STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

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In the Matter of a Commission Inquiry into a Framework for Proactive Distribution Grid Upgrades and Cost Allocation for Xcel Energy	DOCKET NO. E-002/CI-24-318

COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL— RESIDENTIAL UTILITIES DIVISION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Comments in response to the Public Utilities Commission's April 7, 2025 Notice of Comment Period regarding a framework for proactive distribution grid upgrades. The notice requests comment on, among other things, whether the Commission should establish a proactive-upgrade framework for Xcel Energy and, if so, which requirements the Commission should adopt from a draft framework attached to the notice.

The draft framework marks the culmination of a multimonth effort by a Staff-led stakeholder workgroup. Staff convened the workgroup after the Commission directed the development of a framework following Xcel's 2023 integrated distribution plan (IDP). The workgroup met regularly from November 2025 through March 2025, breaking into subgroups to develop sections of the framework. While the stakeholder process did not reach complete consensus, many areas of the framework have broad buy-in. Moreover, the process was valuable for identifying key issues where Commission guidance is necessary. These Comments set forth the OAG's position on those key outstanding issues.

I. THE COMMISSION SHOULD ESTABLISH A PROACTIVE-UPGRADE FRAMEWORK FOR XCEL THAT PROTECTS RATEPAYERS TO THE MAXIMUM EXTENT POSSIBLE.

The April 7 notice asks at the outset whether the Commission should establish a framework for proactive distribution upgrades for Xcel. Proactive upgrades carry ratepayer risks that are not present under Xcel's standard distribution-planning processes. Proactive planning may nonetheless bring important benefits to Xcel's system. The Commission should, therefore, adopt a framework that carries robust protections to help ensure that ratepayers do not bear an unfair share of the costs of proactive upgrades.

Traditionally, utilities have charged the cost of distribution-system upgrades to interconnect new generation or load to the customer adding new generation or load.[1] This approach is consistent with cost-causation—the principle that the customer causing a cost should pay for it. Utilities accomplish this by charging new customers, or existing customers adding new load, a "contribution in aid of construction," or "CIAC." For example, Xcel will "extend, enlarge, or change its distribution . . . facilities" when "the product of the three and one half (3.5) times the anticipated annual revenue, excluding the portion of the revenue representing fuel-cost recovery from the sale of additional service to result there from is such as to justify the expenditure."[2] If the anticipated new revenue is not sufficient, under this formula, to cover the full cost of the upgrade, the customer must pay Xcel the excess.[3]

The CIAC model has important ratepayer benefits. First, under this model, upgrades are triggered by a known customer. Because a specific customer is requesting specific upgrades, there is more certainty that the upgrades are needed and will be used efficiently. Second, charging CIAC

[1] *In the Matter of Xcel Energy's 2023 Integrated Distribution Plan*, Docket No. E-002/M-23-452, Order Accepting 2023 Integrated Distribution Plan and Modifying Reporting Requirements at 10 (Sept. 16, 2024) (hereinafter *2023 IDP Order*).
[2] Xcel Energy Minnesota Electric Rate Book, § 6, sheet 26.
[3] *Id.*; *see also id.*, sheets 27–29.9 (governing CIAC for "special facilities").

helps ensure that serving a customer "will not cast an undue burden on other customers" because the costs are covered by the party responsible for causing them.[4] The CIAC model, however, was not designed to incentivize the type of rapid electrification that Xcel is currently forecasting.[5] This fact led some parties to Xcel's last IDP proceeding to advocate for more record development around proactive grid upgrades and cost allocation, prompting the Commission to institute a stakeholder process.

Proactively planning for future grid needs holds many potential benefits, but it is not without risks. There is an inherent tension between least-cost system planning and attempting to proactively upgrade the grid to meet anticipated future DER and electrification.[6] Moreover, planning on a longer time horizon magnifies the risk that distribution upgrades will be built larger than needed or in the wrong place due to forecasting errors. This in turn increases the likelihood that ratepayers will be asked to foot the bill for unnecessary or underutilized assets.

With these caveats, the OAG believes that certain components of the draft framework, along with rigorous Commission oversight, can benefit Xcel's system while helping protect ratepayers from undue risk. Most importantly, the Commission should adopt framework provisions that:

- Apply granular site- and project-evaluation criteria to help ensure that the most beneficial sites and upgrades receive priority;
- Require Xcel to collect cost-share fees from interconnecting customers to defray the burden on ratepayers; and
- Impose an overall cap on the amount of proactive-distribution-upgrade costs that can be recovered from ratepayers.

[4] *Id.*, sheet 26.
[5] *See 2023 IDP Order* at 11 (noting that "Xcel is forecasting a threefold load growth in the next 30 years").
[6] *Id.*

These and other draft framework components are discussed in detail below.

II. PROACTIVE-UPGRADE FRAMEWORK ITEMS RECOMMENDED FOR COMMISSION ADOPTION

The sections below walk through the draft framework and identify items that the OAG supports and opposes. During the workgroup process, members reached consensus on significant portions of the framework. Therefore, in the interest of efficiency, these Comments focus on areas where the OAG believes differences of opinion remain.

A. Framework Introduction

The introduction section of the framework sets forth goals and principles to help guide the framework's application. As explained below, the Commission should adopt items A.2–A.4, A.6, A.8, A.10, and A.12–A.13 to establish the following goals and principles:

> A.2. Proactively plan for the distribution system upgrades necessary to enable customer DER and electrification adoption, considering state energy policy requirements and goals.
>
> A.3. Meet customer expectations by reducing or eliminating the wait time to interconnect DERs and new load to the extent reasonably possible.
>
> A.4. Protect ratepayers by establishing a rigorous review of proposed proactive investments to ensure they do not cause undue costs or result in inequitable distribution of costs or benefits.
>
> A.6. Maximize the benefits to the distribution system while minimizing the costs.
>
> A.8. Limit cost impacts to ratepayers from forecast inaccuracies.
>
> A.10. Limit deviations from traditional cost allocation and recovery processes to the extent possible.
>
> A.12. Costs should be allocated to the customers or classes causing the costs, whenever possible.
>
> A.13. If cost-causation cannot be determined, costs should be allocated according to the distribution of benefits.

Item A.1 versus A.2:

Items A.1 and A.2 set forth alternative goals for proactive upgrades:

A.1 Proactively plan for the distribution system upgrades necessary to meet state energy policy requirements and goals.

OR

A.2 Proactively plan for the distribution system upgrades necessary to enable customer DER and electrification adoption, considering state energy policy requirements and goals.

The OAG recommends that the Commission adopt A.2. Option A.1 assumes that proactive distribution upgrades are necessary to meet state energy-policy requirements. But it does not identify any applicable policy requirements, and the OAG is unaware of any state energy policy that requires utilities to undertake proactive grid upgrades.

If the Legislature had intended to require proactive upgrades, it would have made that intent clear. For example, the Legislature has expressly required the Commission to "initiate a proceeding to establish by order generic standards for the sharing of utility costs necessary to upgrade a utility's distribution system by increasing hosting capacity or applying other necessary distribution system upgrades at a congested or constrained location."[7] This requirement resulted in a proceeding that has come to be called the "Reactive Cost Sharing Workgroup."[8] The Legislature did not similarly direct the Commission to commence a proactive-upgrades workgroup. Option A.2 is a variation of A.1 that appropriately shifts the goal's focus to planning for upgrades that are necessary to enable customer DER and electrification, considering state energy policy requirements and goals.

[7] 2024 Minn. Laws ch. 126, art. 6, § 53, https://www.revisor.mn.gov/laws/2024/0/126/laws.6.53.0#laws.6.53.0.
[8] *See* Docket No. E-002,-015,-017/CI-24-288.

Item A.4 versus A.5

Items A.4 and A.5 set forth alternative ratepayer-protection goals:

A.4 Protect ratepayers by establishing a rigorous review of proposed proactive investments to ensure they do not cause undue costs or result in inequitable distribution of costs or benefits.

OR

A.5 Protect ratepayers by establishing a ~~rigorous~~ review of proposed proactive investments to ~~ensure they do not cause undue risk costs or~~ minimize the risk of stranded assets or projects that result in inequitable distribution of costs or benefits.

The Commission should adopt A.4 to establish a goal of protecting ratepayers from undue costs or inequitable distribution of costs or benefits. Option A.5 modifies A.4 in a way that both weakens it and shifts the focus to stranded assets. While stranded assets are one way that proactive investments could cause undue costs, they are not the only way. For example, an upgrade project could be unduly expensive even if it is not "stranded" in the traditional sense of not being used at all. An upgrade could instead be simply underutilized, or its cost could be higher than reasonable. Therefore, the Commission should adopt item A.4.

Items A.12 and A.13 versus A.11 and A.14

The Commission should adopt items A.12 and A.13 because they are preferable to the alternative options A.11 and A.14. Items A.12 and A.13 state:

A.12 Costs should be allocated to the customers or classes causing the costs, whenever possible.

A.13 If cost-causation cannot be determined, costs should be allocated according to the distribution of benefits.

OR

A.11 Costs should be allocated to the customers or classes causing the costs, when appropriate.

A.14 Cost allocation may take into account the distribution of benefits.

Options A.12 and A.13 reflect the idea that traditional principles of cost-allocation—where costs are allocated to the cost-causer—should be used whenever it is possible to determine cost causation. As a fallback, when specific customers or classes are not responsible for upgrade costs, as will usually be the case with proactive upgrades, those costs should be allocated according to what customers or classes benefit from the upgrades. The principles embodied in items A.12 and A.13 are essential to protect ratepayers from unfairly subsidizing costs that they did not cause and that do not meaningfully benefit them.

Items A.11 and A.14, by contrast, are less clear about the circumstances when the Commission would depart from traditional principles of cost allocation. The Commission should instead adopt A.12 and A13.

B. Definitions

The OAG generally supports the definitions in section B other than B.15. In lieu of B.15, the Commission should adopt B.14. Items B.14 and B.15 present two alternative definitions of "Proactive Upgrade Proposal":

> B.14 Proactive Upgrade Proposal: one or more Proactive Distribution Upgrades submitted for Commission approval under the Proactive Distribution Upgrade Framework.
>
> **OR**
>
> B.15 Proactive Upgrade Proposal: one or more Proactive Distribution Upgrades submitted for Commission approval under the Proactive Distribution Upgrade Framework. In the context of this framework, the Proactive Distribution Upgrades submitted in the Proactive Upgrade Proposal would not be considered prudent under existing distribution planning practices due to the proactive nature of the projects.

Both options define a Proactive Upgrade Proposal as a filing that includes one or more proposed proactive distribution upgrades. However, B.15 goes on to suggest that to be eligible for

inclusion in a Proactive Upgrade Proposal filing, proactive distribution upgrades must not be considered prudent under normal distribution-planning practices.

While the OAG agrees that proactive distribution upgrades are outside the norm of traditional utility planning practice, the additional language in B.15 seems to suggest that proactive distribution planning is imprudent. The OAG does not believe that in directing stakeholders and Xcel to develop a framework for proactive distribution planning, the Commission intended for Xcel to propose imprudent projects. Moreover, if this language or a variation of it were adopted, it would more properly belong in the definition of a "Proactive Distribution Upgrade" (B.16). It should not be inserted into the definition of a filing that *includes* proactive upgrades. For these reasons, the Commission should adopt B.14 and not B.15.

C. Process

The OAG supports all items in the Process section of the framework except for C.5 and C.7 and recommends tabling C.11. Instead of C.5 or C.7, the Commission should adopt C.6. Item C.11 should be referred for further discussion and potential adoption in Phase 2 of the framework-development process.

Item C.5 versus C.6 versus C.7

Items C.5–C.7 each contain a slightly different version of the circumstances in which previously approved proactive distribution upgrades would require reapproval:

> C.5 Previously approved projects do not require reapproval in subsequent Proactive Upgrade Proposal evaluations unless circumstances have changed significantly. Significant changes would be considered scope changes to the project that would impact overall project cost.
>
> **OR**
>
> C.6 Previously approved projects do not require reapproval in subsequent Proactive Upgrade Proposal evaluations unless circumstances have changed significantly. Significant changes ~~would be considered~~ include but are not limited to scope changes to the project that would impact overall project cost.

OR

C.7 Previously approved projects do not require reapproval in subsequent Proactive Upgrade Proposal evaluations unless circumstances have changed significantly. Significant changes would be considered scope changes to the project that would impact overall project cost. Projects that have already incurred charges would not need reapproval, however scope changes would require Commission approval.

C.5 unduly restricts the circumstances that would warrant reapproval solely to "scope changes to the project that would impact overall project cost." For example, if forecasted load changed significantly at a location on the distribution grid for which the Commission had previously approved an upgrade, that might warrant reapproval for the project to go forward. Simply put, it is impossible to predict what changed circumstances might arise in the future, and so it is inappropriate to restrict reapproval to only one situation (scope changes that impact overall project cost).

Item C.7 suffers from the same over-restrictiveness as C.5. Moreover, C.7 adds a further restriction—if a project has already incurred charges, it would not require reapproval. It is unclear why the Commission would want to limit its ability to reapprove projects in this manner, and it seems unwise to do so before utilities and stakeholders have gained an understanding, through real-world experience with proactive upgrades, of what types of changed circumstances may impact the need for project reapproval. For these reasons, the Commission should adopt C.6.

Item C.11

Finally, item C.11 may benefit from further discussion in Phase 2 of the framework-development process.[9] Item C.11 requires utilities to establish a Distributed Generation Engagement Group (DGEG) to coordinate proactive system planning with developers of distributed generation (DG). In addition to the utility and industry representatives, the DGEG

[9] *See* Notice of Comment Period, attach. B (Apr. 7, 2025) (Phase 2 proposal).

would include one representative from the Department and one from the OAG. The utility would be required to engage with the DGEG to collect input for its forecast prior to it being finalized.

Item C.10 of the framework already requires a utility to engage with stakeholders prior to its forecast being finalized and provide a process for stakeholders to submit written feedback on the initial forecast. The need for a separate process focused on DG developers (C.11) therefore seems less than urgent. While there may be good reasons to hold a separate process specifically for developers, the OAG is mindful of resource constraints among stakeholders and would want to be certain that a DGEG would provide value incremental to what C.10 provides. Further discussion in Phase 2 may help to further clarify the scope of what a DGEG would be tasked with and how it could be beneficial to the process.

D.–F. Baseline Information, Forecast, and Potential Sites for Proactive Upgrades

The OAG supports all items listed in sections D through F of the draft framework.

G. Proactive Distribution Upgrade Evaluation Criteria

The OAG supports all items listed in section G of the draft framework except item G.14. Instead of G.14, the Commission should adopt item G.15. The two items state as follows:

G.14 Which of the following desired outcomes of the proactive planning process would be facilitated by the proposed upgrade?

G.14.a Anticipate Adoption Speed: Increased adoption speed of DERs and electrification by removing grid barriers.

G.14.b Coordinate Impacts: Avoided risk of construction/procurement bottlenecks.

G.14.c Efficiency: Degree of lifecycle cost reduction or overall spending efficiency achieved.

OR

G.15 Which desired outcomes of the proactive planning process would be facilitated by the proposed upgrade.

The OAG does not object to the three outcomes enumerated in G.14. However, the issue with G.14 is that it effectively adopts new and/or rephrased goals outside the list of goals in the framework's introduction. If these outcomes are important enough to be called out here, presumably they are important enough to be listed among the goals at the beginning of the framework, to the extent that those goals do not already cover these outcomes. Moreover, the list of outcomes in G.14 appears to be exclusive. Providing an exclusive list of outcomes in G.14 implies that the Commission is to ignore the goals established in the framework's introduction when evaluating a proposed upgrade under part G.

Instead of G.14, the Commission should adopt G.15. G.15 would accomplish the same purpose as G.14—without the ambiguities it entails—by simply referencing the "desired outcomes" found at the beginning of the framework. The broad goals established at the beginning of the framework are appropriate for the early stages of proactive distribution planning; however, more specific goals could be included in future iterations if experience suggests that they would be beneficial.

H. Non-Location-Specific Measures

The OAG recommends that the Commission refer H.1 and H.2 for further refinement in Phase 2 of the framework-development process. While it seems likely that non-location-specific, programmatic investments could have value, there is currently not sufficient guidance on what these investments are or how the Commission will evaluate and prioritize them. Accordingly, the OAG recommends that the Commission reserve this topic for further discussion in Phase 2. In particular, it would be helpful if proponents of non-location-specific measures could provide concrete examples of these types of investments, how they relate to location-specific proactive upgrades, and how they derive value for a utility's system.

J.–K. Cost Recovery and Cost Allocation

1. Policy considerations

Because of the more speculative nature of proactive distribution upgrades, their cost recovery and allocation should be treated differently than run-of-the-mill investments. Most importantly, utilities should be required to collect cost-share fees from new customers who interconnect to areas of the grid served by proactive upgrades.

The draft framework includes alternatives that would charge interconnecting customers for accessing proactive distribution upgrades. These fees are called "cost-share fees" and are expressed in dollars per kilowatt ($/kW). During a proactive upgrade's "cost-share window"—a period following an upgrade's in-service date—new customers utilizing the upgrade's capacity would be charged a one-time cost-share fee based on the amount of capacity they required.

Cost-share fees are essential to protect ratepayers from subsidizing the full cost of proactive upgrades, much as CIAC currently works for "reactive" upgrades. Without cost-share fees, there would be significant potential for opportunistic actors to free-ride on the new capacity created by ratepayer-funded proactive upgrades.

2. Recommended framework items

The following sections recommend framework items related to cost recovery and cost allocation. First, base rates should be the primary method of recovering proactive-upgrade costs that Xcel does not recoup through cost-share fees. Second, the cost-share window should remain open for as long as possible to limit free-ridership. Ideally, this period would extend until an upgrade is fully paid off though depreciation and cost-share fees. Third, there should be a cap on overall proactive upgrade costs that can be recovered from ratepayers, which the Commission should select in Xcel's next IDP proceeding. The fourth section describes how the Commission's approval of proactive upgrades relates to future cost-recovery proceedings. Finally, the OAG

describes and supports additional proposals for how proactive-upgrade costs should be allocated among ratepayers.

a. Cost-recovery mechanism

The primary cost-recovery mechanism for proactive distribution upgrades should be through base rates, with any cost-share fees collected by Xcel serving as an offset to rate base, similar to how CIAC currently operates. No option in the draft framework currently specifies base rates as the primary cost-recovery mechanism. Therefore, the OAG offers the following new option, J.0:

> J.0. The primary mode of cost recovery for proactive distribution upgrades is through a utility's base rates.

The OAG also supports item J.4, which provides that fees collected from customers utilizing the upgrades will be returned to ratepayers as an offset to proactive upgrade capital investments:

> J.4 All cost-share fees collected from Cost-Share Customers shall be returned to ratepayers as an offset to proactive upgrade capital investments.

The OAG's understanding of "capital investments" as used in J.4 is that it is synonymous with "rate base." For clarity, the Commission may want to modify J.4 to replace "capital investments" with "rate base," but this is not essential assuming other parties have the same understanding.

The OAG opposes J.3 because the item assumes that proactive upgrades would automatically be treated as regulatory assets and/or receive deferred accounting treatment.[10] The

[10] Deferred accounting is "a regulatory tool used primarily to hold utilities harmless when they incur out-of-test-year expenses related to utility operations for which ratepayers have incurred costs or received benefits that, because they are unforeseen, unusual, and large enough to have a significant impact on the utility's financial condition, should be eligible for rate recovery in the next rate case." *In the Matter of a Petition for Approval of Deferred Accounting Treatment of Costs Related to the 2016 Storm Response & Recovery*, Docket No. E-015/M-16-648, Order

OAG would, however, support J.2 as an alternative to J.3. Item J.2 would allow a utility to *request* deferred-accounting treatment for a proactive upgrade at the time the utility seeks Commission approval of the upgrade itself. The Commission could then decide whether deferred accounting is appropriate at the time it approves an upgrade, applying the deferred-accounting standard to the facts before it.[11]

Automatic regulatory-asset or deferred-accounting treatment for proactive upgrades, as assumed by J.3, is unnecessary and risks unduly increasing ratepayer costs. Contrary to J.3's suggestion that it is needed "to ensure that the costs of the upgrades are transparently accounted for and can be recovered," no party has identified any obstacle to accounting for proactive upgrades like any other capital asset.[12] Further, the OAG is concerned that placing upgrades in a regulatory

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Denying Petition for Deferred Accounting Treatment at 2 (Jan. 10, 2017). A regulatory asset is an accounting vehicle for tracking costs subject to deferred accounting. *See In the Matter of 2019 Annual Revenue Decoupling Evaluation Report and Revenue Decoupling Mechanism Adjustment Calculation*, Docket No. G-011/M-20-332, Order Approving Revenue Decoupling Adjustments, attach. at 12 (Mar. 8, 2021) (noting that FERC's Uniform System of Accounts "allows for deferred accounting to create regulatory assets that result from the ratemaking actions of regulatory agencies").

[11] *See* Docket No. G-011/M-20-332, Order Approving Revenue Decoupling Adjustments, attach. at 13–14 (Mar. 8, 2021) (stating that Commission had previously required that "costs for which deferred accounting is requested [be] (1) unusual, unforeseeable, and/or extraordinary (2) financially significant in amount, (3) related to utility operations, and (4) likely to provide or did provide ratepayer benefit" or "significant expenses incurred pursuant to public policy mandates"); *see also In the Matter of Xcel Energy's Petition for Approval of Electric Vehicle Pilot Programs*, Docket No. E-002/M-18-643, Order Approving Pilots with Modifications, Authorizing Deferred Accounting, and Setting Reporting Requirements at 19–20 (allowing deferred accounting for pilot programs that served important public policy objectives and had limited ratepayer impact).

[12] Treating cost-share fees as an offset to rate base (like CIAC) should not require any special tracking mechanism. It simply requires Xcel to record the fee payment in its books at the time it is received. When the utility files its next rate case, the benefit of that fee will flow to ratepayers through a correspondingly reduced net plant amount. While this approach means that ratepayers would not receive the benefit of the cost-share fee until Xcel files a rate case, they also would not experience the burden of the upgrade's cost until that time. And while Xcel would forego cost recovery for the upgrade until its next rate case, the same would be true for any capital asset that goes in service between rate cases.

asset will mean that ratepayers end up paying unnecessary interest costs in the form of carrying charges.

For a capital asset like a distribution upgrade, deferred accounting allows a utility to track the annual revenue requirements associated with the asset—primarily, depreciation expense and a return—that the utility incurs between rate cases and permits the utility an opportunity to recover those costs in a future rate case. As depreciation and return are incurred, they are added to the deferred costs in the regulatory asset. If a utility goes several years between rate cases, the regulatory asset will contain several years of depreciation expense and return. Utilities may also ask to recover a "carrying charge"—representing the time value of money—on the deferred balance to compensate them for temporarily foregoing recovery of those costs. In the case of proactive upgrades, a carrying charge would essentially mean that ratepayers are paying interest (a carrying charge) on interest (a return). The compounding effect could be substantial, especially if the regulatory asset balance is carried for several years with few or no offsetting cost-share fees.

For these reasons, it is most reasonable to have proactive upgrades placed in rate base as the default option, rather than in a regulatory asset. Xcel, however, would not be precluded from requesting deferred accounting for particular projects. In the next section, the OAG explains that, to provide maximum protection to ratepayers, the Commission should require the cost-share window to remain open until an asset's balance is fully paid down through a combination of accumulated depreciation and cost-share fees.

b. Cost-share window

Keeping the cost-share window open until an asset is fully depreciated would provide maximum protection to ratepayers because it allows the greatest possible opportunity for a utility to collect cost-share fees to offset the upgrade's capital cost. For this reason, the OAG supports item J.6 with the modifications discussed below. The OAG opposes items J.7 and J.8 because they

envision a much shorter cost-share window and do not treat cost-share fees as an offset to rate base.

Items J.5 and J.6

The OAG supports J.6, modified as follows:

J.6 ~~Where socialization of an upgrade's cost (i.e., rate-base treatment) begins with the utility's next rate case following the upgrade's in-service date, t~~ The cost-share window for ~~that~~ an upgrade shall remain open until the upgrade is fully depreciated to help mitigate risks to ratepayers.

Under item J.6, once an upgrade is in service, annual deprecation would commence, reducing the asset's balance by a set amount per year based on its expected useful life. At the same time, any cost-share fees would also be applied to reduce the asset's balance as those fees were collected. After the asset's balance had been reduced to zero on the utility's books through accumulated depreciation and fee offsets, no further cost-share fees would be collected.

The OAG originally offered J.5 to provide a 15-year cost-share window for an upgrade when it is placed in service as a regulatory asset. The OAG no longer believes, however, that regulatory-asset treatment is reasonable. Moreover, foregoing any rate recovery for 15 years as suggested by J.5 increases the risk of the regulatory asset growing unreasonably large before it is moved to base rates at the end of 15 years, particularly if few or no cost-share fees are collected. Therefore, the OAG does not recommend adopting J.5.

Items J.7 through J.9

The OAG opposes items J.7 and J.8 and takes no position on J.9.

Items J.7 and J.8 assume a five-year cost-share window, which may not provide an adequate opportunity to collect cost-share fees to offset ratepayer costs and would encourage free-riders. A short cost-share window would create at least two risks: First, by cutting off cost-share fees too quickly, it would shift upgrade costs to ratepayers if the expected load materialized slightly

later than forecasted (say, six years later). Second, a short cost-share window could have the perverse effect of delaying investments because developers or customers wishing to add load would have an incentive to delay interconnection until just after the window closed. By contrast, a cost-share window that lasted until an upgrade's cost was fully paid down would significantly limit the potential for this kind of gamesmanship.

Moreover, J.7 contemplates that cost-share fees would offset not the asset balance itself but the asset's revenue requirements. This would allow Xcel to collect a return on a larger rate-base balance for longer. It would be more reasonable to treat cost-share fees as an offset to rate base, the way CIAC operates, which would reduce the amount of return that ratepayers must pay for an asset over its lifetime.

c. Cost cap

Since proactive distribution upgrades will be socialized to some extent—possibly to a large extent—it is critical that their overall cost be capped to mitigate ratepayer impacts. To accomplish this, the Commission should adopt items J.10 and J.11:

J.10 Total proactive upgrade costs recoverable from ratepayers shall be capped in some manner, such as a percentage of the total capacity-related five-year budget in the IDP, or a specified dollar cap on proactive upgrades. The cost cap shall be determined as part of the Commission's first Proactive Upgrade Proposal decision.

J.11 Capital expenditures that have been offset by cost-share fees do not count against the cap.

Item J.10 provides that the total proactive upgrade costs recoverable from ratepayers will be capped but leaves the decision on a specific cap amount for the Commission to determine when it makes its first decision approving proactive distribution upgrades. It will be easier for the Commission to make an informed decision about the size of cap in the context of specific utility proposals for proactive upgrades. And, since this cap will be set by order, the Commission can revisit it in future IDP proceedings and adjust it up or down as necessary.

Item J.11 provides that any proactive-distribution-upgrade costs that have been offset by cost-share fees would not count toward the cap. This is reasonable because, to the extent that capital expenditures for proactive upgrades have been paid down by cost-share fees, they do not impact ratepayers and do not need to be considered in applying the cap. This provision would also incentivize Xcel to ensure that cost-share fees are collected and recorded to free up cap headroom for more proactive investments.

Finally, the Commission should not adopt item J.12. If J.12 is adopted with a short cost-share window like that contemplated by J.7 (five years), then a cap would be virtually meaningless and would allow significant costs to be socialized. This could occur if there was less load growth at the upgrade's location during the cost-share window than originally forecasted, resulting in few or no fees being received from interconnecting customers. At the end of five years, all or substantially all of the upgrade cost would then be moved to base rates, and the cap would no longer apply to these costs. Item J.12 would largely defeat the ratepayer-protection purpose of a cap because it would fail to count substantial ratepayer costs that were not offset by user fees.

d. Prudency review

The OAG supports items J.13 and J.18, which establish a rebuttable presumption of prudence for upgrades that the utility has completed consistent with a Commission decision:

> J.13 The Commission's Proactive Upgrade Proposal decision creates a rebuttable presumption, in a cost-recovery proceeding, that upgrades completed consistent with the decision are prudent.
>
> J.18 An interested person may submit substantial evidence to rebut the Proactive Upgrade Proposal findings and conclusions in a cost recovery proceeding.

A rebuttable presumption of prudence for approved proactive upgrades would be analogous to how integrated resource plan (IRP) approval works. In approving a proactive upgrade, the Commission would be finding that there is a prospective need for an upgrade of a certain type, at

a certain location, and at a certain cost. Assuming the utility completes the upgrade consistent with the decision approving it, it is reasonable for the upgrade to be presumed prudent. However, similar to an IRP decision, the Commission's approval of a proactive upgrade should not tie its hands in future cost-recovery proceedings. Adopting J.18 and conjunction with J.13 would give the utility reasonable certainty of being able to recover its costs while also protecting ratepayers by allowing interested persons to bring forward affirmative evidence that the utility's execution of the upgrade was imprudent or that other circumstances render rate recovery unreasonable.

The other options under "prudency review" are unreasonable for various reasons. Items J.14–J.16 assume that Commission approval of proactive upgrades constitutes an advance determination of prudence. The concept of an "advance determination of prudence" does not exist in Minnesota law, and the Commission should not invent this regulatory concept where the Legislature has not acted to do so. An advance determination of prudence (ADP) is an attempt to tie the Commission's hands in a future ratemaking proceeding. But doing so is neither feasible nor good policy. First, an ADP is not feasible because the Commission cannot bind a future Commission's cost-recovery determination regarding proactive upgrades.[13] Moreover, even if the Commission could predetermine the prudence of not-yet-built projects, it should not do so because it would be unfair to ratepayers. There could be situations where it is imprudent to build an approved upgrade—for example, if there is a major change in need following the Commission's decision. For example, a proactive upgrade might be approved assuming commercial development would occur in a certain area. But if intervening events rendered commercial development at that

[13] *See* Minn. Stat. § 216B.25 (stating that Commission "may at any time, on its own motion or upon motion of an interested party, . . . rescind, alter, or amend any order fixing rates, tolls, charges, or schedules, or any other order made by the commission, and may reopen any case following the issuance of an order therein, for the taking of further evidence or for any other reason").

location infeasible, it might be imprudent for Xcel to continue its planned proactive upgrade. It would not be fair for ratepayers to bear the cost of a project that Xcel knew or reasonably should have known was no longer needed, even if it had been found needed based on an earlier forecast.

Finally, items J.17 and J.19 are unnecessary and unreasonable because they attempt to shift risks from the utility to ratepayers. Item J.17 attempts to ensure that the utility will be able to recover all funds that it spends—even if those funds may have been spent imprudently—as long as the utility spends them before the Commission decides that they are imprudent. This is inconsistent with black-letter utility law.[14] It is also unreasonable because it would provide an incentive to sink money into a project that may be found imprudent. Item J.19 attempts to ensure that a utility can recover all costs as long as they do not exceed the budget approved by the Commission. While staying within budget may be a sign that the utility has acted prudently, there could be reasons to find within-budget expenditures imprudent or otherwise unreasonable for rate recovery (such as a subsequent change in need of which the utility is aware). The Commission should not adopt these items that purport to tie its hands in future cost-recovery proceedings.

e. Cost allocation

The items in this section deal with two broad topics: (1) how cost-share fees are calculated and who pays them and (2) how any upgrade costs not covered by fees are allocated among ratepayers. The OAG's only position on how cost-share fees should be assessed is that fees should reflect the number of kilowatts an interconnecting customer needs and the cost per kW of the upgrade the customer is accessing—or, alternatively, the per-kW cost of proactive upgrades in the aggregate. Regarding allocation of costs among ratepayers, the OAG supports item K.24 and modified versions of K.25 and K.26:

[14] *See In re Petition of N. States Power Co.*, 416 N.W.2d 719, 723 (Minn. 1987) (holding that mere fact that utility incurred a cost does not mean it is just and reasonable for ratepayers to bear it).

K.24 For upgrades primarily intended to enable load growth by residential and small commercial customers, traditional cost allocation methods in a rate case shall apply. Specifically, the utility shall record costs from the upgrades in their respective FERC accounts and allocate costs with cost allocators from the utility's most recent rate case.

K.25 For upgrades primarily serving large commercial and industrial customers, proactive upgrades shall be tracked separately from other rate-base assets ~~and their total cost~~ allocated ~~based on customer classes' aggregate contribution to the need for proactive upgrades~~ to the large commercial and industrial classes contributing to the need for or benefiting from the upgrades.

K.26 If proactive upgrade costs are socialized to ratepayers, the utility shall identify and mitigate adverse bill impacts on under-resourced customers and/or small businesses ~~by adjusting cost allocation within or among classes~~.

Item K.24 reflects the general consensus among workgroup members that no special cost-allocation method is required for upgrades serving primarily residential and small commercial load growth. Such upgrades are likely to be similar in nature to standard distribution investments, be modest in cost, and have widely distributed benefits, making traditional cost-allocation methods fair. At the same time, K.26 should be adopted with K.24 to help protect under-resourced customers from inequitable cost impacts. Under-resourced customers are less likely to be able to participate in the energy transition through end uses like electric vehicles, rooftop solar, and electric space heating, making it potentially unfair for them to bear the same share of proactive upgrade costs as customers that can participate fully in these end uses. The OAG recommends striking the last phrase from K.26 as shown above. While adjusting cost allocation is one method for mitigating bill impacts to under-resourced customers, there may be other methods. Striking the last phrase leaves the means of mitigation open-ended and gives the Commission more flexibility in addressing adverse bill impacts.

With regard to upgrades primarily serving large commercial and industrial customers, the OAG recommends that their costs be tracked separately from other rate-base assets and allocated to the large commercial and industrial classes causing or benefitting from those upgrades (K.25).

There are several reasons why it would not be fair to allocate the costs of upgrades serving large commercial and industrial customers among all ratepayers like standard distribution plant. First, such upgrades are likely to be costly and are unlikely to have wide-ranging system benefits that would make broader allocation of their costs fair. For example, it would be unfair for upgrades made to serve anticipated data-center load to be allocated to residents and small businesses. Additionally, upgrades made to serve large commercial or industrial customers are more likely to have been planned with specific customers in mind, making them more like reactive upgrades appropriate for traditional cost-allocation methods like CIAC. For this reason, the OAG supports item K.22:

> K.22 Insofar as proactive upgrades are associated with forecasted needs associated with identifiable customers, those customers shall be allocated costs consistent with existing CIAC policies, and an upgrade shall not be eligible for the proactive process.

Item K.22 simply says that if a utility is contemplating a "proactive" upgrade based on the forecasted need of a known customer, the upgrade should not be eligible for the proactive process at all. Instead, the utility should work with the customer on a plan to address the customer's needs in a timely manner, and the customer should be allocated costs consistent with the utility's existing CIAC policies. Item K.22 will help protect ratepayers by limiting the ability of large commercial and industrial customers to seek ratepayer subsidies for their electrification plans.

Finally, the OAG supports item K.12 but notes that it may duplicate J.4 (which, as noted earlier, the OAG supports). Item K.12 states,

> K.12 Insofar as proactive upgrade costs are recovered from customers through Interconnection Cost-Share Fees those revenues shall be returned to ratepayers. Costs recovered through this tool should "pay down" the remaining unattributable proactive upgrade costs that are socialized to ratepayers.

Meanwhile, item J.4 states,

J.4 All cost-share fees collected from Cost-Share Customers shall be returned to ratepayers as an offset to proactive upgrade capital investments.

The OAG understands both items to be saying that any cost-share fees received by the utility act to "pay down" the initial investment in a proactive upgrade—that is, act as an offset to rate base.

L. Capacity Reservation

The OAG recommends that the Commission take no action on capacity reservations at this time and instead refer this issue for further discussion in Phase 2.

M. Reporting

The OAG supports all items in the reporting section except M.2. Instead of M.2, the Commission should adopt M.3, modified as shown:

M.3 For projects where the cost-share window has closed, the utility may discontinue updates in the project-by-project reporting points under ~~M.4 and~~ M.5 and M.6.

The intent of M.3, which the OAG proposed as an alternative to M.2, is to allow project-by-project reporting to cease after an upgrade's cost-share window has closed. The project-by-project reporting requirements are contained in M.5 and M.6, so the reference to M.4 and M.5 simply needs to be corrected as shown above.

M.3 is preferable to M.2 because M.2 would allow Xcel to stop including a project in the aggregate reporting under M.4 after the project's cost-share window closes. If the Commission adopts M.2, it would eventually lose insight into the aggregate impacts of all proactive upgrade projects because, once upgrades' cost-share windows begin to close, they would be removed from the reported statistics. Just because a project is no longer in its cost-share phase does not mean its costs and other impacts are no longer relevant to ratepayers or the Commission. The Commission should adopt M.3 to ensure that it has a view into the full impact of proactive upgrades over the long term.

III. TOPICS TO BE ADDRESSED IN PHASE 2

In addition to the topics listed in Attachment B to the April 7 notice, the Commission should add the following items to the Phase 2 scope, as discussed earlier in these Comments:

- The need for and parameters of a separate Distributed Generation Engagement Group stakeholder-engagement process (item C.11);
- How non-location-specific, or "programmatic," measures should be defined, how they relate to location-specific proactive upgrades, and how they derive value for a utility's system (H.1 & H.2); and
- Whether capacity reservations for proactive upgrades are necessary or appropriate and, if so, under what conditions and how they should be determined (Section L).

CONCLUSION AND RECOMMENDATIONS

The Commission should adopt the framework items shown in the table below. For convenience, the new and modified items discussed earlier in these Comments and noted in the table are set forth in full after the table.

Framework Section	Items Supported
A. Introduction	A.2–.4, A.6, A.8, A.10, A.12–.13
B. Definitions	B.1 or B.2 (no position), B.3–.6, B.7 or B.8 (no position), B.9–.14, B.16–.17
C. Process	C.1–.4, C.6, C.8–.10
D. Baseline Information	D.1–.5 (all)
E. Forecast	E.1–.6 (all)
F. Potential Sites for Proactive Upgrades	F.1–.8 (all)
G. Proactive Distribution Upgrade Evaluation Criteria	G.1–.13, G.15–.16
J. Cost Recovery	J.0 (new), J.2, J.4, J.6 (modified), J.10–.11, J.13, J.18
K. Cost Allocation	K.12, K.22, K.24, K.25 (modified), K.26 (modified)
M. Reporting	M.1, M.3 (modified), M.4–.12

The OAG recommends the following new and modified items:

J.0 The primary mode of cost recovery for proactive distribution upgrades is through a utility's base rates.

J.6 ~~Where socialization of an upgrade's cost (i.e., rate-base treatment) begins with the utility's next rate case following the upgrade's in-service date, t~~ The cost-share window for ~~that~~ an upgrade shall remain open until the upgrade is fully depreciated to help mitigate risks to ratepayers.

K.25 For upgrades primarily serving large commercial and industrial customers, proactive upgrades shall be tracked separately from other rate-base assets ~~and their total cost~~ allocated ~~based on customer classes' aggregate contribution to the need for proactive upgrades~~ to the large commercial and industrial classes contributing to the need for or benefiting from the upgrades.

K.26 If proactive upgrade costs are socialized to ratepayers, the utility shall identify and mitigate adverse bill impacts on under-resourced customers and/or small businesses ~~by adjusting cost allocation within or among classes~~.

M.3 For projects where the cost-share window has closed, the utility may discontinue updates in the project-by-project reporting points under ~~M.4 and~~ M.5 and M.6.

Finally, the Commission should add the following topics to the Phase 2 scope:

- The need for and parameters of a separate Distributed Generation Engagement Group stakeholder-engagement process (item C.11);
- How non-location-specific, or "programmatic," measures should be defined, how they relate to location-specific proactive upgrades, and how they derive value for a utility's system (H.1 & H.2); and
- Whether capacity reservations for proactive upgrades are necessary or appropriate and, if so, under what conditions and how they should be determined (Section L).

Dated: May 8, 2025

Respectfully submitted,

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