

## Staff Briefing Papers

**Meeting Date**    May 22, 2025

**Agenda Item 3\*\***

**Company**            Northern States Power Co., d/b/a Xcel Energy

**Docket No.**        E002/M-24-432

**In the Matter of a Peak Time Rebate Program for Northern States Power Co.  
d/b/a Xcel Energy to Further the Commission's Advanced Rate Design Efforts in  
Docket No. E002/CI-24-115**

- Issues**
1. What process should the Commission use to review Xcel's Peak Time Rebate (PTR) proposal and its proposal to seek cost recovery through its Energy Conservation and Optimization (ECO) portfolio?
  2. Is inclusion in Xcel's ECO portfolio the appropriate regulatory pathway for determining program design, terms and conditions, cost recovery, and reporting for the PTR program?
  3. Do any aspects of the proposed PTR program require Commission approval, such as a customer service agreement, standard terms and conditions, or other program components that would be included in the utility's tariff?
  4. If Commission review of the proposal, or specific elements of the proposal, is appropriate or required, what process should the Commission use to complete its evaluation?

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

✓ **Relevant Documents**

	<b>Date</b>
Xcel Energy Petition for Approval of a Peak Time Rebate Program	March 17, 2025
Department of Commerce Comments	April 16, 2025
Office of the Attorney General Comments	April 16, 2025
Xcel Energy Comments	April 16, 2025

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## ACRONYMS

**AMI:** Advanced Metering Infrastructure  
**CIP:** Conservation Improvement Program  
**CAO:** PUC's Consumer Affairs Office  
**CPP:** Critical Peak Pricing  
**DR:** Demand Response  
**EAD:** Energy Action Days  
**ECO:** Energy Conservation and Optimization  
**FAN:** Field Area Network  
**IVR:** Interactive Voice Response  
**OAH:** Office of Administrative Hearings  
**PTR:** Peak Time Rebate

## BACKGROUND

On March 17, 2025 Xcel submitted a proposal to the Commission to replace its existing Energy Action Days (EAD) behavioral demand response program with a new Peak Time Rebate (PTR) program as part of its Energy Conservation and Optimization (ECO) Portfolio (the PTR Proposal).

PTR is a load management program category in which a utility provides customers an incentive, usually on a per kWh basis, to reduce energy use during peak events called by the utility. Xcel's EAD program is a voluntary program that encourages customers to reduce energy consumption during peak hours.

Xcel proposed to seek cost recovery for the PTR program through ECO, and stated its intention to file PTR as a program modification to its 2024-2026 ECO Triennial in Docket No. E,G002/CIP-23-92, with an expected PTR program launch in 2026.

Xcel's PTR Proposal is responsive to two Commission Orders. The Commission's December 4, 2024 Order in Docket No. E002/M-23-467 concerning Xcel's Transmission Cost Recovery Rider and performance incentive mechanisms for advanced metering infrastructure (AMI) and Field Area Network (FAN) investments includes the following directive:

- **Order Point 5:** Xcel must propose procedural pathways for additional demand response and load flex programs by the rate case completeness hearing date.

The Commission explained in the Order:

[T]he Commission continues to share the Joint Commenters' concerns about Xcel's customers receiving maximum benefits from the AMI and FAN investments. The Commission will therefore require Xcel to propose procedural pathways for additional demand response and load flex programs by the time of Xcel's upcoming rate case completeness hearing.<sup>1</sup>

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<sup>1</sup> Commission Order, December 4, 2024, Docket E002/M-23-467, at 7.

In comments responsive to this Order Point filed November 18, 2024 in the Company's 2024 Minnesota electric rate case, Docket No. E002/GR-24-320, the Department proposed, and Xcel agreed, to file a petition for a PTR program by March 17, 2025. Parties recommended several possible procedural pathways for program consideration and cost recovery (discussed further in Party Positions and Staff Analysis).

In the Commission's December 30, 2024 Order in Docket No. E002/GR-24-320, the Commission took the following action:

- **Order Point 4:** The Commission delegates authority to the Executive Secretary to open a docket to evaluate a proposal for a peak-time rebate (PTR) program for Xcel Energy, which Xcel shall file by March 17, 2025. The docket shall also evaluate avenues for cost recovery.

Following Xcel's PTR Proposal, the Commission issued a Notice of Comment Period requesting input on whether Commission review of the PTR Proposal (or aspects of the proposal) is appropriate, if inclusion in Xcel's ECO Portfolio is appropriate, and the procedures that should be used to review the proposal.

On March 16, 2025 the following organizations submitted comments:

- Department of Commerce (Department)
- Office of the Attorney General (OAG)
- Xcel Energy

### STATEMENT OF THE ISSUES

While this is a procedural matter, it raises several important issues for the Commission, including decisions around:

- Whether load management programs that provide ongoing rebates or bill credits constitute a "rate," or for other reasons may necessitate Commission approval;
- Whether load management programs that necessitate Commission approval are also appropriate for inclusion in a utility's ECO portfolio; and
- If so, how best to accomplish dual-agency review and approval of such programs.

The specific questions before the Commission regarding Xcel's Peak Time Rebate program are:

1. What process should the Commission use to review Xcel's Peak Time Rebate proposal and its proposal to seek cost recovery through its Energy Conservation and Optimization (ECO) portfolio?
2. Is inclusion in Xcel's ECO portfolio the appropriate regulatory pathway for determining program design, terms and conditions, cost recovery, and reporting for the Peak Time Rebate program?

3. Do any aspects of the proposed PTR program require Commission approval, such as a customer service agreement, standard terms and conditions, or other program components that would be included in the utility's tariff?
4. If Commission review of the proposal, or specific elements of the proposal, is appropriate or required, what process should the Commission use complete its evaluation?

## SUMMARY OF THE PETITION

Xcel's PTR Petition includes an explanation of the Company's preferred procedural pathway for PTR review, a summary of the Company's research into PTR programs operated by other utilities, a summary of the Company's proposed program design, an estimated initial budget, and initial cost-benefit analysis results.

### I. Proposed Procedural Pathway

Xcel requested the Commission approve the Company's proposal to seek review and approval of PTR by the Department of Commerce by submitting a program modification for a Peak Time Rebate program to begin in 2026, as part of its 2024-26 ECO Portfolio. (**Decision Option 1**)

Xcel provided several reasons for why it believes ECO review is appropriate. First, Xcel believes PTR is a load management program as defined by Minn. Stat. § 216B.2401, as modified by the ECO Act, and will meet all the additional requirements of an ECO program.<sup>2</sup> For reference, Minn. Stat. § 216B.2401 uses the following definition of load management:

**Subd. 15. Load management.** "Load management" means ...an activity, service, or technology that changes the timing or the efficiency of a customer's use of energy that allows a utility or a customer to: (1) respond to local and regional energy system conditions; or (2) reduce peak demand for electricity or natural gas. Load management that reduces a customer's net annual energy consumption is also energy conservation.<sup>3</sup>

Xcel states, "the PTR program will provide a rebate to customers based on a reduction of peak-hour energy as enabled by ECO."<sup>4</sup>

Second, Xcel points to its portfolio of existing load management and demand response (DR) programs, which are part of its ECO Portfolio and have been approved by the Department of Commerce. Xcel included a complete list of its DR programs and load management pilots in Attachment A, which showed that most programs are *either* ECO programs or operate as a rate discount/tariff.<sup>5</sup> Xcel argues that PTR fits squarely among its DR offerings, and therefore for

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<sup>2</sup> Xcel PTR Petition, March 17, 2025, at 3

<sup>3</sup> Sec. 216B.2402 MN Statutes, Subd. 15

<sup>4</sup> Xcel PTR Petition, at 3

<sup>5</sup> Xcel PTR Petition, Attachment A

clarity and consistency should be part of its ECO portfolio.

Third, Xcel argues that inclusion in ECO would clarify the process for cost recovery by using the established method of incorporating ECO programs into the Company's Conservation Improvement Program (CIP) Rider through the CIP Adjustment Factor process.<sup>6</sup>

## II. PTR Program Design

While not explicitly requesting Commission approval of the program (due to seeking Department approval via an ECO modification), Xcel provided information about the PTR program it intends to propose to the Department. Staff summarize key program parameters below as this context may aid in the Commission's jurisdictional and procedural decisions.

### Summary:

The PTR program is proposed as an opt-in program<sup>7</sup> that provides an opportunity to customers to earn a rebate for lowering their energy usage during a control event after an email or text notification. Customers would earn a rebate of \$1 per kWh reduced from their baseline, would receive a notice of their results, and receive a yearly rebate on their electric bill based on participation.

### Eligibility:

Xcel Energy residential electric customers with an AMI-enabled meter are eligible if they:

- Allow communications from Xcel via email and/or text.
- Do not participate in another demand response program (including AC Rewards or Saver's Switch) and are not on a net-metered rate with distributed generation such as rooftop solar.<sup>8</sup>

### Program Participation:

Xcel estimates the PTR program will have participation from 15,500 customers in the first year of operation. This represents a 6% enrollment rate among the initial target market (250,000 customers) who have provided Xcel an email address and do not participate in a demand response program.<sup>9</sup>

### Estimated System Savings

Xcel estimates the PTR program would be a **10,365 kW (10.365 MW) resource**.<sup>10</sup> On average, Xcel expects participating customers to save 0.63 kW during control events, or 2.5 kWh over a four-hour event. Assuming five events per year, and 15,000 participants, Xcel estimates

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<sup>6</sup> Xcel PTR Petition, at 4

<sup>7</sup> Xcel explains it prefers an opt-in program for several reasons: to make it possible to text participating customers, to incur fewer implementation software costs (for improved cost-effectiveness) and for consistency with peer programs. See Xcel PTR Petition, at 10-11.

<sup>8</sup> Xcel PTR Petition, at 10

<sup>9</sup> Xcel PTR Petition, at 12

<sup>10</sup> Xcel PTR Petition, Attachment D, Cost Benefit Analysis

187,500 kWh saved annually at the customer meter. When accounting for line losses, this amounts to 203,813 kWh saved at the generator, and a 10,365 kW reduction in system coincident peak demand.<sup>11</sup>

### Customer Savings

Xcel proposes to provide an incentive of \$1 per kWh saved compared to a customer's baseline energy use. The baseline would be the average of the three highest-usage days during the 10-day period prior to the event. The total rebate will be applied as an annual bill credit. Using the assumptions discussed above, the average customer would save **\$2.50 per event, or \$12.50 per year.**<sup>12</sup> Xcel will notify customers of the savings they achieved within three days of an event and provide a year-end summary as well.

### Control Events

Xcel proposes that PTR control events will be determined based on anticipated system demand and may occur at any time of year (i.e., will not be confined to summer). Xcel anticipates calling the program three to five times per year. Xcel will provide between 1-24 hours of notice prior to events via multiple channels including email, text, and interactive voice response (IVR).<sup>13</sup>

## III. PTR Budget and Cost-Effectiveness

Xcel estimates the annual budget will be just over \$1.1 million, as shown in Table 1 below. Vendor fees constitute 70.3% of the budget, rebates to customers constitute 16.5%, with technology, administration and marketing comprising the remaining 13%.

**Table 1: PTR Program Budget<sup>14</sup>**

Budget Category	2026 Expenses
Vendor	\$800,000
Rebates	\$187,500
Technology Services	\$50,000
Administration	\$80,000
Marketing	\$20,000
<b>Total</b>	<b>\$1,137,500</b>

Xcel explained that it has an open RFP seeking a vendor to implement a variety of services under the Company's ECO programs, including the current Energy Action Days (EAD) program. Due to the similarities between the PTR and EAD, Xcel expects any selected vendor to be able to implement PTR. The Company will work with the vendor to modify the scope of work as needed to accommodate any changes for implementing PTR during the onboarding process.<sup>15</sup>

<sup>11</sup> Xcel PTR Petition, Attachment D, Cost Benefit Analysis

<sup>12</sup> Xcel PTR Petition, at 14

<sup>13</sup> Xcel PTR Petition, at 13

<sup>14</sup> Xcel PTR Petition, Table 1, at 14

<sup>15</sup> Xcel PTR Petition, at 8

Xcel provided initial cost effectiveness results using the methodology used for ECO program as defined by the Department and used in its 2024-2026 ECO Triennial Plan.<sup>16</sup> The program does pass the Minnesota Test with a **Benefit/Cost Ratio of 1.01**, using the assumptions listed in Table 2 below.<sup>17</sup>

**Table 2: Analysis Assumptions<sup>18</sup>**

<b>Quantification</b>	<b>Estimate</b>
Hours/Event	4
Events/Year	5
Beginning Population Of Customers (Initial Roll Out)	250,000
Estimated Percent Participation	6%
Participants/Year	15,500
Rebate/kWh	\$1
kW/event (per participant)	0.63
kWh/ event (per participant)	2.5

## **PARTY POSITIONS ON PROCEDURAL PATHWAY**

### **I. Department of Commerce**

The Department recommended using the ECO process to evaluate Xcel's PTR Proposal. The Department noted doing so would be consistent with the review process used for other Xcel DR programs including: Commercial AC Control, Critical Peak Pricing, Electric Rate Savings, Peak Partner Rewards, Residential Saver's Switch, AC Rewards and Energy Action Days. Assuming the PTR Proposal meets ECO requirements, the Department believes review through ECO is appropriate.<sup>19</sup>

The Department did not address whether the PTR program should have a tariff or customer service agreement that may need Commission approval.

### **II. Office of the Attorney General**

The OAG recommended that the Commission evaluate Xcel's PTR Proposal through a formal notice and comment period, and not refer program evaluation to the ECO process. In fact, OAG argued that the proposed PTR program *must* be approved by the Commission because it meets the statutory definition of a "rate:"

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<sup>16</sup> Xcel PTR Petition, at 15

<sup>17</sup> Xcel PTR Petition, at 15

<sup>18</sup> Xcel PTR Petition, Table 2, at 15

<sup>19</sup> Department Comments, at 1-2



Minnesota law defines “rate” broadly 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>20</sup>

Peak-time rebates meet this definition in two ways. First, a peak-time rebate would be implemented through Xcel’s electric-service tariffs, and “tariff” is expressly part of the definition of “rate.” Second, by providing payments to compensate customers for reducing their load during peak periods, a peak-time-rebate program qualifies as a rule, practice, or contract “affecting” the total compensation that ratepayers pay for electric service. Because a peak-time rebate is a “rate,” it must be approved by the Commission.<sup>21</sup>

The OAG further argued that referring the PTR Proposal to ECO before Commission review would be inefficient and potentially confusing. Requiring approval by two agencies increases the risk of wasted effort, such as if the Commission were to modify the program after it received Department approval, and could discourage stakeholder engagement due to the need to participate in two proceedings.<sup>22</sup>

The OAG pointed out that the Department and the Commission apply different legal standards in their review of utility proposals.<sup>23</sup> The Department’s review of ECO proposals is guided by Minn. Stat. § 216B.241, especially subd. 2 “providing that the Department ‘shall evaluate the plan on the basis of cost-effectiveness and the reliability of technologies employed’” and subd. 13, “providing that the Department may approve a load-management program if ‘the program is cost-effective, considering the costs and benefits to ratepayers, the utility, participants, and society.’”<sup>24</sup>

Even if the Department approves PTR under its standards, OAG asserts that the Commission has an independent duty to ensure PTR complies with statutory requirements of rates:

[T]he Commission would still have a duty to ensure that the rebate “rate” was just and reasonable before it could be applied to customer bills. The Commission would also need to ensure that the rebate was not unduly discriminatory, that it encouraged energy conservation to the maximum reasonable extent, and that it considered the public’s need for adequate, efficient, and reasonable service, resolving all doubt in favor of ratepayers.<sup>25</sup>

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<sup>20</sup> OAG Reply Comments, Nov. 18, 2024, Docket E002/GR-24-320 at 3-4, citing to Minn. Stat. §216B.02, subd. 5

<sup>21</sup> *Id.*, citing to Minn. Stat. § 216A.05, subd. 2 (requiring Commission to “review and ascertain the reasonableness of tariffs of rates, fares, and charges, or any part or classification thereof”)

<sup>22</sup> OAG Comments at 2

<sup>23</sup> OAG Reply Comments, Nov. 18, 2024, Docket E002/GR-24-320 at 5

<sup>24</sup> OAG Comments at 2, footnote 11

<sup>25</sup> OAG Comments at 2, citing to: Minn. Stat. § 216B.03, § 216B.16, subds. 4 and 6

Therefore, OAG argues, the best way for the Commission to ensure that the PTR program is well-designed and delivers benefits to the system is for the Commission to evaluate the program in this docket.

In its April Comments, the OAG did not explicitly address the question of whether there should be specific program documents requiring Commission approval, but in its November 2024 comments on this issue in Xcel's rate case (Docket No. E002/GR-24-320) OAG asserted that a peak-time rebate would need to "be implemented through Xcel's electric-service tariffs,"<sup>26</sup> indicating that OAG believes the program should be tariffed.

### III. Xcel Energy

Xcel recommended that the program be reviewed and approved through ECO for several reasons. Xcel believes PTR will meet all the requirements for inclusion in ECO,<sup>27</sup> and that the Department's ECO review process includes a formal comment period which will provide sufficient opportunity for evaluation and input.<sup>28</sup> Xcel also prefers review through ECO because it is consistent with the regulatory pathway used for many of the Company's demand response (DR) and load management programs, will provide clarity around cost recovery, and is likely faster than the Commission's typical notice and comment process.<sup>29</sup>

While Xcel's comments did not directly respond to the OAG (as this comment period included only one round of comments), Xcel asserted that Commission review is not required, and that PTR will neither be a rate nor require a tariff:

PTR will not have a tariff. The Company is not creating or adjusting a rate. Instead, the PTR program is providing a payment to the customer to incentivize a specific action at a specific time, just like the reoccurring payment made to customers in the AC Rewards program.<sup>30</sup>

Xcel agreed with OAG that requiring both the Department and Commission to review the program would be inefficient and risk confusing stakeholders. Xcel prefers that the program is reviewed solely through ECO. However, Xcel recommended that if the Commission decides to take comments on the merits of the PTR Proposal, that review should be completed prior to Xcel filing an ECO modification so that the Commission process can inform its program design proposal to ECO.<sup>31</sup>

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<sup>26</sup> OAG Reply Comments, Nov. 18, 2024, Docket E002/GR-24-320, at 4

<sup>27</sup> Xcel Comments at 2

<sup>28</sup> Xcel Comments at 2

<sup>29</sup> Xcel Comments at 2

<sup>30</sup> Xcel Comments at 2

<sup>31</sup> Xcel Comments at 2

## STAFF ANALYSIS

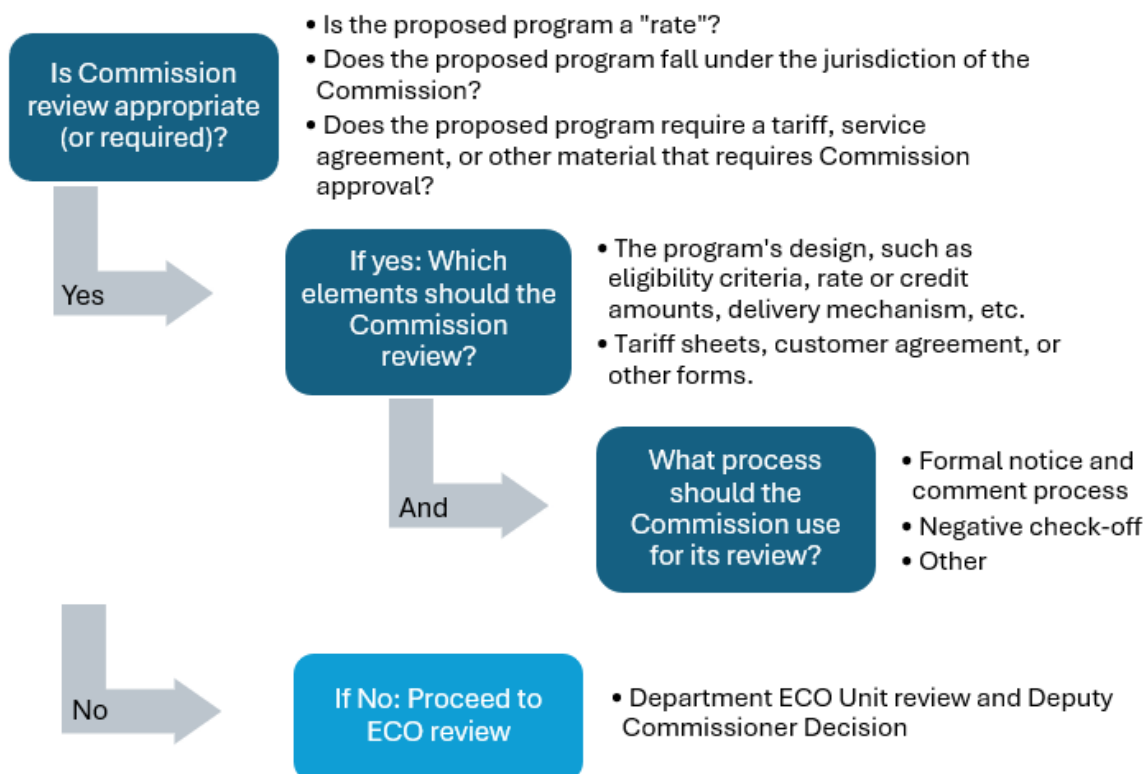
In making its determination, Staff suggest the Commission consider two primary questions, which are not mutually exclusive:

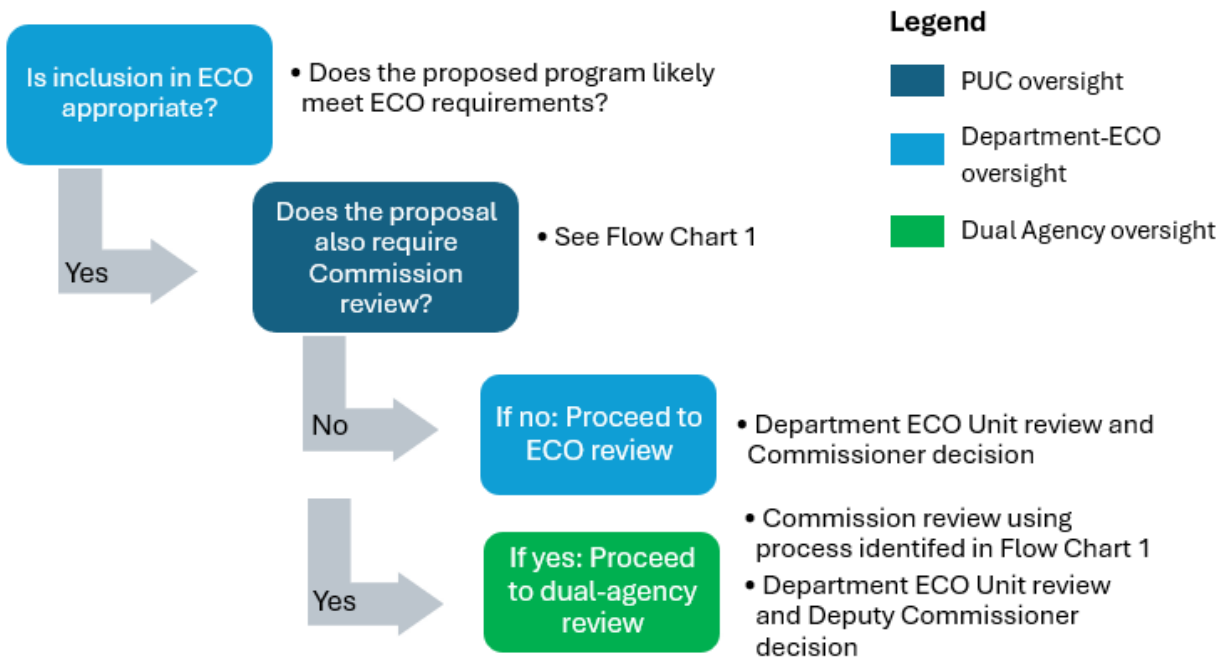
1. Is Commission review of the PTR program, or any elements of it, necessary or appropriate?
2. Is the proposed program appropriate to propose in ECO?

Staff has created the flow charts below to illustrate possible pathways a program proposal may follow, depending on whether Commission review, ECO review, or both are appropriate.

Flow Chart 1 shows the primary questions the Commission should consider regarding the appropriateness of Commission review, how that review should take place, and the procedural implications of various paths. Flow Chart 2 shows the primary questions the Commission should consider regarding the appropriateness of inclusion in ECO, and how to complete dual agency review, if necessary. These flow charts are not intended to contain all potentially relevant questions or decision points, but to illustrate these decision points and procedural implications at a high level.

### Flow Chart 1: Commission Review



**Flow Chart 2: Inclusion in ECO****I. Is Commission review necessary or appropriate?**

If the Commission determines that PTR does not constitute a “rate” under Minn. Stat. §216B.02, subd. 5 and that Commission review is not necessary for other reasons, it can accept the Company’s proposal to proceed with filing an ECO modification (**Decision Option 1**).

If the Commission agrees with the OAG that the proposed PTR program is a “rate” and requires Commission evaluation and approval before it can be implemented, the Commission should review the program’s design as well as customer agreements and a tariff reflecting the program’s requirements and compensation structure. (**Decision Option 6**, which may be selected along with Decision Option 4 or 5).

The Commission could also determine that Commission review is appropriate for other reasons, for example, to ensure the program evaluation considers factors important to the Commission. If the Commission determines that its review of PTR is either necessary or appropriate, it has several procedural options available, discussed below.

**II. Is the program appropriate to propose in ECO?**

Xcel believes PTR will meet ECO requirements and should for consistency with other DR programs be part of Xcel’s ECO portfolio. OAG did not specifically comment on whether the program is ECO-eligible or not, but asserted that because Commission review is required, ECO review would be duplicative.

However, as noted earlier, inclusion in ECO and inclusion in Xcel’s tariff are not mutually

exclusive. Attachment A of Xcel's PTR Petition summarizes Xcel's current portfolio of DR and load flexibility programs. Staff has consolidated the attachment into the summary table below, with highlighted lines indicating the three ECO programs Xcel currently runs that are tariffed.

**Table 3: Summary of Attachment A, Demand Response Programs**

<b>Demand Response</b>	<b>Rate Discount/ Tariffed Program</b>	<b>In ECO 2024-26 Portfolio</b>
AC*Rewards	No	Yes
Energy Action Days	No	Yes
Electric Rate Savings (Rates A23, A24, A27)	Yes	Yes
Peak Partner Rewards	No	Yes
Saver's Switch (Riders 5-97 to 5-99.1)	Yes*	Yes
<b>Pilots</b>	<b>Rate Discount/ Tariffed Program</b>	<b>In ECO 2024-26 Portfolio</b>
EV Optimization Pilot	Yes	No
Peak Flex Credit Pilot (Rate A28)	Yes	No
Commercial Thermal Storage Pilot	Yes	No
General Time of Use Pilot (Rate A25)	Yes	No
Critical Peak Pricing Pilot (Rate A26)	Yes	Yes
Peak Day Partners	No	Yes
*Saver's Switch was not marked as having a tariff in Attachment A, however staff understands this program to be reflected in the Residential Controlled Air Conditioning and Water Heating Rider (tariff pages 5-97 to 98) and the Commercial and Industrial Controlled Air Conditioning Rider (tariff pages 5-99 to 99.1).		

Staff agrees with Xcel and the Department that PTR is similar to several existing DR programs within Xcel's ECO portfolio, but it also has similarities to tariffed load management programs that Xcel operates, including the Peak Flex Credit Pilot and Critical Peak Pricing (CPP). As Xcel pointed out, PTR will operate very similarly to EAD—however, the fact that PTR will offer participants a performance incentive calculated based on their actual usage in the days before an event and during the event is an important difference between these two programs.

It is not clear to Staff what factors previously determined whether Xcel filed a tariff for a CIP, now ECO, program or not. The record in this docket is contested and the Commission will need to determine whether or not to tariff the PTR program based on parties' comments.

If the Commission wishes to consider on a going-forward basis, a standardized set of criteria for determining which programs are tariffed, this will likely involve more record development and impact programs and utilities beyond the scope of this docket. The Commission may wish to consider appropriate venues and opportunities for advancing such an initiative.

Xcel also asserted that PTR should be incorporated into its ECO portfolio because that would clarify the process for cost recovery. Staff does not find this a persuasive argument *against*

Commission review. The Company has the option to propose load management programs approved by the Commission for inclusion in ECO, as it has done with the Critical Peak Pricing Pilot, and if approved by the Department, such programs would be eligible for recovery through the CIP Rider.

### III. Procedural Options

While parties did not go into detail about the differences between PUC review and ECO review, they did point out that the Department's ECO review process for new programs takes 90 days,<sup>32</sup> which is shorter than the typical PUC comment process, and that the two agencies apply different standards of review.<sup>33</sup>

Parties acknowledged that dual-agency review (i.e., review by both the PUC and the Department) was possible, but felt it would be duplicative and potentially confusing. Staff understands these concerns and is generally supportive of recommendations for administrative efficiency and streamlining processes. However, if a longer or more complex process is likely to result in a better program design with more buy-in from customers (and therefore more system benefits), it may be worth the trade-off.

Additionally, ECO already has an element of dual-agency review in that the Commission reviews annually utilities' trackers, CIP adjustment factors (rates), and Demand Side Management Incentives (earned by the utility). When a utility program is approved by the Department but has a tariff, the Commission's review may be a negative check-off or focuses on whether the tariff adequately reflects the approved program, is within the scope of the relevant statute, and is compatible with existing tariffs with deference to the Department's analysis.

Staff offers three procedural options for consideration, which provide varying levels of dual-agency review:

**1. ECO review with tariff (Decision Option 2):** *ECO review process, followed by compliance filing and tariff approval by the PUC subject to 30-day negative check-off.*

Even if the Commission agrees with Xcel that it is appropriate for ECO to complete program review, the Commission could determine that the program should be tariffed. This tariff would require Commission approval. For example, Xcel's Solar\*Rewards program is first reviewed and approved by the Department, and then the Commission reviews and approves proposed tariff sheets. In 2024, the Commission approved use of a 30-day negative check-off process for approving tariff modifications that are consistent a Department Decision.<sup>34</sup>

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<sup>32</sup> Xcel PTR Petition, Attachment C, p. 30

<sup>33</sup> Reply Comments, Nov. 18, 2024, Docket E002/GR-24-320 at 5, fn 10: See Minn. Stat. § 216B.241, subds. 2 (providing that the Department "shall evaluate the plan on the basis of cost-effectiveness and the reliability of technologies employed"); 13 (providing that the Department may approve a load-management program if "the program is cost-effective, considering the costs and benefits to ratepayers, the utility, participants, and society").

<sup>34</sup> Order Approving the Proposed Tariff and Contract Modifications, April 2, 2024, Docket E002/M-13-1015

Having program rules and compensation structure in tariff can provide more transparency for customers and enable the PUC's Consumer Affairs Office (CAO) to respond to possible customer inquiries or complaints and identify if there may be any systematic issues needing further investigation. Currently, CAO typically handles ECO-related complaints that concern billing issues, and on other topics refers the complaint to the Department's ECO Unit.

Staff provides **Decision Option 2** which would require that following ECO approval, Xcel will make a compliance filing including any relevant customer agreements and proposed tariff sheets reflecting the program as approved. This Decision Option would authorize Staff to approve the tariff and customer agreement(s) subject to a 30-day negative check-off process, i.e., if no party files an objection within 30 days of the compliance filing.

Staff notes that if this path is selected, the Commission may wish to emphasize that when the tariff comes before the Commission, review will be limited to whether the tariff complies with the Department's decision, and it is not an opportunity to re-litigate the merits of the program.

**2. Program referral with issues to be addressed (Decision Option 3):** *PUC referral to ECO includes a request to develop a record about or evaluate certain issues.*

The PUC regularly refers dockets to the Office of Administrative Hearings (OAH) with a request that parties develop the record on certain identified topics. Staff's **Decision Option 3** would use an analogous process and refers the PTR program to the Department with a request for record development on certain topics of interest to the Commission.

Given the PUC's interest in load flexibility as a key avenue for Xcel's customers to realize the benefits of the Company's grid modernization investments, Staff believes it would be appropriate for the following topics be evaluated during a comment process, regardless of which agency reviews the merits of the PTR proposal.

1. Does the program design sufficiently incent customer participation?
2. Will the communications plan sufficiently facilitate customer participation?
3. Are Xcel's proposed eligibility rules reasonable?
4. Is the estimated program budget reasonable?
5. Are there ways to increase system benefits that the program can deliver?
6. What reporting should Xcel provide to track program performance and ensure that program design improvements can be identified and made over time? At what interval should reporting occur?
7. Should there be an assessment of the program's performance and scaling opportunities after a certain duration?

Therefore, if the Commission believes referral to ECO is appropriate but wishes to ensure certain topics are addressed, Staff recommends selecting Decision Option 3 along with Decision Option 1.

**3. Sequential dual-agency review (Decision Option 4):** *PUC comment process followed by ECO review process, as Xcel proposed in the alternative to solely using ECO review.*

Sequential review would provide a thorough opportunity for review and adjustments to program design, the customer engagement plan, and program reporting, among other topics. This is a good option for rate programs that the Company seeks to recover through ECO. Drawbacks include the length of time it may take to go through both processes, potential for stakeholder confusion, and potential challenges navigating the agencies' different standards of review.

The Company has used this general process before, such as with the CPP pilot, which was developed through a series of comment periods before the Commission in Docket No. E002/M-20-86 and received initial approval in July 2021.<sup>35</sup> In July 2022, Xcel proposed the CPP pilot as a modification to its 2021-2023 ECO Triennial Plan, and received approval from the Deputy Commissioner of Commerce in January 2023.<sup>36</sup>

The Commission's review under this process could be significantly more in-depth than the Commission review that would take place under "ECO review with tariff." Sequential review would provide an opportunity for the Commission to evaluate all program design elements and direct program modifications, while the Commission's review under the "ECO review with tariff" approach is usually limited in scope to ensuring tariff and customer agreement documents are consistent with the Department's Decision, other tariffs, and applicable laws.

If the Commission believes comprehensive dual-agency review is appropriate, Staff recommends selecting Decision Option 4. In addition to being Xcel's preferred alternative, completing the Commission's review before the ECO review may mitigate some of the OAG's concerns about the risk of wasted efforts, by ensuring that a dual-track program will have met Commission requirements before being proposed to ECO.

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<sup>35</sup> Commission Order to Conduct Pilot Programs for General Service Time-of-Use Rates, and Setting Procedural Schedule, July 16, 2021, Docket No. E002/M-20-86

<sup>36</sup> Decision, In the Matter of Xcel Energy's Program Modification Critical Peak Pricing – Time of Use Pilot Program January 19, 2023, Docket No. E,G002/CIP-20-473.



## DECISION OPTIONS

Xcel and the Department recommend **Decision Option 1**, approval of Xcel's proposal to seek approval solely through ECO. In the alternative, if the Commission wishes to have a notice and comment process in this docket, Xcel recommends that the Commission process occur before an ECO modification is filed. This is reflected in **Decision Option 4**.

OAG's recommended pathway is reflected in **Decision Options 5 and 6**, which would reject the Company's proposal to seek approval for PTR from the Department through an ECO program modification, and instead initiate a review process in this docket.

Staff provided two additional procedural options with **Decision Options 2 and 3** to reflect the "ECO review with tariff" and "Program referral with issues to be addressed" processes described above. Both of these Decision Options are compatible with Decision Option 1.

### ECO Review Options:

*[If the Commission selects Decision Option 1, it may also select 2 or 3 or both]*

1. Approve Xcel's request to seek approval of its proposed Peak Time Rebate (PTR) program solely from the Department of Commerce, by submitting a program modification for a Peak Time Rebate program to begin in 2026, as part of its 2024-2026 ECO Portfolio. (Xcel, Department) **[and]**
2. Within 30 days of approval of a PTR program by the Commissioner of Commerce, require Xcel to make a compliance filing in this docket containing:
  - a. An update on program design and any modifications that have been made since Xcel's March 17, 2025 Petition;
  - b. A tariff reflecting the approved PTR program; and
  - c. The customer agreement, if any, that customers will be required to agree to before participating in the PTR program.
  - d. Delegate authority to the Executive Secretary to approve the tariff and customer agreement(s) if no objections are filed within 30 days of the Company's compliance filing.  
(Staff) **[and/or]**
3. Request that the Department collect comments on and consider the following topics when evaluating Xcel's proposed PTR program:
  - a. Does the program design sufficiently incent customer participation?
  - b. Will the communications plan sufficiently facilitate customer participation?
  - c. Are Xcel's proposed eligibility rules reasonable?
  - d. Is the estimated program budget reasonable?
  - e. Are there ways to increase system benefits that the program can deliver?
  - f. What reporting should Xcel provide to track program performance and ensure that program design improvements can be identified and made over time? At what interval should reporting occur?

- g. Should there be an assessment of the program's performance and scaling opportunities after a certain duration?  
(Staff)

**Dual-Agency Review:**

*[If the Commission selects Decision Option 4, it may wish to also select Decision Option 6.]*

- 4. Allow Xcel to submit PTR as an ECO program modification to the Department of Commerce only after the Commission has issued an order on the merits of the PTR petition. (Xcel Alternative)

**Commission Review:**

*[If the Commission selects Decision Option 5, it should also consider Decision Option 6. Decision Option 6 may also be chosen independent of 5.]*

- 5. Deny Xcel's request to seek approval of its proposed Peak Time Rebate (PTR) program through an ECO program modification. (OAG) ***[and/or]***
- 6. Delegate authority to the Executive Secretary to issue a notice of comment period in this docket regarding the merits of Xcel's PTR Proposal. (OAG)