BEFORE THE MINNESOTA COURT OF ADMINISTRATIVE HEARINGS
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In the Matter of the Petition of the City of Slayton for the Determination of Compensation for City Acquisition of Xcel Energy Electric Service Territory	CAH File No. 25-2500-40870 MPUC Docket No. E-002/PT-7157/ SA-25-129

INITIAL BRIEF OF THE MINNESOTA DEPARTMENT OF COMMERCE

March 13, 2026

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INTRODUCTION

The City of Slayton (City) intends to form a municipal electric utility to serve its residents. Before it can, the City must acquire the electric distribution facilities owned by the incumbent provider, Xcel Energy. This proceeding's purpose is to determine how much the City must pay Xcel. Predictably, the City and Xcel respectively under- and overstate the just compensation owed. Rather than rely on this self-interested analysis, the Minnesota Public Utilities Commission should rely on Minnesota Department of Commerce's recommendations.

FACTS

Xcel Energy

Xcel Energy is an investor-owned, regulated public utility that maintains its corporate headquarters in Minneapolis. Xcel has provided electric service to Slayton and its surrounding community for over 70 years.[1] Xcel emphasizes its commitment to customer service quality and reliability and points to infrastructural investments of recent years including the rebuilding of a single-phase line in the City of Slayton, distribution pole testing and replacement, and a transmission line rebuild project that impacts City of Slayton service.[2]

City of Slayton

The City of Slayton is in southwest Minnesota. The City is situated within Xcel Energy's Minnesota assigned electric service territory.[3] The City council noted a period of customer dissatisfaction with Xcel Energy in November 2022.[4] The dissatisfaction stemmed from service quality concerns including outage frequency and repeated delays in responding to outages.[5] The

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[1] Ex. Xcel-214 at 2 (Marshall Direct).
[2] Ex. Xcel-214 at 15-19 (Marshall Direct).
[3] City of Slayton Petition at 1 (Feb. 24, 2025) (eDocket No. 20252-215733-01).
[4] *Id.* at 2.
[5] *Id*.

City is seeking to acquire Xcel Energy's electric distribution facilities within City limits in order to form an independent municipal electric utility.[6] The City received conditional authority to acquire said facilities via majority vote of City-registered voters, subject to a $7 million limit to the start-up costs in compliance with Minn. Stat § 412.321, subd. 2.[7]

Prior Negotiations

The Commission is only involved in determining just compensation when a municipality and a public utility are unable to reach agreement.[8] In this case, negotiations between the City and Xcel failed to reach agreement.[9] Xcel believes it is entitled to about $39.2 million dollars.[10] The City has offered less than $4 million dollars.[11] The key disagreement is how much loss of revenue compensation Xcel should receive.[12]

ARGUMENT

The City has the burden to establish that its proposed compensation to acquire Xcel's facilities within the city is just by a preponderance of the evidence.[13] Minnesota Statutes sections 216B.44 and 216B.45 should inform the Commission's just compensation determination. These statutes rely on an identical four-prong framework for determining compensation in municipal service territory extension and municipal purchase of public utility matters: (1) the original cost of the property less depreciation, (2) loss of revenue to the utility, (3) expenses resulting from integration of facilities, and (4) other appropriate factors.

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[6] City of Slayton Petition at 1 (Feb. 24, 2025) (eDocket No. 20252-215733-01).
[7] *Id.* at 2-3.
[8] Minn. Stat. § 216B.45 (2024).
[9] City of Slayton Petition at 3 (Feb. 24, 2025) (eDocket No. 20252-215733-01).
[10] Ex. Xcel-209 at 45 (Peterson Surrebuttal).
[11] Ex. Slayton-114 at 33 (Berg Surrebuttal).
[12] City of Slayton Petition at 3 (Feb. 24, 2025) (eDocket No. 20252-215733-01).
[13] Minn. R. 1400.7300 subp. 5.

The City's proposal will not justly compensate Xcel because the proposal does not adequately address two of the four statutory factors (partially due to information asymmetry between the parties) and underestimates Xcel's loss of revenue.[14] Xcel's counterproposal, however, has its own flaws. Some of Xcel's integration expenses are inappropriate, the addition of the Slayton West substation as an appropriate factor needs to be reviewed, and the Company overestimates loss of revenue. Given these deficiencies, the Commission's determination should be guided by the Department's analysis.

I. THE DEPARTMENT'S ANALYSIS SHOULD GROUND THE COMMISSION'S JUST COMPENSATION DECISION.

State law requires the Commission to consider four factors in determining just compensation in a municipal acquisition property transaction: original cost less depreciation, loss of revenue to the utility, expenses resulting from integration of facilities, and other appropriate factors.[15] The Commission has explained the purpose of this analysis is "to place the displaced utility in the same financial position it would have occupied had the acquisition not occurred."[16] Both Parties have structured their just-compensation analyses using the four-pronged framework derived from Minn. Stats. §§ 216B.44 and 216B.45.

In this case, the City and Xcel principally dispute the second, third, and fourth factors of the just compensation statutory framework. The Department's analysis, however, provides the most reliable approach to applying the factors.

[14] Ex. Slayton-103 at 12-13, 48-49 (Berg Direct).
[15] Minn. Stat. § 216B.45.
[16] *In re Compl. Regarding the Annexation of a Portion of the Serv. Territory of People's Coop. Power Ass'n by the City of Rochester*, Docket No. E-132, 299/SA-88-270, ORDER DETERMINING COMPENSATION (July 11, 1990).

A. The Parties Agree that Xcel's Current Property Value Equals Original Cost Minus Accumulated Depreciation.

The first factor requires the Commission to consider the original cost of the property less depreciation in determining the current value of the property to be sold.[17] The Parties all generally interpret the first factor in a consistent and reasonable manner. All parties treat the current value of the property interest at stake as the net book value of the distribution assets being transferred – calculated as original cost less accumulated depreciation.[18] This is in line with standard utility accounting and ratemaking practices. To ensure that the property values are up-to-date at the transaction close, the Commission should require Xcel to update and document the net book value including a list of the final assets, their original cost, and their accumulated depreciation at the time of the transfer.[19]

B. The Department's Loss of Revenue Analysis Provides a Grounded, Historically Supported Basis for Calculations.

The second factor that the Commission must consider in determining just compensation is lost utility revenue.[20] In making this determination, the Commission should be guided by the Department's analysis and the Commission's own past decisions in service area extension cases addressing the relevant look forward period, foreseeable customer growth, and payment method.

The Commission should define Xcel's loss of revenue as the present value of the net operating margins that Xcel would have earned from serving the Slayton area.[21] Net operating margins, in turn, refer to gross revenues from Slayton customers, minus the costs Xcel will avoid

[17] Minn. Stat. § 216B.45.
[18] Ex. DOC-301 at 6 (Ngo Rebuttal).
[19] *Id.* at 6-7.
[20] Minn. Stat. § 216B.45.
[21] Ex. DOC-301 at 7 (Ngo Rebuttal).

when it no longer serves those customers. This approach is consistent with past Commission decisions where similar definitions were used.[22]

First, the Commission should apply the Department's recommended lost revenue methodology over a ten-year period. A ten-year time horizon is reasonable because it balances the need to compensate for real economic loss against the risk of speculative forecasts, while giving Xcel a reasonable period to adjust its system to changes brought on by the property transfer.[23] In service area extension cases under Minn. Stat. § 216B.44, the Commission has repeatedly concluded that a ten-year time horizon is appropriate for compensating the utility's loss of revenue from both existing and future customers; moreover, overly long time periods are not justified.[24]

Contrary to the Department's recommendation, both Xcel and the City propose significantly different time periods that are unreasonable. Xcel proposes that the Commission calculate lost revenue over a 20-year time period, which is much longer than the period typically used in prior Commission municipal-acquisition cases. Xcel claims this time frame is reasonable because it is based partly on the time horizon of the utility's planning processes and the expected life of utility assets.[25] Xcel asserts that its generation, transmission and distribution assets have expected lifespans between ten and thirty years.[26] Xcel, thus, asserts the relevant time period for

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[22] *In re Appl of the City of Redwood Falls to Extend its Assigned Serv. Area into the Area Presently Served by Redwood Elec. Coop.*, Docket No. E-135, 298/SA-05-1274, ORDER DETERMINING COMPENSATION at 3-4 (June 27, 2007) (eDocket No. 44537663).
[23] Ex. DOC-301 at 8 (Ngo Rebuttal).
[24] See *In re Appl. of the City of Rochester for an Adjustment of its Serv. Area Boundaries with People's Coop. Power Ass'n*, Docket No. E-132,299/SA-93-498, ORDER DETERMINING COMPENSATION at 5, 11 (eDocket No. 162864-A) (Nov. 30, 1995); *In re Appl. of the Grand Rapids Pub. Utils. Comm'n to Extend its Assigned Serv. Area into the Area Presently Served by Lake Country Power*, Docket No. E-243,106/SA-03-896, ORDER DETERMINING COMPENSATION at 19 (eDocket No. 2373348) (Sept. 29, 2005).
[25] Ex. Xcel-204 at 13 (Peterson Direct).
[26] Ex. Xcel-210 at 4 (Sun Direct).

calculating lost revenue should not be less than 10 years or more than 30 years.[27] Ultimately, Xcel recommended a 20-year horizon and a lump-sum present value of forecasted net revenue from existing and future customers, emphasizing fixed costs and assuming that lost contributions have long-lasting effects.[28] The City, on the other hand, proposes only a five-year period based on a net-margin-per-kWh figure derived from 2026 revenue-requirement data.[29] The City's five-year proposal is shorter than the historical benchmark. The City defines the relevant time horizon as the time it would take the incumbent utility to adjust its operations for the loss of the service territory.[30] The City believes a five-year time horizon provides Xcel with a reasonable time period to fully mitigate and adjust its overall system to the small loss of Slayton's load.[31]

Second, in applying the Department's lost revenue methodology over a ten-year period, the Commission should consider reasonably foreseeable future customer growth in the loss of revenue calculation. The Commission has previously rejected a theory under which no compensation would be paid for future customers in a service territory and concluded that such an approach may "undermine the long-term planning by utilities that service area statutes were enacted to ensure."[32] In this case, the component of just compensation concerning net revenue loss should reflect existing Slayton customers and reasonably foreseeable customer growth over a ten-year period.

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[27] Ex. Xcel-204 at 13 (Peterson Direct).
[28] Ex. DOC-301 at 7 (Ngo Rebuttal); Ex. Xcel-204 at 16-17 (Peterson Direct).
[29] Ex. Slayton-114 at 33 (Berg Surrebuttal).
[30] Ex. Slayton-103 at 40 (Berg Direct).
[31] *Id.* at 42, 48 (Berg Direct).
[32] See *In re Appl. of the City of Rochester for an Adjustment of its Serv. Area Boundaries with People's Coop. Power Ass'n*, Docket No. E-132,299/SA-93-498, ORDER DETERMINING COMPENSATION at 4-6, 9-11 (eDocket No. 162864-A) (Nov. 30, 1995).

Third, the Commission should take a closer look at which costs can be directly attributed to the loss of service or customers relevant to the transaction in determining Xcel's avoided costs. Avoided costs can be identified by determining which costs will be taken over by the municipality that will be providing the service post transaction.[33] The Commission has previously concluded that the utility should account for the costs that will be "actually shed" due to the loss of customers at issue and required consistent application of avoided costs in calculations.[34] Here, avoided costs calculations should include fuel and purchased power costs that vary directly with Slayton's load, clearly variable O&M expenses that can be shown to decrease when Slayton leaves, and any demonstratable reductions in customer service or billing costs attributable to loss of Slayton accounts.[35] Fixed costs including production plants and shared administrative overhead are not immediately avoidable and should not be treated as such unless the record evidence clearly shows that these costs will actually decline as a result of Slayton's departure over the ten-year period.[36] The City takes a broad viewpoint of avoided-cost assumptions in its calculations whereas Xcel's narrower avoided-costs assumptions may increase the net-revenue-loss component of just compensation and overstate Xcel's inability to adjust its cost structure over a decade.[37] The Commission may find it prudent to require the Parties to clarify which costs categories they expect to be truly avoidable over the appropriate time horizon and to reconcile their loss of revenue calculations with evidence based avoided-cost framework.

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[33] *In the Matter of the Appl. of the City of Redwood Falls to Extend its Assigned Serv. Area into the Area Presently Served by Redwood Electric Coop.*, Docket No. E-135,298/SA-05-1274, ORDER DETERMINING COMPENSATION at 4 (eDocket No. 4453763).
[34] *Id*. at 11-13; Ex. DOC-301 at 9 (Ngo Rebuttal).
[35] Ex. DOC-301 at 9-10 (Ngo Rebuttal).
[36] *Id.* at 10.
[37] *Id*.

Fourth, the Commission should either require the City to make a lump-sum payment or a mill-rate payment to compensate Xcel for lost revenue. The Commission has previously stated that a "mill rate is an effective way to tie compensation for future growth to actual growth and protect[s] against egregious differences between compensation and actual losses."[38] The Commission may find it appropriate to express the loss-of revenue component as a per-kWh mill rate applied to actual kWh delivered by Slayton to customers within the acquired areas for the appropriate time horizon.[39]

In sum, the Commission should use the Department's recommended lost revenue methodology by applying a ten-year time horizon consistent with prior Commission practice, considering reasonably foreseeable future customer growth, seeking clarity on avoided and actual cost categories, requiring evidence based avoided cost framework, and incorporating mill rate payments.

C. The Commission Should Require Xcel to Provide a Reconciliation and True-Up of Estimated and Actual Integration Costs upon Close of Transfer.

The third factor that the Commission must consider is any incremental expense that Xcel might incur from integrating facilities.[40] Incremental expenses could include removal or relocation of equipment, necessary system reconfiguration, and other necessary engineering-related expenses. Xcel has identified specific incremental costs it expects to incur due to the property transfer.[41] The City questions some of the costs identified by Xcel but has not provided a fully developed alternative. Xcel, however, is not entitled to recover these expenses unless it can show

[38] *In re Appl. of the City of Rochester for an Adjustment of its Serv. Area Boundaries with People's Coo. Power Ass'n.*, Docket No. E-132,299/SA-93-498, ORDER DETERMINING COMPENSATION at 8 (eDocket No. 162864-A) (Nov. 30, 1995).
[39] Ex. DOC-301 at 11 (Ngo Rebuttal).
[40] Minn. Stat. § 216B.45.
[41] Ex. DOC-301 at 6 (Ngo Rebuttal).

that these costs are directly attributable to the transfer, reasonably estimated and not already accounted for in a different component of the four-pronged just compensation framework.[42]

There are two types of community solar gardens authorized by state law.[43] The Solar*Rewards Community program is a legacy offering that closed to new applicants in 2023. The other is the Low-and Moderate- Income Accessible (LMI-accessible) CSG program which was created in 2023 to replace Solar*Rewards. The programs, however, share many similarities. There are at least three parties to a given CSG: the operator, the utility (Xcel), and subscribers.[44] The electricity generated by the CSG is metered where it connects with the utility system and CSG subscribers are credited for that solar energy, proportionate to the size of their subscription.[45]

In this case, Xcel claims it would be entitled to integration expenses related to CSG program eligibility, current CSG subscribers, and distributed energy resources (DER) related to the interconnection queue because of potential impact on CSG projects and DER interconnection based on the City's potential exit from Xcel's system. Xcel is wrong. CSG subscribers, not Xcel, would be financially harmed. CSG subscribers that would be transferred from Xcel to Slayton's municipal utility would lose access to CSG subscriptions in both CSG programs.[46] The Department is not privy to whether these subscribers would receive a refund as neither the Department nor Xcel is a party to those contracts, which are between the CSG operator and the subscriber.[47] Xcel asserted that the Company "may need to conduct outreach and assist Slayton-area customers who are CSG subscribers."[48] Yet Xcel is neither a party to subscription contracts

[42] *Id.* at 12.
[43] Minn. Stat. § 216B.1641.
[44] Ex. DOC-302 at 3 (Teigland Surrebuttal).
[45] *Id.*
[46] Ex. DOC-302 at 4-5 (Teigland Surrebuttal); Minn. Stat. § 216.1641, subds. 1(c), 6(b).
[47] Ex. DOC-302 at 5 (Teigland Surrebuttal).
[48] *Id.* at 6.

nor responsible for recruiting subscribers or closing sales of subscriptions.[49] Thus, Xcel has no basis to track expenses related to CSG program eligibility as an integration costs.

Further, Xcel requested allowance to track and recover integration expenses related to current CSG subscribers in Slayton, including "expenses for any disputes related to the cancellation or change of CSG contracts."[50] But again, Xcel will not be a party to any such disputes. As a result, the Company should not be permitted to track attorney's fees related to disputes about the cancellation of CSG contracts as part of its just compensation claim.

Finally, Xcel requested authorization to track and recover any integration expenses related to the DER projects currently in the interconnection queue on the Slayton West substation, "including increased engineering study costs and system upgrades to maintain a safe and reliable system."[51] Xcel's public DER interconnection queue report identifies seven CSGs or DER projects interconnected or in queue at the Slayton West substation.[52] These projects are all presumed to be outside of Slayton city limits.[53] The City is not a party to any interconnection agreements pending at the Slayton West substation and thus shouldn't bear integration costs related to DER in the interconnection queue there.[54]

Summarily, the Department recommends the Commission deny Xcel allowance to track expenses related to CSG program eligibility as integration costs and find the City unresponsible for attorney's fees related to CSG contractual disputes and integration costs related to DER in the interconnection queue.

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[49] *Id.* at 5.
[50] Ex. DOC-204 at 37 (Peterson Direct).
[51] *Id.* at 41.
[52] Ex. DOC-302 at 8 (Teigland Surrebuttal).
[53] *Id.*
[54] *Id.* at 12, 13.

D. The Commission Should Evaluate Whether and How SLW or Similar Assets are Factored into the Just Compensation Framework.

The last prong of the just compensation framework directs the Commission to consider other appropriate factors.[55] This component of the framework captures case-specific impacts such as wholesale supplier impacts and unique contractual arrangements.[56] Here, other appropriate factors could include documented wholesale power costs impacts that are not already reflected in avoided-purchased-power costs or demonstrable diminished value of upstream facilities substantially dedicated to Slayton not fully reflected in net plant valuation or net revenue loss.[57] For example, if the Slayton West substation or a similar asset becomes stranded because it primarily existed to serve Slayton, then it may be appropriate to include some portion of its net book value in just compensation.[58] To determine whether any additional compensation is warranted, the Commission should: (a) require Xcel to analyze how any allegedly stranded asset will be used after the transfer, (b) limit stranded asset recovery to the portion clearly attributable to the loss of Slayton, and (c) ensure stranded asset recovery amount is not already embedded in other just compensation calculations.[59] These requirements are appropriate because the parties should be providing objective, evidence based analysis when possible to ensure the Commission has the relevant information to make decisions regarding this transaction.

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[55] Minn. Stat. § 216B.45.
[56] Ex. DOC-301 at 12 (Ngo Rebuttal).
[57] *Id.* at 13.
[58] *Id.*
[59] *Id.*

CONCLUSION

For the reasons stated above, the Commission should rely on the Department's analysis, which provides the most complete and objective framework for determining just compensation. The Department respectfully requests that the ALJ recommend that the Commission adopt the Department's framework for evaluating just compensation.

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Respectfully submitted,

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