time was as low as 1 percent or as high as 8 percent.<sup>127</sup> By repeating this pattern, Witness Nowak's testimony, in effect: (1) artificially raises the upper boundary of proposed ROEs under consideration in this proceeding; and (2) artificially creates the impression that lower ROE recommendations offered by other witnesses represent the outlier or "extreme" positions rather than his own. This puts pressure on the Commission to pick an ROE somewhere in the middle of goal posts set wider than they should be. In reality, Witness Nowak's recommendation is the outlier among the finance professionals testifying in this proceeding and should be treated as such. This is particularly true, again, considering his recommendation includes zero consideration of ratepayers' ability to pay the rate increase needed to support it.

**Figure 3: Recommended ROEs for NSPM**



***iii. The "zone of reasonableness" for NSPM's ROE ranges from 7.7 percent to 9.3 percent.***

Dr. Kihm testifies that the lower bound of the "zone of reasonableness" for a regulated utility is its cost of equity.<sup>128</sup> He further recommends that the upper bound of this zone be the cost of equity for the S&P 500.<sup>129</sup> He uses this latter metric as the upper bound because "utility investors do not need compensation for risk at that level."<sup>130</sup> Richard Kolkman, former Managing Director of Investor

<sup>127</sup> Tr. Vol. 1 at 84-86 (Nowak).

<sup>128</sup> Ex. CUB-1 at 20 (Kihm Direct).

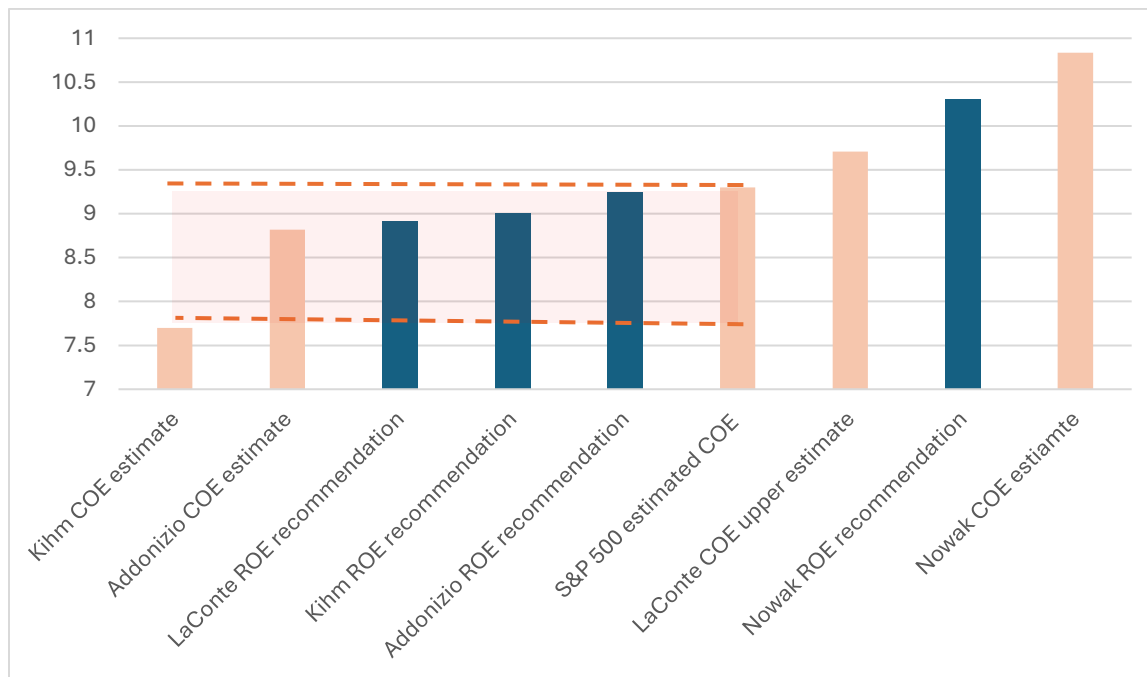
<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

Relations for Xcel Energy, Inc., similarly noted at a public hearing that no rational investor would expect to be able to make a higher return investing in a regulated utility than in the S&P 500.<sup>131</sup>

After reviewing S&P 500 cost of equity estimates produced by Kroll, a CFO Survey, McKinsey & Co., Morningstar, and Aswath Domadoran, Dr. Kihm observes that the median estimate produced by those entities is 9.3 percent.<sup>132</sup> According to Dr. Kihm’s analysis, this means NSPM’s ROE should be somewhere between 7.7 percent and 9.3 percent. Though Witness Nowak estimates the S&P Cost of Equity to be much higher, his estimate is, again, the outlier.<sup>133</sup> Accepting Witness Nowak’s estimate of the S&P Cost of Equity requires rejecting the estimates offered by Dr. Kihm, Kroll, a CFO Survey, McKinsey & Co., Morningstar, and Aswath Domadoran.

**Figure 4: ROE “Zone of Reasonableness”**



Dr. Kihm also recognizes that setting NSPM’s authorized ROE *at* its cost of equity would be too drastic of a change and would potentially harm Xcel Energy, Inc.’s existing shareholders.<sup>134</sup> For this reason, he recommends the Commission establish an ROE that gradually moves towards NSPM’s cost of

<sup>131</sup> Hearing Transcript., Edina Library Public Hearing at 53 (Sept. 23, 2025) (Richard Kolkmann); *See also Bluefield* at 692-93 (“an investor-owned utility “has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.”)

<sup>132</sup> Ex. CUB-1 at 27-28 (Kihm Direct).

<sup>133</sup> Ex. Xcel-24 at 46 (Nowak Direct) (Mr. Nowak discusses S&P 500 cost of equity estimates in the range of 11.3 percent to 14.8 percent); *see also* Ex. CUB-1 at 27-28 (Kihm Direct) (comparing Mr. Nowak’s estimates of the S&P 500 cost of equity to those of the independent experts Dr. Kihm cites in his testimony).

<sup>134</sup> Ex. CUB-1 at 41-42 (Kihm Direct).

equity but remains above it.<sup>135</sup> Based on Dr. Kihm's analysis, we believe that a 9.0 ROE fairly balances the interests of the Xcel's shareholders and NSPM ratepayers. Such an ROE accounts for facts showing (1) that NSPM is currently able to raise capital, maintain financial integrity and credit worthiness, and earn a reasonable return at a 9.25 percent ROE, and (2) that NSPM ratepayers are increasingly struggling to afford their bills.

Dr. Kihm estimates that shifting NSPM's ROE to 9.0 percent would save customers around \$34 million per year rather than add \$100 million or more to NSPM's revenue requirement.<sup>136</sup> The Commission is "free to . . . to decrease any rate which is not the 'lowest reasonable rate.'"<sup>137</sup> Ample evidence on this record supports a finding that a 9.0 percent ROE is well within the range of a reasonable rate for NSPM. Therefore, CUB recommends that the Commission establish a 9.0 percent ROE in this proceeding.

### C. Investor Relations Costs

The Company seeks to recover 100 percent of its investor relations costs, which amount to \$842,648 in the Test Year and \$854,392 in the Plan Year.<sup>138</sup> In support of this request, the Company claims that investor relations-related costs "do not benefit investors"<sup>139</sup> and "are not expenses incurred to benefit shareholders."<sup>140</sup> This argument is a particularly frustrating and unsupported example of elevating the interests of the Company's shareholders over those of its ratepayers.

Witness Wehner states that "a company with publicly-traded equity must engage in investor relations activities."<sup>141</sup> He then lists the following examples of investor relations costs:

- the listing of shares of XEI on the National Association of Securities Dealers Automated Quotations (NASDAQ);
- stock transfer agent services associated with the issuance of new common shares to investors;
- providing shareholders online access to accounts;
- maintaining the list of registered shareholders;
- preparing for and running Xcel Energy Inc.'s annual shareholder meeting;
- legal costs incurred to comply with SEC reporting obligations applicable to Xcel Energy, Inc.

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<sup>135</sup> *Id.* at 47 ("This is the essence of gradualism.")

<sup>136</sup> *Id.*; *See also*, Ex. CUB-6 at 9 (Kihm Surrebuttal).

<sup>137</sup> *FPC v. Natural Gas Pipeline Co.* at 585-86; *see also Fed. Power Comm'n v. Hope Nat. Gas Co.* at 610 ("The fixing of prices, like other applications of the police power, may reduce the value of the property which is being regulated. But the fact that the value is reduced does not mean that the regulation is invalid.")

<sup>138</sup> Ex. OAG-5 at 13 (Lee Direct), citing Schedule SL-D-4 at 2 (Xcel Energy Response to XLI Information Request 15).

<sup>139</sup> Ex. Xcel-17 at 72 (Halama Direct).

<sup>140</sup> Ex. Xcel-20 at 38 (Wehner Direct).

<sup>141</sup> *Id.* at 37.

It should go without saying that costs incurred specifically to offer services to shareholders benefit those shareholders. This includes costs related to transfer agent services, establishment of shareholder accounts, maintaining a list of registered shareholders, and preparing and running Xcel Energy Inc.'s shareholder meetings. On the other hand, the Company has not shown how such costs directly or equally benefit ratepayers who do not own Xcel shares. Ratepayers who are not Xcel Energy, Inc. shareholders, for example, have no right to vote in Xcel Energy, Inc. shareholder meetings—and may not even have permission to attend them. They presumably also do not hold online shareholder accounts or utilize stock transfer agent services. And, of course, they are not paid dividends on shares they do not hold.

It should also go without saying that legal costs incurred to comply with SEC reporting obligations benefit Xcel shareholders and investors that provide capital to Xcel and NSPM. The very public policy purpose of the Securities Exchange Act of 1934 and other securities regulations is to protect investors from fraudulent activity in securities markets by ensuring investors have access to the material information needed to make informed investment decisions. Securities regulations are consumer protection regulations designed to protect consumers as investors, not consumers as utility ratepayers. As such, costs the Company incurs to comply with those requirements categorically and primarily benefit shareholders and investors in Xcel Energy, Inc and NSPM.

The Commission has generally allowed only 50 percent rate recovery of investor relations costs.<sup>142</sup> The Company, itself, only requested to recover 50 percent of its investor relations costs in its last rate case.<sup>143</sup> There is no reason the Company should be allowed greater recovery now. The Commission should not permit the Company to recover any more than 50 percent of its investor relations costs in this case.

#### **D. Affordability Programs**

##### ***i. The Commission should approve programmatic changes to PowerOn.***

NSPM's PowerOn affordability program caps eligible households' monthly bill payments at three percent of income and provides arrearage forgiveness to customers with past-due balances.<sup>144</sup> By accounting for the individual financial circumstances facing residential customers, the program improves households' ability to pay and mitigates the potential for involuntary disconnection. In his testimony submitted on behalf of the Energy CENTS Coalition, Witness Shardlow indicates that PowerOn participants "made 64% of requested payments compared to 48% made by non-participant

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<sup>142</sup> Ex. OAG-5 at 14 (Lee Direct), citing recent rate case decisions.

<sup>143</sup> *Id.*, citing *In re Application of N. States Power Co., d/b/a Xcel Energy, for Auth. to Increase Rates for Elec. Serv. in the State of Minn.*, MPUC Docket No. E-002/GR-21-630, Initial Filing Vol. 4. 3 of 3 MYRP Workpapers, VIII A12. Investor Relations at 1-2 (Oct. 25, 2021).

<sup>144</sup> Ex. ECC-1 at 12 (Shardlow Direct).

LIHEAP recipients.”<sup>145</sup> Enrollment in the program was also associated with a twenty-nine percent decrease in disconnection rates as compared with LIHEAP-only customers.<sup>146</sup> In light of these successes, Witness Shardlow advocates for expanding PowerOn through the automatic enrollment of eligible customers as a means of “curtailing the current disconnection and arrearage trends and mitigating the impact of any rate increases.”<sup>147</sup>

Both the Company and Witness Levenson-Falk provide testimony supporting automatic enrollment. As Witness Howard indicates, these enrollment changes have already been instituted for the Company’s gas affordability program (“GAP”), resulting in a 46 percent increase in program participation.<sup>148</sup> Similar efforts have also been undertaken by CenterPoint and Minnesota Energy Resources Corporation (“MERC”). While MERC is still in the process of implementing its revisions, CenterPoint has seen a “sustained increase in the number of customers receiving GAP assistance.”<sup>149</sup> Witness Howard estimates that automatically enrolling customers in PowerOn could increase participation by 40 percent, enabling 14,000 additional households to receive percentage-of-income discounts.<sup>150</sup>

In addition to automatic enrollment, the Company has begun evaluating self-attestation and categorical eligibility as alternative pathways to qualifying for and enrolling in PowerOn.<sup>151</sup> Under current program rules, NSPM customers must receive LIHEAP to qualify for PowerOn assistance. However, recent legislative changes modified eligibility parameters to permit enrollment of any household that earns “50 percent or less of the state median income,” or “meets another qualification established by the commission,” regardless of whether LIHEAP is received.<sup>152</sup> These statutory revisions allow PowerOn and other utility affordability programs to proceed in the face of federal threats to energy assistance funding.<sup>153</sup> They also enable utilities to employ innovative approaches to lower barriers to participation.<sup>154</sup>

Both automatic enrollment and the Company’s proposed alternative eligibility pathways are reasonable and appropriate programmatic changes for PowerOn. They will expand the availability of

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<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* at 12-13.

<sup>148</sup> Ex. Xcel-81 at 15 (Howard Rebuttal).

<sup>149</sup> Ex. CUB-8 at 15 (Levenson-Falk Surrebuttal).

<sup>150</sup> Ex. Xcel-81 at 15-16 (Howard Rebuttal).

<sup>151</sup> Ex. Xcel-71 at 4 (Martin Rebuttal); Ex. Xcel-81 at 17-19 (Howard Rebuttal).

<sup>152</sup> Minn. Stat. § 216B.16, Subd. 1b.

<sup>153</sup> *See, e.g.*, Ex. CUB-3 at 3 (Levenson-Falk Direct) (noting that the federal government laid off the entire staff responsible for administering LIHEAP and has threatened to terminate the program in its entirety); Ex. CUB-8 at 3 (Levenson-Falk Surrebuttal) (detailing the impacts of the federal government shutdown on LIHEAP).

<sup>154</sup> Ex. CUB-8 at 14 (Levenson-Falk Surrebuttal); Ex. Xcel-71 at 4, 20, 34, 41-43 (Martin Rebuttal).

assistance to thousands of new households, streamline program accessibility, and ensure more customers improve their ability to pay.

However, it is important to acknowledge that these changes, alone, will not solve the overarching affordability challenges that persist throughout the Company's service territory. As evidenced by numerous public comments, many households find NSPM's service unaffordable even though they earn too much to qualify for PowerOn.<sup>155</sup> To protect affordability for all ratepayers, the Company must not be permitted to increase revenues—and consequently, customer expenses—by any more than necessary. As previously detailed, return on equity adjustments are needed to balance ratepayer and shareholder impacts. Modifications to late payment and reconnection fee practices should likewise be required to mitigate growing arrears and involuntary disconnections.

## **E. Late Fees**

### **i. The Commission should eliminate late payment fees for the Company's residential customers.**

In its Order accepting NSPM's 2023 Safety, Reliability, and Service Quality Report, the Commission directed the Company to file supplemental direct testimony in the instant proceeding discussing the "elimination of late fees and interests" or a process whereby "interest payments and fees from late bill payments are donated to low-income customer assistance programs."<sup>156</sup> Witness Lindgren responded by proposing a Residential Arrears Management Program that would utilize late payment fees to buy down customers' past-due balances.<sup>157</sup> The Company did not discuss the possibility of foregoing late fee charges in supplemental testimony, and has continued to oppose such action in subsequent filings.

The Company currently charges late payment fees of 1.5 percent per month, or 18 percent annually, which is the maximum allowed pursuant to Minnesota Rules 7820.5400 and 7820.5500.<sup>158</sup> Witness Levenson-Falk provides extensive testimony about the impacts of these late payment fees on residential customers. Rather than encouraging on-time payment, the assessment of these charges compounds affordability challenges and negatively affects customers' ability to pay.

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<sup>155</sup> See, e.g., *In the Matter of the Application of Northern States Power Co. d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, CAH Docket No. 28-2500-40515, MPUC Docket No. E002/GR-24-320, Public Comments of Mindy Otis (Jan. 21, 2025); Brandon Powers (Jan. 23, 2025); Mercedes Martin (Jan. 29, 2025); and Ann K. Brady (Feb. 19, 2025).

<sup>156</sup> *In the Matter of Xcel Energy's 2023 Annual Safety, Reliability, and Service Quality Report*, Docket No. E002/M-24-27, Order Accepting Reports and Setting Additional Requirements at 13 (Jan. 13, 2025).

<sup>157</sup> See generally Ex. Xcel-39 (Lindgren Supplemental Direct).

<sup>158</sup> Ex. CUB-3 at 18 (Levenson-Falk Direct) (quoting the General Rules and Regulations of the Company's Minnesota Electric Rate Book, wherein the late payment charge is set at 1.5 percent or \$1.00, whichever is greater).

As further detailed below, the Company has failed to justify the reasonableness of late payment fees. Neither Minnesota Statutes nor Commission rules necessitate the imposition of such charges. Instead, they establish a permissive framework that *permits* such fees only if supported by substantiating evidence. The Company has neglected to provide any record support for its argument that late payment fees serve the claimed purpose of “incentiviz[ing] . . . customers . . . to pay their bills on time.”<sup>159</sup> Nor does the Company justify why it is reasonable to charge past-due customers more than the utility incurs in carrying costs associated with arrearage balances. What is clearly demonstrated is that late payment fees can cause significant harm to energy-burdened customers. The record in this case warrants the elimination of late payment fees

(a) Minnesota rules permit but do not require late payment fees.

The Commission’s rules offer a method of calculating late payment fees, but they do not require that such fees be assessed. By its plain language, Minnesota Rule 7820.5400 states that utilities “*may* impose a late payment charge” that is supported by “substantiating documents and exhibits.”<sup>160</sup> The Minnesota Supreme Court has held that “*may*” indicates permissive, rather than mandatory, conduct.<sup>161</sup> Within the utility context, the Kentucky Public Service Commission has also interpreted a substantially similar regulation as “allow[ing] the Commission discretion to determine whether the fee is fair, just and reasonable.”<sup>162</sup>

Minnesota Rule 7820.5500 further establishes restrictions on the upper threshold of what late fees may be imposed on utility customers but implements no lower bound, except that minimum fee amounts must not exceed \$1.00.<sup>163</sup> Taken together, the Commission’s rules establish a permissive framework that offers a range of late payment fee options—from no late payment fee to 1.5 percent of the arrearage balance—that could be instituted *if* a utility justifies the need for a late payment fee and provides evidence supporting the reasonableness of the specific penalty sought to be imposed.

(b) The Company has failed to meet its burden to prove that late payment fees are reasonable.

NSPM Witnesses Martin and Howard suggest late payment fees are necessary to incentivize the on-time payment of utility bills, but the Company provides no evidence supporting that assertion.<sup>164</sup> In response to information requests posed by CUB, the Company indicated it “had not gathered data to

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<sup>159</sup> Ex. Xcel-81 at 13-14 (Howard Rebuttal); *see also* Ex. Xcel-71 at 30 (Martin Rebuttal) (stating that if late payment charges were eliminated, customers “would lose the incentive to remain current on their bills that late payment charges provide”).

<sup>160</sup> Minn. R. 7820.5400, Subp. 1-2 (emphasis added).

<sup>161</sup> *See, e.g., Minn. Voter’s Alliance v. Co. of Ramsey*, 971 N.W.2d 269, 280 (Minn. 2022) (stating that “ ‘[m]ust’ is mandatory, while ‘may’ is permissive) (citing Minn. Stat. § 645.44, Subds. 15-15a (2020)).

<sup>162</sup> Ex. CUB-5, ALF-D-13 at 22 (Levenson-Falk Direct Schedules).

<sup>163</sup> Minn. R. 7820.5500, Subps. 3-4.

<sup>164</sup> Ex. Xcel-71 at 30 (Martin Rebuttal); Ex. Xcel-81 at 13-14 (Howard Rebuttal).

determine the extent to which late fees promote on-time bill payment,”<sup>165</sup> and was “not aware of whether or not customers pay in a more timely manner by being billed late fees.”<sup>166</sup> In the absence of any “substantiating documents and exhibits supporting the finance fee,”<sup>167</sup> the Company has failed to meet its burden to prove the imposition of late payment fees is just and reasonable.<sup>168</sup>

The Company has similarly neglected to provide any reasoning for charging customers more than the utility incurs to service arrearage balances. The Company attests that the annual interest rate paid on residential arrears is 5.3935 percent, or 0.4495 percent monthly.<sup>169</sup> The 1.5 percent monthly late payment fee currently assessed on past-due balances is therefore 3.337 times more than the cost incurred by the Company. This is inconsistent with the principle of cost causation and penalizes customers who have exhibited an inability to pay.

(c) Late fees are ineffective in encouraging on-time payment and should no longer be assessed against residential customers.

Witness Levenson-Falk supports her recommendation to eliminate late fees by pointing to regulatory decisions in other jurisdictions, as well as evidence presented by NSPM indicating late fees are ineffective in their application. In particular, the Kentucky Public Service Commission (“KPSC”) analyzed the influence of late payment fees on the timeliness of customer payments during the COVID-19 pandemic.<sup>170</sup> KPSC found late payment fees had “little discernible effect on the timeliness of residential customer payments for utility service.”<sup>171</sup> Regardless of whether late fees were assessed, those that historically paid on time continued to do so, and those that were unable to pay on time continued to submit late payments.<sup>172</sup> In other words, KPSC determined late fees were an ineffective incentivization measure for encouraging on-time payment of utility bills.

In a separate rate proceeding for a regulated water utility, KPSC found that the imposition of late fees and other penalties makes it *less* likely that energy-burdened customers will pay bills in a timely manner:

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<sup>165</sup> Ex. CUB-5 at ALF-D-19 (Levenson-Falk Direct Schedules).

<sup>166</sup> *Id.* at ALF-D-20.

<sup>167</sup> Minn. R. 7820.5400, Subp. 2 (requiring that utilities “shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge. The filing must include substantiating documents and exhibits supporting the finance fee and grace periods proposed.”)

<sup>168</sup> See 216B.16, Subd. 4 (establishing that the utility seeking a rate change bears the burden of proof to show that its proposed rates are just and reasonable); see *also* Minn. Stat. § 216B.02, Subd. 5 (broadly defining “rate” as “every compensation, charge, fare, toll, tariff, rental, and classification, or any of them, demanded, observed, charged, or collected by any public utility for any service and any rules, practices, or contracts affecting any such compensation, charge, fare, toll, rental, tariff, or classification”).

<sup>169</sup> Ex. CUB-5 at ALF-D-21, ALF-D-22 (Levenson-Falk Direct Schedules).

<sup>170</sup> Ex. CUB-5, ALF-D-12 at 3 (Levenson-Falk Direct Schedules).

<sup>171</sup> Ex. CUB-3 at 22 (Levenson-Falk Direct); Ex. CUB-5, ALF-D-12 at 3 (Levenson-Falk Direct Schedules).

<sup>172</sup> Ex. CUB-5, ALF-D-12 at 3 (Levenson-Falk Direct Schedules).

[U]tilities rely on these fees as a significant portion of their income and the process disproportionately affects those customers who have already evidenced an inability to timely pay, thus making it unreasonable to continue to collect late fees that do not have the intended impact on the customer’s behavior. Furthermore, the addition of late fees, disconnect charges, and reconnect charges to a bill for water service makes it less likely customers who have already failed to timely pay will be able to do so at all. Customers being unable to pay at all increases the utility’s bad debt expense, reduces the utility’s income and cash flow in that period, and ultimately increases the cost of service for the remainder of customers. . . . [T]he collection of late fees is not recovering an actual cost that the utility incurs, but is purely a punitive exercise that disproportionately affects those customers already unable to pay for service rendered, and the uncontroverted evidence indicates it has little-to-no effect on a customer’s timeliness of payment.<sup>173</sup>

Here, as with the proceeding in Kentucky, the Company is charging late fees that are inconsistent with actual costs, and which are unlikely to alter customer behavior. If late fees effectively encouraged on-time payment, then customers would seldom be subject to multiple fee assessments. However, NSPM’s own data shows its customers are routinely charged numerous late fees each year:

**Table 1: Residential Customers Assessed Multiple Late Payment Fees<sup>174</sup>**

<b>Year</b>	<b>2-5 times</b>	<b>6-10 times</b>	<b>11+ times</b>
<b>2021</b>	0	0	0
<b>2022</b>	70,445	11,527	35
<b>2023</b>	72,657	28,037	1,181
<b>2024</b>	51,808	15,113	475

This data coincides with Witness Levenson-Falk’s testimony, wherein she states the assessment of late payment fees “will not change household financial circumstances.”<sup>175</sup> If anything, such fees “increase the amount owed . . . [and] make it more difficult for that customer to pay down their past-due

<sup>173</sup> *Id.* at 7; *see also* Ex. CUB-3 at 22-23 (Levenson-Falk Direct).

<sup>174</sup> Ex. CUB-5 at ALF-D-18 (Levenson-Falk Direct Schedules).

<sup>175</sup> Ex. CUB-3 at 21 (Levenson-Falk Direct).

balance.”<sup>176</sup> As one public commenter noted, “I’m a single mother who every month sees her bills come through with so much pain. Every month I pay late. I pay those fees because I can’t afford none of that . . . I’m suffering every month to pay.”<sup>177</sup> As late payment fees accumulate, they lead to higher arrearage balances, thereby elevating the threat of utility disconnection and potentially increasing bad debt and collection costs for the Company. In at least one instance cited by Witness Levenson-Falk, this compounding factor led to a customer incurring approximately \$3,000 in late payment fees alone.<sup>178</sup> This outcome is directly contrary to the stated objective of encouraging timely payment and runs counter to the definition of equity advanced by the Company. Rather than reasonably allocating costs to “mitigate disparities in benefits and burdens,” NSPM’s practice of assessing late payment fees amplifies financial struggles for those households least able to afford utility service.<sup>179</sup>

**ii. The waiver of late payment fees solely for identified low-income customers would be underinclusive of households that are facing difficulties with their ability to pay for utility service.**

In the event the Commission modifies the application of late payment fees, NSPM Witness Martin recommends only allowing waivers for identified low-income households.<sup>180</sup> As further detailed below, CUB supports this position only as an alternative to our primary recommendation of eliminating late payment fees in their entirety. While the Company’s proposal would provide relief to a subset of customers, it would be underinclusive of ratepayers negatively affected by the assessment of late payment fees.

Witness Levenson-Falk notes that the Company does not have income information for all its ratepayers.<sup>181</sup> As a result, late payment fee waivers would likely only be provided to customers already designated as “income-qualified,” namely those enrolled in LIHEAP or the Company’s affordability programs.<sup>182</sup> This represents a small portion of the customers that would otherwise qualify to receive

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<sup>176</sup> *Id.*

<sup>177</sup> *In the Matter of the Application of Northern States Power Co. d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, CAH Docket No. 28-2500-40515, MPUC Docket No. E002/GR-24-320, Public Comment of Alexandra Tocachi (Mar. 20, 2025).

<sup>178</sup> See Ex. CUB-3 at 21 (Levenson Falk Direct) (citing *In the Matter of Consumer Appeal of Consumer Complaint 86122*, Docket No. E002/C-25-308, CAO Case Record at 2, 6 (Aug. 1, 2025) (documenting the accumulation of over \$15,000 in arrears, of which approximately \$3,000 was late fees)).

<sup>179</sup> Ex. CUB-8 at 16 (Levenson-Falk Surrebuttal) (citing Ex. DOC-21 at 6 (Hirasuna Direct); Ex. Xcel-71 at 7 (Martin Rebuttal)).

<sup>180</sup> Ex. Xcel-71 at 30-31 (Martin Rebuttal).

<sup>181</sup> Ex. CUB-8 at 17-19 (Levenson-Falk Surrebuttal); see also Ex. Xcel-71 at 12 (Martin Rebuttal) (stating that the Company “do[es] not even know the income of most of [its] customers, save those who enroll in federal LIHEAP energy assistance and/or the Company’s own affordability programs. Even for those programs, income data is used only at the eligibility determination stage and is not retained by the Company”).

<sup>182</sup> Ex. CUB-3 at 16-17, 23 (Levenson-Falk Direct); Ex. CUB-8 at 17-19 (Levenson-Falk Surrebuttal).

late payment fee waivers. LIHEAP has historically served as a prerequisite to enrolling in PowerOn and has provided benefits to “less than a quarter of eligible customers across the state.”<sup>183</sup>

Even if the Company somehow identified and waived late fees for every income-qualified household, it would still fall far short of meeting the need. There is ample evidence in the record that many households who make too much to qualify for low-income programs struggle to afford their Xcel bills. NSPM Witness Howard acknowledges there are “many non-low-income customers who do not make timely payments, and many low-income customers who do.”<sup>184</sup> As detailed above, there are numerous factors that could influence a household’s ability to timely pay utility bills, including various nondiscretionary expenditures that are inadequately reflected in energy burden and income statistics. Several public commenters shared how the lack of assistance resources impacts them on a personal basis:<sup>185</sup>

“For me personally, I struggle to get by. I can’t get any kind of assistance because I apparently make too much money, yet many months I struggle to even afford groceries, pay my bills and pay my rent.”

“I already have trouble affording the prices and I make too much for assistance. You’re going to be making heat and electricity unaffordable for so many people.”

“. . . I am begging that our rates do no[t] increase. I am already thousands of dollars behind on my bill because of the ever increasing rates. I do not qualify for energy assistance.”

“My income is just over the amount to qualify for energy assistance. . . . I have health issues and have had to stop going to doctor appointments because it’s either pay to heat my house and have electricity or be able to afford medical copays and medication for my degenerative condition.”

Each of these customers—together with thousands more that did not provide public comments—would be excluded from late fee waivers under the Company’s proposal.

Importantly, there is no distinction between low-income and non-low-income customers when it comes to the Company’s failure to justify its use of late payment fees. The Company has neglected to provide evidence that late payment fees are effective for *any* customers in its service territory, or that

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<sup>183</sup> Ex. CUB-3 at 17 (Levenson-Falk Direct); 2025 Minn. Laws Ch. 7, Art. 3 (amending the definition of “low income” in Minn. Stat. § 216B.16 to remove the requirement that customers receive federal energy assistance).

<sup>184</sup> Ex. Xcel-81 at 13 (Howard Rebuttal).

<sup>185</sup> *In the Matter of the Application of Northern States Power Co. d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in the State of Minnesota*, CAH Docket No. 28-2500-40515, MPUC Docket No. E002/GR-24-320, Public Comments of Mindy Otis (Jan. 21, 2025); Brandon Powers (Jan. 23, 2025); Mercedes Martin (Jan. 29, 2025); and Ann K. Brady (Feb. 19, 2025).

the continued imposition of such charges is in the public interest. For these reasons, the Commission should adopt Witness Levenson-Falk's primary recommendation to eliminate late payment fees for all residential customers.

**iii. The Commission should deny the Company's proposal for a Residential Arrears Management Program if it eliminates late payment fees.**

NSPM proposes to utilize late payment fees to fund a new Residential Arrears Management Program ("RAMP") aimed at "address[ing] customer arrears, thereby reducing energy burden and the potential for service disconnection."<sup>186</sup> While the overarching goal of the RAMP proposal is admirable, it stands in direct conflict to Witness Levenson Falk's primary recommendation to eliminate late payment fees for residential utility customers. If the Commission adopts this recommendation, then the funding source for RAMP will no longer exist and the program cannot be approved as envisioned.

Eliminating late payment fees provides a more direct means of delivering the same benefits RAMP purports to provide. As proposed, customers must have arrears of \$300 or more to qualify for RAMP.<sup>187</sup> In effect, this means customers must pay late fees before they receive RAMP assistance, thereby "harm[ing] the very customers the program proposes to support."<sup>188</sup> In addition, the Company intends to calculate RAMP benefit amounts by taking the "total amount of residential late payment fees and divid[ing] that total" by the number of qualifying customers.<sup>189</sup> This framework improperly incentivizes the assessment of late payment fees by directly tying program efficacy to these charges.

In contrast, doing away with late payment fees ensures those charges cannot accumulate and compound. It also frees up dollars that customers can use to pay down past-due balances, enabling them to lower their arrears on a faster timeline than if such charges continued to be assessed.

**iv. If late payment fees are not eliminated, the Commission should require fee waivers and lower the amount assessed against customers to be reflective of costs borne by the Company.**

The full elimination of late payment fees is consistent with the record evidence in this proceeding. Nonetheless, if the Commission allows late payment fees to continue, then the amount assessed should be lowered and fee waivers should be provided to income-eligible customers.

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<sup>186</sup> Ex. Xcel-39 at 3 (Lindgren Supplemental Direct).

<sup>187</sup> *Id.*

<sup>188</sup> Ex. CUB-8 at 21 (Levenson-Falk Surrebuttal).

<sup>189</sup> Ex. Xcel-39 at 5 (Lindgren Supplemental Direct).

First, late payment fees should be capped at 0.45 percent per month, or 5.4 percent annually to align with the costs incurred by the Company. NSPM Witness Howard suggests that because late payment fees are currently used to offset revenue requirements, their elimination would “shift a cost created by customers who are not keeping current on their bills, onto customers who are.”<sup>190</sup> This statement neglects to acknowledge that NSPM’s own RAMP proposal would similarly remove late fees from the Company’s revenue requirement, resulting in the exact same cost shift they now argue against.<sup>191</sup> Further, the existing late payment fee structure already results in a cost shift because the interest rate paid by the Company on residential past due balances (0.4495 percent) is substantially less than what is assessed via the late payment fee.<sup>192</sup> The current fee amount of 1.5 percent results in past due customers paying over three times more than the costs they created, effectively subsidizing all other customers. NSPM has provided no explanation for this overcollection difference. Setting late payment fees equal to the rates paid by the Company would be consistent with cost causative principles, reduce cost shifts, and provide relief to all past due customers regardless of income or affordability program enrollment status.

Second, should the Commission allow the Company to continue to charge late payment fees, it should waive such fees for low-income households. As detailed above, NSPM’s proposal to waive late payment fees for a subset of income-eligible customers is underinclusive of households negatively impacted by fee assessments. Further, low-income customers are already exempt from late payment fees under Minn. Stat. § 216B.096 for the duration of the Cold Weather Rule if they enter into a payment agreement with their utility.<sup>193</sup> For these reasons—and based on evidence in the record—full elimination of late payment fees is preferable. However, as Witness Levenson-Falk indicates, while waiving late fees for low-income customers is “unlikely to capture all eligible households, . . . [it] would provide a benefit to those customers that qualify,” particularly during those months when the Cold Weather Rule is not in effect.<sup>194</sup>

If the Commission moves forward with Witness Levenson-Falk’s alternative recommendation to set late payment fees at 0.45 percent and waive charges for low-income customers, then RAMP could still be funded, albeit at a substantially lower budget than the Company’s \$5.8 million estimate for 2026.<sup>195</sup> Under this alternative, late payment charges would decrease by 70 percent and—because fees would be waived for low-income households—fewer overall funds would be collected. As with the

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<sup>190</sup> Ex. Xcel-81 at 13 (Howard Rebuttal).

<sup>191</sup> See, e.g., Ex. CUB-71 at 30 (Martin Rebuttal) (stating “[t]hat cost to all customers would of course also occur if the Commission approves RAMP”).

<sup>192</sup> Ex. CUB-3 at 18 (Levenson-Falk Direct) (quoting the General Rules and Regulations of the Company’s Minnesota Electric Rate Book, wherein the late payment charge is set at 1.5 percent or \$1.00, whichever is greater); see also Ex. CUB-5 at ALF-D-21, ALF-D-22 (Levenson-Falk Direct Schedules) (stating that the annual interest rate paid by the Company on residential customer past-due balances is 5.3935 percent, which equates to a monthly interest rate of 0.4495 percent).

<sup>193</sup> Minn. Stat. § 216B.096, Subd. 7(b).

<sup>194</sup> Ex. CUB-8 at 21 (Levenson-Falk Surrebuttal).

<sup>195</sup> Ex. Xcel-39 at 4, 6-7 (Lindgren Supplemental Direct) (noting the Company expects to collect \$5.8 million in late payment fees for 2026 if late payment fees of 1.5 percent continue to be assessed).

recommendation to fully eliminate late fees, this reduced fee assessment could enable customers with high past due balances to pay off their arrears faster, further lowering late charges and potential RAMP funding. These various budget implications could limit RAMP's ability to provide customers with meaningful assistance.

For these reasons, Witness Levenson-Falk offers two pathways for utilizing late payment fees if the Commission does not fully eliminate such charges. Those fees can either support a pared down version of RAMP, or they can be used to offset the affordability surcharge collected from residential customers to fund the PowerOn program.<sup>196</sup> Between these options, directing late fee revenues to PowerOn is more direct and avoids the pitfall of tying program efficacy to the imposition of late payment fees.

## F. Reconnection Fees

### ***i. The Commission should eliminate the imposition of reconnection fees for residential customers.***

Consistent with the rules regulating late payment fees, Minn. R. 7820.2600 states that a utility “may charge a reconnect fee.” This language provides the Commission with discretionary authority to determine whether residential customers should be required to pay reconnection fees. Minn. R. 7820.2600 does not establish a lower or higher bound on the reconnection fee that may be assessed but instead indicates that such charges must be “based on the cost of reconnection as stated in the utility’s tariff on file with the commission.” When the Company’s tariff was last updated, the Commission established separate reconnection fees of \$13.50 and \$50.00, respectively, for customers with and without advanced metering infrastructure (“AMI”) meters.<sup>197</sup> On January 1, 2026, the charge assessed against customers opting for manual meter reading increased to \$95.00.<sup>198</sup>

As Witness Levenson-Falk testifies, the imposition of these charges creates a barrier for customers to regain electricity service, thereby prolonging the negative effects associated with utility disconnection.<sup>199</sup> These impacts are wide-ranging, and could include being unable to run refrigerators or electric cooking appliances, dealing with unsafe living conditions due to inadequate home heating and cooling, or even suffering from the potential onset of respiratory conditions or mental health

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<sup>196</sup> Ex. CUB-8 at 21-22 (Levenson-Falk Surrebuttal).

<sup>197</sup> *In the Matter of a Petition by Northern States Power Company Requesting Approval of Changes to its Tariff and an Indefinite Variance to Commission Rules Regarding Disconnection of Service*, Docket No. E002/M-22-233, Order Approving Petition as Modified and Requiring Filings at 3-4, 10 (Mar. 22, 2023).

<sup>198</sup> Ex. CUB-3 at 14 (Levenson-Falk Direct); Ex. Xcel-71 at 25 (Martin Rebuttal).

<sup>199</sup> Ex. CUB-3 at 15 (Levenson-Falk Direct).

conditions.<sup>200</sup> Waiving reconnection fees would provide targeted assistance to customers that have been disconnected and streamline the process for regaining service.

(a) Eliminating reconnection fees is in the public interest.

Adjusting reconnection fees for public policy purposes is consistent with past Commission action. In NSPM's 2004 gas rate case, the Commission rejected the Company's request to raise reconnection fees from \$15 to \$45, stating that such a revision was "inconsistent with [the] statutory concern" to ensure "affordable, reliable, and continuous service to low-income customers."<sup>201</sup> In reaching that conclusion, the Commission considered the potential benefits of bringing charges closer to the cost of service against the impact on residential households seeking reconnection. It determined "[w]hatever advantages moving rates to cost may hold, [they] are outweighed . . . by potential harm to low-income households, to publicly and charitably funded energy assistance programs, and to the public interest."<sup>202</sup> So too in this case does the public interest in timely and efficiently reconnecting customers outweigh the potential benefits of charging reconnection fees.

At the outset, it is essential to recognize the customer group against whom these charges are assessed. As Witness Levenson-Falk acknowledges, it is reasonable to assume that "any customer who has fallen far enough behind on utility bills for a long enough period to face service disconnection" has exhibited an inability to pay for utility expenses.<sup>203</sup> Each time disconnection occurs, that burden grows. The assessment of late payment charges and reconnection fees accentuates these challenges, making it "less likely customers who have already failed to timely pay will be able to do so at all."<sup>204</sup>

Within this context, eliminating reconnection fees would align with the definition of "equity" adopted by Witness Martin and Department Witness Dr. Hirasuna, which provides for a "fair and just, but not necessarily equal" allocation of utility expenses.<sup>205</sup> While reconnection fees pose a substantial hurdle to disconnected households, the Company has estimated spreading those expenses over the residential rate class would cost the average customer \$0.40 per year, or \$0.03 per month.<sup>206</sup> This is a small price to pay for ensuring the Company's most payment-burdened customers have reasonable and equitable access to electricity service.

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<sup>200</sup> *Id.* at 11-12 (citing CUB-5, ALF-D-6 at 16-17).

<sup>201</sup> *In the Matter of an Application by Northern States Power Company d/b/a Xcel Energy for Authority to Increase Rates for Natural Gas Service in the State of Minnesota*, Docket No. G002/GR-04-1511, Order Accepting and Modifying Settlement and Requiring Compliance Filings at 8 (Aug. 11, 2005) (citing Minn. Stat. § 216B.16, Subd. 15).

<sup>202</sup> *Id.* at 9.

<sup>203</sup> Ex. CUB-3 at 16 (Levenson-Falk Direct).

<sup>204</sup> *Id.* at 15, 22-23; Ex. CUB-5, ALF-D-11 at 7 (Levenson-Falk Direct Schedules).

<sup>205</sup> Ex. CUB-8 at 16 (Levenson-Falk Surrebuttal) (citing Ex. DOC-21 at 6 (Hirasuna Direct); Ex. Xcel-71 at 7 (Martin Rebuttal)).

<sup>206</sup> Ex. CUB-3 at 15 (Levenson-Falk Direct).

**ii. If the Commission does not fully eliminate reconnection fees, it should consider waiving such fees for low-income households and those indicating they are unable to pay.**

In response to Witness Levenson-Falk's testimony, the Company proposes that if reconnection fees are waived, they be waived solely for low-income customers.<sup>207</sup> As previously articulated regarding the assessment of late payment fees, this approach is likely to be underinclusive, and would fail to capture low-income households not already enrolled in LIHEAP or utility affordability programs.<sup>208</sup> Further, it would prevent customers above income thresholds—but still struggling with their ability to pay, as evidenced by their disconnection—from accessing assistance.<sup>209</sup> For these reasons, eliminating reconnection fees in their entirety is preferable to limiting waivers to a subset of residential customers.

Nonetheless, waiving reconnection fees for low-income households is a step in the right direction and would be better than taking no action at all. As with late payment fees, not all customers eligible for the waiver would be identified, but those that do qualify would receive a meaningful benefit.<sup>210</sup>

If the Commission chooses to adopt this approach, it should also include fee waivers for customers that indicate they are unable to pay, even if they do not otherwise qualify as low-income. A similar process has already been employed by New Jersey, which prohibits utilities from assessing reconnection fees against both low-income customers and those that have exhibited an inability to pay for utility service due to “circumstances beyond their control.”<sup>211</sup> This includes, but is not limited to, customers facing unemployment, illness, medical expenses, and other situations deemed appropriate by the New Jersey Board of Public Utilities.<sup>212</sup> In many ways, this language mimics Minnesota's requirement that utilities consider customers' extenuating circumstances when offering a payment agreement.<sup>213</sup>

**iii. If the Commission does not fully eliminate reconnection fees, it should consider excluding labor costs from fee calculations.**

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<sup>207</sup> Ex. Xcel-71 at 27 (Martin Rebuttal).

<sup>208</sup> Ex. CUB-8 at 17-18 (Levenson-Falk Surrebuttal).

<sup>209</sup> Ex. CUB-3 at 16-17 (Levenson-Falk Direct); Ex. CUB-8 at 17-18 (Levenson-Falk Surrebuttal).

<sup>210</sup> See, e.g., CUB-8 at 21 (Levenson-Falk Surrebuttal) (stating that waiving late fees solely for low-income households would “likely be more administratively complex and is unlikely to capture all eligible households, but it would provide a benefit to those customers that qualify”).

<sup>211</sup> Ex. CUB-3 at 16 (Levenson-Falk Direct) (citing N.J. Legis. Assemb., A5563, “Summer Termination Program,” Reg. Sess. 2024-2025 (2025)).

<sup>212</sup> *Id.* at 16, n. 72.

<sup>213</sup> Minn. Stat. § 216B.098, Subd. 3.

Even if the Commission chooses not to fully eliminate reconnection fees, it retains authority to determine the appropriate “cost of reconnection” used to set the fee amount charged to residential utility customers. Importantly, it is CUB’s understanding that labor costs are currently included in the calculation of fee amounts, despite other customer care and meter reading expenses being recovered through base rates.<sup>214</sup> This not only raises questions about the potential for double recovery, but also about the reasonableness of utilizing reconnection fees to recover those costs. In confronting a similar issue, KPSC determined that “allocating a fixed expense of ordinary labor costs in special nonrecurring charges like disconnect or reconnect fees creates a mismatch between how a utility incurs expenses and how it recovers those expenses from customers.”<sup>215</sup> Because those costs are incurred “regardless of the number or timing of . . . nonrecurring services” KPSC determined that allowing base rate recovery would “more closely align[] those expenses with the actions that drive them.”<sup>216</sup> Employing a similar approach for the Company—i.e. removing labor expenses from fee calculations—would substantially reduce fees both for customers with AMI and those that are paying the \$95.00 fee for manual reconnection, thereby reducing barriers across the entirety of the residential rate class.

If the Commission determines greater record development is necessary prior to implementing this revision, CUB recommends requiring the Company to make a compliance filing in Docket No. E002/M-22-233 quantifying labor expenses associated with the disconnection or reconnection of service and recalculating reconnection fees based on that information.

## V. CONCLUSION

In conclusion, CUB makes the following recommendations with respect to the Company's proposed rate increase:

- The Commission should deny the Company's request to raise its authorized ROE.
- The Commission should set the Company's authorized ROE at 9.0 percent.
- The Commission should prohibit the Company from recovering more than 50 percent of its investor relations-related costs.
- The Commission should prohibit the Company from charging late fees to customers with overdue balances.
- If the Commission prohibits late payment fees, then it should also deny the Company's proposal for a Residential Arrears Management Program
- If the Commission does not prohibit late payment fees, then it should require fee waivers and lower the amount assessed against customers to be reflective of costs borne by the Company.

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<sup>214</sup> See, e.g., Ex. Xcel-38 at Sch. 2 (Lindgren Direct).

<sup>215</sup> Ex. CUB-5, ALF-D-11 at 5 (Levenson-Falk Direct Schedules).

<sup>216</sup> *Id.*

- The Commission should eliminate the imposition of reconnection fees for residential customers.
- If the Commission does not fully eliminate reconnection fees, then:
  - it should consider waiving such fees for low-income households and those indicating they are unable to pay; and
  - it should consider excluding labor costs from fee calculations.

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Respectfully submitted,

/s/ Brian C. Edstrom

Brian C. Edstrom

Senior Regulatory Advocate

[briane@cubminnesota.org](mailto:briane@cubminnesota.org)

/s/ Brandon Crawford

Brandon Crawford

Regulatory Advocate

[brandonc@cubminnesota.org](mailto:brandonc@cubminnesota.org)

Citizens Utility Board of Minnesota  
332 Minnesota St., Suite W1360  
St. Paul, MN 5510  
651-300-4701