

BEFORE THE MINNESOTA COURT OF ADMINISTRATIVE HEARINGS

600 North Robert Street

St. Paul, Minnesota 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

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St. Paul, Minnesota 55101-2147

MPUC Docket No. E002/GR-24-320

CAH Docket No. 28-2500-40515

**IN THE MATTER OF THE APPLICATION OF NORTHERN STATES POWER COMPANY, D/B/A XCEL
ENERGY,**

FOR AUTHORITY TO INCREASE RATES

FOR ELECTRIC UTILITY SERVICE IN MINNESOTA

REPLY BRIEF OF THE CITIZENS UTILITY BOARD OF MINNESOTA

February 25, 2026

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I. INTRODUCTION

The Citizens Utility Board of Minnesota (“CUB”) respectfully submits this Reply Brief to respond to positions and arguments presented by other parties and provide recommendations to the Administrative Law Judge (“ALJ”) and the Minnesota Public Utilities Commission (the “Commission”) regarding the petition by Northern States Power Company, d/b/a Xcel Energy (“NSPM” or the “Company”) for authority to increase electric rates in Minnesota. CUB is a non-partisan, Minnesota-based 501(c)(3) nonprofit organization representing the interests of residential utility consumers across the state. CUB’s role in this proceeding is to represent residential consumers’ interests by scrutinizing several aspects of the Company’s request and advocating for changes that will ensure the provision of reliable and equitable utility service at just and reasonable rates.

In our Initial Brief, CUB made several recommendations. We stand by those recommendations, and add to them as follows:

- The Commission should deny the Company’s request to raise its authorized return on equity (“ROE”).
- The Commission should set the Company’s authorized ROE at 9.0 percent.
- The Commission should prohibit the Company from recovering more than 50 percent of its investor relations costs.
- The Commission should prohibit the Company from charging late payment fees to residential customers.
- If the Commission prohibits late payment fees, then it should also deny the Company’s proposal for a Residential Arrears Management Program.
- If the Commission does not prohibit late payment fees, then it should (1) lower the fee amount to be reflective of costs borne by the Company; and (2) require fee waivers for low-income customers.
- The Commission should eliminate the imposition of reconnection fees for residential customers.
- If the Commission does not fully eliminate reconnection fees, it should (1) waive such fees for low-income households and those indicating they are unable to pay; and (2) consider excluding labor costs from future fee calculations.

II. ARGUMENT

A. Affordability

NSPM acknowledges the investments and expenses it incurs to provide safe and reliable service to customers “must be accompanied by a focus on cost containment and maintaining the overall affordability of its service.”¹ CUB appreciates and agrees with this perspective, but takes issue with the Company’s framing of how those interests should be balanced and considered in the instant proceeding.

First, the Company seeks to dismiss or minimize the concerns raised by intervenors because of references to utility “rates” and “rate increases,” rather than the “monthly bills customers actually pay.”² This emphasis on the terminology used by parties is misleading. The discussion of “rates” by CUB and other intervenors is due to the inherent nature of this proceeding—a multi-year *rate* case filed pursuant to Minn. Stat. § 216B.16—whereby determinations are made regarding the Company’s revenue requirements and the *rates* ultimately charged to customers. Furthermore, Minnesota Statute § 216B.02 defines rates in such a broad manner that it captures the whole gamut of potential expenses, charges, and determinants that factor into customers’ utility bills:

Subd. 5. **Rate.** “Rate” means 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.

The Company itself has acknowledged that the numerous statutory references to rates are extremely broad and that “it is possible that the Legislature . . . meant ‘rates’ to refer to electricity costs more generally – that is, bills as well as rates.”³ The semantic overlap between these terms does not alter the fact that decisions rendered in this docket will significantly contribute to the overall bill amount households must pay. To suggest otherwise—that raising rates by hundreds of millions of dollars would not have an impact on affordability—would be folly. That is not to say the current proceeding reflects all costs that will be incurred by the Company or passed onto customers. CUB recognizes, and has argued in previous dockets, that rate case expenses do *not* provide a complete picture of customer financial impacts, as numerous riders and true-up mechanisms exist outside the base rate structure that are not considered contemporaneously with rate case issues.⁴ The multitude of recovery mechanisms available to the Company *add* to, rather than diminish, our affordability concerns.

Second, the Company appears to suggest it should be given credit for not re-litigating issues of expense recovery that the Commission has previously found were *not* reasonably and appropriately

¹ NSPM Initial Brief at 7 (citing Ex. Xcel-15 at 10, 18-20 (Liberkowski Direct); Ex. Xcel-16 at 2-15 (Liberkowski Rebuttal)).

² *Id.* at 8.

³ Ex. JIN-5 at 30 (Chan Surrebuttal) (quoting *In the Matter of Xcel Energy’s Petition for an Automatic Bill Credit Pilot Program*, Docket No. E-002/M-22-266, E-002/RP-19-368, Initial Filing at 23-24 (Apr. 16, 2024)).

⁴ See, e.g., *In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy, for authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-21-630, Findings of Fact, Conclusions, and Order at 135-36 (Jul. 17, 2023) (hereinafter “E-002/GR-21-630 Findings of Fact, Conclusions, and Order”).

borne by ratepayers. These include advertising costs related to brand image and sponsorship,⁵ association dues for social organizations and organizations not associated with the State of Minnesota,⁶ aviation expenses “not required for the provision of utility service,”⁷ “shareholder-return-based” performance incentives,⁸ and numerous other precedential adjustments for which recovery was previously prohibited and was not sought in the instant proceeding. To suggest that removing such costs increases affordability disregards the substantial regulatory history and precedent establishing that these expenses are not necessary for the provision of utility service.

Hypocritically, the Company now also seeks to recover 100 percent of investor relations expenses, claiming they “do not benefit investors” despite nearly the entirety of such costs being devoted to providing investment data, listing and issuing XEI stock, and holding shareholder meetings.⁹ The Commission has previously capped such expenses at 50 percent recovery and determined that flights associated with investor relations were unrelated to furnishing utility service and should not be recoverable.¹⁰

Third, the Company makes a broad, open-ended claim that intervenors “distort[ed] or misrepresent[ed] . . . the Company’s track record” on affordability.¹¹ It is unclear to what extent this statement was meant to be directed at CUB, but we take exception to the thinly veiled critique of parties’ genuine interests in protecting customers’ ability to pay for utility service. CUB has worked collaboratively with the Company to expand access to assistance resources and modify policies and practices that are detrimental to residential customers.¹² But this has not reversed the upward trend in NSPM’s disconnections and arrears, nor does it lessen the significant financial burden posed by the instant rate increase. Affordability remains a pivotal issue in this proceeding precisely because customers have exhibited a recurrent inability to pay for utility service, and increasing costs to the degree requested would only exacerbate those issues.

B. The Company’s recommendation to proceed with the RAMP program is premised on the incorrect assumption that it is just and reasonable to continue assessing residential late payment fees.

NSPM has proposed using late payment fees to stand up a Residential Arrears Management Program (“RAMP”) that would provide a “pre-determined benefit to eligible customers with past due

⁵ Ex. Xcel-17 at 71 (Halama Direct); Ex. Xcel-7, A1 at 2 (MYRP Workpapers).

⁶ Ex. Xcel-17 at 71 (Halama Direct); Ex. Xcel-7, A2 at 1 (MYRP Workpapers).

⁷ Ex. Xcel-17 at 71 (Halama Direct); *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-13-868, Findings of Fact, Conclusions, and Order at 41 (May 8, 2015).

⁸ Ex. Xcel-17 at 71 (Halama Direct); Ex. Xcel-62 at 23-24 (Ly Direct); *see also* E-002/GR-21-630 Findings of Fact, Conclusions, and Order at 15 (noting that the “shareholder-return-based performance element of the time-based LTI program for non-executives may incentivize employees to prioritize shareholder interests over customer interests in order to increase their potential time-based LTI payout amount”).

⁹ *See* Ex. Xcel-17 at 72 (Halama Direct); Ex. Xcel-20 at 37 (Wehner Direct).

¹⁰ Ex. OAG-5 at 14 (Lee Direct); *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-13-868, Findings of Fact, Conclusions, and Order at 41, 100 (May 8, 2015).

¹¹ NSPM Initial Brief at 7.

¹² *See, e.g.*, Ex. Xcel-71 at 17-18 (Martin Rebuttal); Ex. CUB-3 at 12-13 (Levenson-Falk Direct).

balances.”¹³ This proposal was submitted in compliance with the Commission’s January 13, 2025 Order in Docket No. E-002/M-24-27, which directed the Company to file a plan for eliminating late fees and interest payments or donating those funds to low-income customer assistance programs.¹⁴ While CUB appreciates the sentiment behind RAMP, funding the program through late payment fees would “harm the very customers the program proposes to support,” as there is significant overlap between the households assessed such fees and those that are eligible for enrollment.¹⁵ Furthermore, the record is replete with evidence that late payment fees are unreasonable, ineffective, and unsupported by the Company’s testimony.

For these reasons, CUB respectfully recommends the Commission eliminate residential late payment fees, which would necessarily result in denial of the RAMP proposal.

i. The Company has not provided any evidence that late payment fees encourage on-time payment of utility bills.

In its Initial Brief, the Company reiterates its unsupported claim that “eliminating late payment charges would remove incentive for customers to make timely payments, potentially leading to higher arrears.”¹⁶ As captured extensively through Witness Levenson-Falk’s testimony and the Company’s own admissions, there is no evidence supporting this position.¹⁷ In contrast, Witness Levenson-Falk cites key examples of a utility regulatory commission finding the exact opposite: that the imposition of late payment fees does not foster timely payment, and only serves as a punitive measure against customers struggling with their ability to pay.¹⁸

Minnesota Rule 7820.5400 subjects late payment charge tariffs to Commission approval and requires any finance fees or grace periods to be supported by “substantiating documents and exhibits.”¹⁹ This requires the Company to show not only that late payment charges are effective in their aims, but also that the amount of the fee itself is reasonable. Despite issuing multiple information requests focused on identifying any objective or quantifiable basis upon which the Company could justify the effectiveness of late payment charges, no such evidence was provided. Mere conjecture is insufficient to support the continued assessment of late payment charges.

The Company’s argument that late payment fees alter customer behavior is premised on the notion that customers can pay on time and simply choose not to do so. This assumption is extensively rebutted throughout Witness Levenson Falk’s testimony. As she explains, an “estimated 59 percent of Minnesota households experienced difficulty paying for usual household expenses,” with that statistic rising to 68 percent for households earning less than \$75,000 each year.²⁰ Thirty-six percent of

¹³ Ex. Xcel-39 at 3 (Lindgren Supplemental Direct).

¹⁴ *In the Matter of Xcel Energy’s 2023 Annual Safety, Reliability, and Service Quality Report*, Order Accepting Reports and Setting Additional Requirements at 13 (Jan. 13, 2025).

¹⁵ Ex. CUB-8 at 21 (Levenson-Falk Surrebuttal); Ex. CUB-3 at 19-20 (Levenson-Falk Direct).

¹⁶ NSPM Initial Brief at 293.

¹⁷ Ex. CUB-3 at 21 (Levenson-Falk Direct); Ex. CUB-5 at ALF-D-19, ALF-D-20 (Levenson-Falk Direct Schedules); Ex. CUB-8 at 19 (Levenson-Falk Surrebuttal).

¹⁸ Ex. CUB-3 at 21-23 (Levenson-Falk Direct); Ex. CUB-8 at 19 (Levenson-Falk Surrebuttal) (quoting Ex. CUB-5, ALF-D-12 at 3 (Levenson-Falk Direct Schedules)).

¹⁹ Minn. R. 7820.5400, subp. 2.

²⁰ Ex. CUB-3 at 6 (Levenson-Falk Direct).

households kept their homes at unsafe or unhealthy temperatures to avoid incurring utility costs, and approximately a quarter of all Minnesotans—and almost half of the households earning less than \$25,000 annually—reduced or went without food or medicine to pay utility expenses.²¹ Furthermore, the Company conducted more disconnections in 2024 than any year in at least the previous decade, and had already exceeded that figure for 2025 when surrebuttal testimony was filed in this proceeding.²² Together, these persistent affordability challenges and rising disconnection rates are clear evidence that many households do not have the ability to consistently and recurrently pay their utility bills on time.

As Witness Levenson-Falk testifies, for those customers that “do[] not have the funds available to pay bills when they are due, . . . the imposition of late payment fees will not resolve the reason for their delinquency,” and instead will serve as a “punitive measure that penalizes [them] for their financial situations.”²³ After extensively analyzing late payment fee data from multiple utilities, the Kentucky Public Service Commission came to a similar conclusion, noting that such charges “disproportionately affect[] those customers already unable to pay for service rendered, and the uncontroverted evidence indicates [the collection of late fees] has little-to-no effect on a customer’s timeliness of payment.”²⁴

If such charges were as effective as the Company claims, then there would seldom be a need to impose numerous late fees. However, the Company’s recently corrected response to CUB Information Request No. 16 reveals that nearly 749,635 customers were charged two or more late payment fees between 2022 and 2024 – nearly 500,000 more than the Company originally reported.

Figure 1: Corrected Number of Customers Assessed More than One Late Fee²⁵

Year	2-5 times		6-10 times		11+ times		Total, 2+ times		Difference
	Original	Corrected	Original	Corrected	Original	Corrected	Original	Corrected	
2022	70,445	179,486	11,527	26,186	35	168	82,007	205,840	123,833
2023	72,657	193,638	28,037	81,457	1,181	3,697	101,875	278,792	176,917
2024	51,808	192,380	15,113	70,384	475	2,239	67,396	265,003	197,607
							251,278	749,635	498,357

This alarming data reinforces that late payment fees do not effectively motivate customers to pay their bills on time. Rather, many customers who failed to timely pay remain unable to pay in future billing months. Late payment fees increase utility arrears and make it “less likely customers who have already failed to timely pay will be able to so at all.”²⁶

²¹ Ex. CUB-3 at 6 (Levenson-Falk Direct).

²² *Id.* at 10-11 (Levenson-Falk Direct); Ex. CUB-8 at 7-9 (Levenson-Falk Surrebuttal).

²³ Ex. CUB-8 at 19 (Levenson-Falk Surrebuttal).

²⁴ Ex. CUB-5, ALF-D-12 at 3 (Levenson-Falk Direct Schedules).

²⁵ See Corrected Citizens Utility Board of Minnesota Information Request No. 16 (Feb. 4, 2026); see also Ex. CUB-5 at ALF-D-18 (Levenson-Falk Direct Schedules) (providing Company’s original response to CUB Information Request No. 16).

²⁶ Ex. CUB-5, ALF-D-12 at 3 (Levenson-Falk Direct Schedules); see also Ex. CUB-3 at 21 (Levenson-Falk Direct) (noting that a single customer accumulated approximately \$3,000 in late payment charges, accounting for roughly 19 percent of their total past-due balance).

ii. The Company's late payment fees remain substantially above the costs incurred to service past-due balances.

In a discovery response, NSPM acknowledged that the interest it pays on residential past-due balances is 5.3935 percent annually, or over three times less than the 18 percent charged to customers.²⁷ However, the Company does not attempt to justify or even address this substantial difference. In neglecting to confront this issue and explain the discrepancy in rates charged, the Company has failed to meet its burden to show that the late payment fee amount assessed against customers is just and reasonable.²⁸

iii. Eliminating late payment fees will not unreasonably shift costs to customers making on-time bill payments.

The Company repeatedly suggests in its briefs and witness testimony that eliminating late payment fees will unreasonably “shift a cost created by customers who are not keeping current on their bills onto customers who are.”²⁹ At best, this is an oversimplification. At worst, it is an obfuscation of the cross-subsidization already happening under the current late payment fee structure.

Witness Levenson-Falk acknowledges in her Surrebuttal Testimony that eliminating late payment fees may result in some costs being shifted onto all customers.³⁰ However, it is important to recognize that the baseline from which this adjustment would be made is fundamentally inequitable. As detailed above, the late payment fees assessed against customers far exceed the costs incurred by the Company to service past-due balances. Because late payment charges are used to offset the Company's revenue requirement, this results in a situation whereby customers struggling with their ability to pay are charged more than necessary to artificially lower revenue requirements that would otherwise be recovered from all ratepayers. In other words, when customers are charged late payment fees, they are not only paying for the interest expense on their arrears balance, but also for costs which they have not caused.

Eliminating late payment fees would terminate this cross-subsidization, and result in costs being reallocated across the entire residential rate class. At first glance this would appear to produce a significant cost shift, but many of those expenses were not appropriately borne by past-due customers in the first place. The only expenses caused by past-due customers that would shift onto other ratepayers would be the interest expense associated with their arrears, which is a fraction of the total late payment fee revenue.

NSPM acknowledges that funding RAMP would have the same effect of removing late payment fees from the revenue requirement and shifting costs onto all customers.³¹ In contrast to CUB's

²⁷ Ex. CUB-5 at ALF-D-21, ALF-D-22 (Levenson Falk Direct Schedules).

²⁸ Minn. Stat. § 216B.03 (requiring that “[e]very rate made, demanded, or received by any public utility, . . . shall be just and reasonable); see also Minn. Stat. § 216B.02, subd. 5 (defining “rate” as “every compensation, charge, fare, . . . [or] tariff . . . collected by any public utility for any service and any rules, practices, or contracts affecting any such compensation, charge, fare . . . [or] tariff”).

²⁹ NSPM Initial Brief at 292; Ex. Xcel-71 at 30 (Martin Rebuttal); Ex. Xcel-81 at 13 (Howard Rebuttal).

³⁰ Ex. CUB-8 at 20 (Levenson-Falk Surrebuttal).

³¹ Ex. Xcel-71 at 30 (Martin Rebuttal); Xcel Initial Brief at 293.

recommendation, however, the Company's proposal would keep late payment fees the same and perpetuate the practice of collecting more from past-due customers than is just and reasonable.

iv. The Commission should eliminate residential late payment fees.

Witness Levenson-Falk's recommendation to eliminate late payment fees is in the public interest. As detailed throughout her testimony and CUB's Initial and Reply Briefs, residential customers have repeatedly exhibited an inability to pay for utility expenses, from forgoing food and medicine to being disconnected from service. The long-term health and safety implications of not having reliable access to electricity can be severe,³² and it is in the interest of the Commission, the utilities, and the general public to mitigate these impacts to the extent possible.

Eliminating late payment fees would prevent any further accumulation of charges, potentially slowing down the growth of residential customer arrears. This would not only reduce the scale of any cost shift to customers current on their bills, but would also mitigate disconnection risks and lower the amount of arrears ultimately converted into bad debt. Doing away with late payment fees could therefore achieve many of the same outcomes as RAMP is intended to provide, but at a much earlier stage in the process. Rather than letting arrears grow and then providing assistance, the elimination of late payment fees would reduce the accumulation of arrears from the outset.

Between these potential benefits and the Company's failure to provide any evidence justifying the amount or effectiveness of late payment fees, the evidence in the record supports full elimination of such charges.

C. The elimination of reconnection fees would result in a more equitable rate construct that reduces barriers to the restoration of service and generates wide-ranging benefits.

The Company opposes CUB's recommendation to eliminate residential reconnection fees, claiming such action "would simply socialize[] [reconnection] costs and [would] not [be] in the best interest of all customers."³³ Witness Levenson-Falk acknowledges that waiving reconnection fees would modestly increase costs for all residential ratepayers by an estimated \$0.40 per year or \$0.03 per month.³⁴ This cost is minimal compared to the benefit of reducing financial barriers for disconnected households and enabling them to resume service on a faster timeline.³⁵

The Company suggests that, if the Commission agrees with Witness Levenson-Falk, reconnection fees be waived only for those customers who have demonstrated that they are low-income.³⁶ As discussed in Witness Levenson-Falk's surrebuttal testimony, this proposal is unreasonable.³⁷ Because the Company is unaware of most customers' income, it is likely to omit a significant number of qualified

³² Ex. CUB-3 at 11-12 (explaining that prolonged energy insecurity can lead to developmental delays, the onset of respiratory conditions and mental health diagnoses, or serve as a catalyst for social services investigations).

³³ NSPM Initial Brief at 60.

³⁴ Ex. CUB-3 at 15 (Levenson-Falk Direct); Ex. CUB-8 at 16-17 (Levenson-Falk Surrebuttal).

³⁵ Ex. CUB-3 at 15-16 (Levenson-Falk Direct); Ex. CUB-8 at 16-17 (Levenson-Falk Surrebuttal).

³⁶ Ex. Xcel-71 at 27 (Martin Rebuttal); Xcel Initial Brief at 61.

³⁷ Ex. CUB-8 at 17-18 (Levenson-Falk Surrebuttal).

households.³⁸ Moreover, as the Company agrees, many households who do not qualify as low-income still struggle to afford utility service.³⁹ Having been unable to pay a utility bill for a long enough time to be subject to disconnection is, itself, a demonstration that the affected customer cannot afford service.⁴⁰ No proof of income or further evidence is necessary. Finally, eliminating reconnection fees for all customers is administratively simpler – a significant value when the cost of elimination is estimated at less than \$500,000 per year.⁴¹

Witness Levenson-Falk further notes in her testimony that the Kentucky Public Service Commission determined reconnection fees negatively impact not only the customers against whom they are charged, but also other residential households and the utility itself:

Furthermore, the addition of late fees, disconnect charges, and reconnect charges to a bill for [utility] service makes it less likely customers who have already failed to timely pay will be able to do so at all. Customers being unable to pay at all increases the utility's bad debt expense, reduces the utility's income and cash flow in that period, and ultimately increases the cost of service for the remainder of customers.⁴²

These negative impacts are equally applicable here. NSPM generally requires agreements for the payment of arrears as a condition of restarting service. Reconnection fees create a barrier to entering into such agreements, thereby preventing customers from paying down their arrears and increasing the likelihood that such costs will be converted into bad debt. Eliminating reconnection fees could therefore foster substantial ratepayer value, from cutting short the negative effects of disconnection⁴³ to lowering arrears accumulation and mitigating bad debt expense. These benefits are wide-ranging and are likely to outweigh the nominal expense that would be assessed to all customers if such fees are waived.

D. Return on Equity

The Company's request to substantially raise its authorized return on equity ("ROE") would exacerbate the affordability challenges felt throughout the residential rate class. Perhaps more than any other issue in this proceeding, the arguments around ROE lay bare the vast divide between the utility's interest in creating profit for its shareholders and customers' interest in affordable electricity service. Equitably balancing these divergent interests is essential to arriving at an outcome that produces just and reasonable rates.

In its initial brief, NSPM described the importance of establishing an authorized ROE:

³⁸ *Id.* at 17.

³⁹ Ex. CUB-8 at 17-18 (Levenson-Falk Surrebuttal); Ex. Xcel-38 at 30-31 (Lindgren Direct) (acknowledging that "there are affordability challenges for some customers beyond those that meet the income qualifications for EAP"); Ex. Xcel-81 at 13 (Howard Rebuttal) (stating that "there are also many non-low-income customers who do not make timely payments and many low-income customers who do").

⁴⁰ Ex. CUB-8 at 16 (Levenson-Falk Surrebuttal).

⁴¹ *Id.* at 17-18.

⁴² Ex. CUB-5, ALF-D-11 at 7 (Levenson-Falk Direct Schedules).

⁴³ *See, e.g.*, Ex. CUB-3 at 11-12 (Levenson-Falk Direct) (detailing how the loss of electric service impacts residential customers).

[T]he ROE allowed in this proceeding will send an important signal to debt and equity investors and to management regarding whether there is regulatory support for the Company's efforts, not just to provide high quality, safe and reliable service, but to also transform its generation fleet, create a more advanced distribution grid and further transform the overall energy delivery system. A reasonable ROE will both support those ongoing efforts and maintain confidence in Minnesota's regulatory environment among credit rating agencies and investors, so that Xcel Energy can continue to attract both debt and equity capital on reasonable terms.⁴⁴

We agree with this statement in concept. We strongly disagree, however, with NSPM's assessment of what ROE is "reasonable" under the present circumstances. In this case, NSPM suggests it deserves an authorized ROE of 10.3 percent, which would be the highest currently authorized ROE for any regulated utility operating in Minnesota—higher than Minnesota Power,⁴⁵ known for its unusual risk profile, and higher than Greater Minnesota Natural Gas,⁴⁶ Minnesota's smallest regulated utility. As is clear from the Commission's past rate case decisions, there is very little chance the Company's request for a 10.3 percent ROE will be approved.⁴⁷ But, by proposing so high a number, NSPM manipulates the goal posts of what a "reasonable" ROE should be. Namely, the Company implies that the further away the Commission gets from 10.3 when establishing an ROE, the more likely NSPM will be *unable* to attract capital, maintain creditworthiness, and preserve its financial integrity. The Commission should see this strategy for what it is: a scare tactic meant to intimidate the Commission into approving a higher ROE than is justified by record evidence or warranted by applicable law.

As discussed in more detail below, evidence in this record shows the Company and Xcel Energy, Inc. ("XEI") have successfully raised billions in capital, generated billions of dollars in net earnings, and achieved all-time record high XEI share prices in recent months—all while NSPM operated at a 9.25 percent ROE. Meanwhile, witnesses from CUB and other parties—along with *thousands* of public commenters—have introduced evidence illustrating ratepayers' growing inability to afford NSPM bills. The Company attempts to dismiss the pertinence of that evidence in making a reasonable ROE determination, hoping instead the Commission will focus solely on the modeling results discussed in Witness Nowak's testimony.⁴⁸ Such an approach—calling for the Commission to ignore the forest for

⁴⁴ NSPM Initial Brief at 21 (citing Ex. Xcel-24 at 12, 53-54 (Nowak Direct)).

⁴⁵ See *In the Matter of the Application of Minnesota Power for Authority to Increase Electric Service Rates in the State of Minnesota*, Docket No. E-015/GR-23-155, Order Accepting and Adopting Agreement Setting Rates at 5 (Nov. 25, 2024) (adopting settlement agreement resolving Minnesota Power's most recent rate case); see also, *In the Matter of the Petition of Minnesota Power for Acquisition of ALLETE by Canada Pension Plan Investment Board and Global Infrastructure Partners*, Docket No. E-015/PA-24-198, Order Approving Petition for Acquisition with Conditions and Establishing Other Requirements at 4, 25 (Dec. 10, 2025) (lowering Minnesota Power's currently authorized ROE to 9.65 and capping it at 9.78 until Dec. 31, 2030).

⁴⁶ See *In the Matter of the Application of Greater Minnesota Gas, Inc. for Authority to Increase Rates for Natural Gas Utility Service in Minnesota*, Docket No. G-022/GR-24-350, Findings of Fact, Conclusions, and Order at 31 (Nov. 26, 2025) (establishing a 10.0% ROE).

⁴⁷ See CUB Initial Brief at 21, Fig. 2 (showing that the Commission routinely establishes authorized ROEs well below what the utilities request in rate cases).

⁴⁸ NSPM Initial Brief at 22 ("Xcel Energy cost of capital expert witness Mr. Nowak provided a full analysis of the appropriate return on common equity for the Company, developed through the use of multiple market-based financial models").

the trees—is directly contrary to the U.S. Supreme Court’s longstanding precedent regarding authorized ROE:

The Commission cannot confine its inquiries either to the computation of costs of service or to conjectures about the prospective responses of the capital market; it is instead obliged at each step of its regulatory process to assess the requirements of the broad public interests entrusted to its protection[.] Accordingly, the "end result" of the Commission's orders must be measured as much by the success with which they protect those interests as by the effectiveness with which they "maintain . . . credit and . . . attract capital."⁴⁹

The central ROE-related question before the Commission in this case is not the narrow issue of whether Witness Nowak selected the most appropriate proxy group or applied more reasonable “inputs and assumptions” in finance models than other parties’ witnesses.⁵⁰ It is the broader question of whether NSPM met its burden to prove raising its ROE by 105 basis points and increasing ratepayers’ annual costs by \$100 million balances NSPM’s right to earn a reasonable return against customers’ right to pay just and reasonable rates. NSPM clearly has not met this burden. On the contrary, substantial evidence in the record demonstrates that the “end result” of approving *any* increase to NSPM’s ROE would be adding an unjustified financial burden to NSPM ratepayers to pad the return payable to XEI shareholders.

i. Dr. Kihm’s approach to establishing a reasonable ROE is far more consistent with the Commission’s historic practice—and with applicable legal precedent—than NSPM suggests.

NSPM argues that Dr. Kihm “disagree[s] with how this Commission and other regulatory commissions have determined the ROE for decades [and] . . . propose[s] a fundamental shift in the determination of ROEs that discards this precedent[.]”⁵¹ NSPM also argues that “[d]ivorcing the authorized ROE from a reasoned interpretation of reasonable and reliable cost of equity models would introduce considerable uncertainty into the ROE determination process and would depart from the *Hope*, *Bluefield* and *Hibbing* principles[.]” This argument mischaracterizes and distracts from Dr. Kihm’s arguments in lieu of meaningfully addressing them on the merits.

a. Dr. Kihm’s approach is mostly consistent with the Commission’s prior precedent, but suggests there is room for improvement.

In its order deciding NSPM’s last electric rate case, the Commission described its process for establishing an ROE as follows:

In determining just and reasonable rates, the Commission is required to give due consideration to the public need for adequate, efficient, and reasonable service and

⁴⁹ *Permian Basin Area Rate Cases*, 390 U.S. 747, 791 (1968).

⁵⁰ See NSPM Initial Brief at 43 (citing Ex. Xcel-25 at 3 (Nowak Rebuttal)) (criticizing Dr. Kihm’s testimony for not questioning the reasonableness of the inputs and assumptions of multi-stage models).

⁵¹ NSPM Initial Brief at 44.

to the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing service, including adequate provision for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in such property.

One of the critical components of that fair and reasonable return upon investment is the return on common equity, which—together with debt—finances utility infrastructure. The Commission must set rates at a level that permits stockholders an opportunity to earn a fair and reasonable return on their investment and permits the utility to continue to attract investment. [. . .]

As explained by the *Hope* and *Bluefield* decisions, the Commission must analyze the facts in the record, exercising its quasi-judicial authority, and apply its judgment, exercising its quasi-legislative authority, to determine a rate of return that appropriately balances the competing interests of ratepayers and shareholders, and which produces just and reasonable rates.⁵²

Though the Commission also notes it has “historically placed its heaviest reliance” on the Discounted Cash Flow (DCF) analytical model,⁵³ it recognizes “that relying too heavily on a single set of results from one model could inadvertently narrow the range of reasonable returns considered, needlessly eliminating relevant data from close examination.”⁵⁴

Consistent with the Commission’s approach, Dr. Kihm utilized a DCF analytical model (as well as a CAPM) to analyze NSPM’s risk relative to comparable companies and evaluate the Company’s financial integrity and ability to attract investors.⁵⁵ Dr. Kihm uses the same comparable-risk portfolio that Witness Nowak uses in his DCF analysis, though other aspects of Dr. Kihm’s use of the model differ from that of Witness Nowak. For example, Dr. Kihm uses as a stock price the average price from the recent, short period of July 1, 2025 to August 1, 2025 (as compared to Witness Nowak, who uses an average stock price derived from a longer time period further back in time).⁵⁶ This is because “the most accurate predictor of future stock prices is the current price”—or at least an average derived from a relatively short timeline.⁵⁷ Further, Dr. Kihm uses *Value Line’s* 10-year dividend-per-share projections for a growth rate instead of the stock analyst growth rate projections.⁵⁸ Though Witness Nowak’s approach may appeal to common practice, stock analysts (particularly sell-side analysts) notoriously overestimate their projections.⁵⁹ The results of Dr. Kihm’s DCF analysis (bolstered by his CAPM analysis) suggest that NSPM’s cost of equity is 7.7 percent.⁶⁰ This estimate closely matches—

⁵² E-002/GR-21-630 Findings of Fact, Conclusions, and Order at 79 (citing Minn. Stat. § 216B.16, subd. 6) (emphasis added)).

⁵³ *Id.* at 80; 88-90.

⁵⁴ *Id.* at 89.

⁵⁵ Ex. CUB-1 at 21-36 (Kihm Direct).

⁵⁶ Ex. Xcel- 24 at 36 (Nowak Direct) (showing Witness Nowak used average stock prices for the historical period over 30, 90, and 180 trading days through Sept. 30, 2024).

⁵⁷ Ex. CUB-1 at 31 (Kihm Direct).

⁵⁸ *Id.* at 33-34.

⁵⁹ *Id.* at 37.

⁶⁰ *Id.*

but is higher—than trusted independent finance analyst, *Morning Star's* cost of equity estimate for the Company.⁶¹

After using models to estimate the Company's cost of equity, Dr. Kihm encouraged the Commission to weigh other record evidence and make pragmatic adjustments to arrive at a rate of return that appropriately balances the competing interests of ratepayers and shareholders.⁶² This aspect of Dr. Kihm's approach to establishing an ROE is markedly different from Witness Nowak's: Dr. Kihm considers customers' ability to pay the rates required to support NSPM's ROE while Witness Nowak ignores ratepayer interests entirely. This is a fatal defect in the Company's analysis. As the Supreme Court has long recognized, "cost and noncost factors do not . . . race one against the other," but must be "harnessed side by side" to reach a result that is just and reasonable.⁶³ Employing a methodology that "exclude[s] as immaterial all but current or projected costs [cannot] properly serve the consumer interests placed under the Commission's protection."⁶⁴

Finally, Dr. Kihm encourages the Commission to adjust its process for making an ROE determination in two interrelated and important ways. The first is to "move away from abstract economic thinking and in the direction offered by institutional economists, those who understand real markets."⁶⁵ The second is to distinguish the Company's cost of equity from its authorized return on equity, as those two variables serve different purposes and are generally not equal in the context of utility ratemaking.⁶⁶ In recommending the Commission "move away from abstract economic thinking," Dr. Kihm emphasized that the Commission need not "jettison the models completely," but should rather "adjust the role they play, moving them from center stage to the sidelines."⁶⁷ The primary role of the DCF model (and others) is to help the Commission understand the Company's cost of equity—that is, what investors demand in order to invest in the Company. No one (including Dr. Kihm) disputes that understanding the Company's cost of equity is helpful in guiding the Commission's ROE decision; however, running data points through a financial model that contains no variable for the ratepayer interest does not and cannot objectively produce a "fair" authorized return.⁶⁸ To balance the utility's protected interest in earning a reasonable return against ratepayers' protected interest in paying just and reasonable rates, the Commission *must* assess the broader evidentiary record developed in this case.

We reject the suggestion that anything in the above approach marks a significant or inappropriate departure from the Commission's past practice. Nonetheless, the Commission is not bound to adhere to common practice just for the sake of preserving it. In *Bluefield*, the Court emphasized:

⁶¹ *Id.*

⁶² *Id.* at 43-44; *see also* *FPC v. Natural Gas Pipeline Co.*, 315 U.S. 575, 586 (1942) (stating utility regulators should "make the pragmatic adjustments which may be called for by particular circumstances" when establishing an authorized return).

⁶³ *Permian Basin Area Rate Cases*, 390 U.S. 747, 815 (1968).

⁶⁴ *Id.*

⁶⁵ Ex. CUB-1 at 38 (Kihm Direct).

⁶⁶ *Id.* at 4; *see also* Ex. CUB-6 at 2, 6-7 (Kihm Surrebuttal) (stating that "ROE and the cost of equity are distinct variables" and are unlikely to take on the same numeric value under current market conditions), Ex. DOC-12 at 7-8, 70 (Addonizio Direct) (explaining that "cost of equity is not synonymous with ROE").

⁶⁷ Ex. CUB-1 at 38 (Kihm Direct).

⁶⁸ E-002/GR-21-630 Findings of Fact, Conclusions, and Order at 79 (citing Minn. Stat. § 216B.16, subd. 6 (emphasis added)).

The ascertainment of [fair] value is not controlled by artificial rules. It is not a matter of formulas, but there must be a reasonable judgment having its basis in a proper consideration of all relevant facts.⁶⁹

Dr. Kihm’s analysis and suggestions for improving the Commission’s process for establishing an authorized ROE are informed by a 44-year career in utility regulation, an extensive review of the economic scholarship applicable to ROE determinations, and his own contributions to that scholarship.⁷⁰ It is our hope that his and CUB’s contributions in this docket help the Commission as it exercises its judgment and explains its reasoning for establishing an ROE based on a “proper consideration of all relevant facts” and expert analyses.

b. Dr. Kihm’s approach is consistent with applicable legal precedent.

The Company criticizes Dr. Kihm for “ignor[ing] over a century of Court guidance” and seeking to “transform the process of setting an authorized ROE from the quasi-judicial process described by the *Hibbing* Court, to a subjective policy debate.”⁷¹ Key components of that “century of Court guidance” are summarized in detail in our Initial Brief. Though Witness Nowak in his testimony and the Company in its brief cite the same isolated paragraphs of *Hope*, *Bluefield* and *Hibbing* utilities cite in every rate case, neither mention decisions in *Federal Power Commission v. Natural Gas Pipeline Co.*⁷² or *Permian Basin Area Rate Cases*,⁷³ which undermine or raise questions about Witness Nowak’s and the Company’s tactics in this case. In those cases, the U.S. Supreme Court held:

- “The consumer interest cannot be disregarded in determining what is a ‘just and reasonable’ rate.”⁷⁴
- “The decision in each case must turn on considerations of justness and fairness which cannot be cast into a legalistic formula. The rate of return to be allowed in any given case calls for a highly expert judgment. That judgment has been entrusted to the Commission. There it should rest.”⁷⁵
- “The Commission cannot confine its inquiries either to the computation of costs of service or to conjectures about the prospective responses of the capital market; it is instead obliged at each step of its regulatory process to assess the requirements of the broad public interests entrusted to its protection[.]”⁷⁶

⁶⁹ *Bluefield Water Works & Improvement Co. v. Public Service Comm’n*, 262 U.S. 679, 690 (1923) (citing *Minnesota Rate Cases*, 230 U.S. 352, 434 (1913)).

⁷⁰ See Ex. CUB-1 at 1-3 (Kihm Direct).

⁷¹ NSPM Initial Brief at 48.

⁷² *Fed. Power Comm’n v. Natural Gas Pipeline Co.*, 315 U.S. 575 (1942).

⁷³ *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968).

⁷⁴ *FPC v. Natural Gas Pipeline Co.*, 315 U.S. at 607.

⁷⁵ *Id.*

⁷⁶ *Permian Basin Area Rate Cases*, 390 U.S. at 791.

- “Cost and noncost factors do not . . . race one against the other; they must be, as they are here, harnessed side by side. The Commission’s responsibilities necessarily oblige it to give continuing attention to values that may be reflected only imperfectly by producers’ costs; a regulatory method that excluded as immaterial all but current or projected costs could not properly serve the consumer interests placed under the Commission’s protection.”⁷⁷

Witness Nowak and the Company also ignore other important takeaways from the *Hope* and *Bluefield* decisions when recommending a 10.3 percent ROE based on modeling results that contain no variable for, or other consideration of, ratepayers’ ability to pay the significant rate increase required to support that recommendation.⁷⁸ If any court reviewing the Commission’s order in this case examines the “century of Court guidance” applicable to its ROE decision, it will find that guidance better reflected and more thoughtfully applied in Dr. Kihm’s and CUB’s analysis than that of Witness Nowak and the Company.

ii. The Hope standards are already met at NSPM’s currently authorized ROE.

Every ROE witness in this case, including Dr. Kihm, acknowledges that the *Hope* decision establishes a key standard for assessing a fair authorized ROE in utility rate cases. The Company cites the *Hope* case as requiring the Commission to “allow the Company a reasonable opportunity to earn a return on equity” that is:

- Adequate to allow the Company to attract the capital that is necessary to provide safe and reliable service (the capital attraction standard);
- Sufficient to ensure the Company’s ability to maintain its financial integrity (the financial integrity standard); and
- At a level that is comparable to returns required on investments of similar risk (the comparability standard).⁷⁹

We agree with this summation of the *Hope* standard, but not the Company’s speculation that NSPM is unable to meet it unless it has the highest authorized ROE of any regulated utility operating in Minnesota. Record evidence in this case shows that the Commission’s ROE determination in NSPM’s last rate case has allowed the Company to meet—and exceed—the *Hope* standard at a 9.25 percent ROE.

⁷⁷ *Id.* at 815; see also *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Comm.*, 312 Minn. 250, 358 N.W.2d 350 (1977) (adopting the *Permian Basin Area Rate Cases* holding “that the Commission’s rate setting authority involves “balancing both cost and noncost factors and making choices among public policy alternatives”).

⁷⁸ See e.g., *Fed. Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591, 601-610 (1944) (“[t]he rate-making process [...] i.e., the fixing of ‘just and reasonable’ rates, involves a balancing of the investor and the consumer interests” and “regulation does not insure that the business shall produce net revenues”); see also *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm’n*, 262 U.S. 679, 692-93 (1923) (“an investor-owned utility “has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures”).

⁷⁹ NSPM Initial Brief at 19 (citing Ex. Xcel-24 at 10 (Nowak Direct)); but see *Bluefield*, 262 U.S. at 692-93 (providing that a regulated utility has “no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures”).

a. NSPM has not experienced difficulties attracting capital.

In both its 2023 and 2024 10-K filings, Xcel Energy, Inc. informed its shareholders and prospective investors it “expects to have adequate amounts of cash from operating and financing activities to meet both its short-term and long-term cash requirements.”⁸⁰ Indeed, from January 1, 2023 through July 9, 2025, Xcel Energy, Inc. raised \$1.48 billion in public securities issuances and \$64.18 million in nonpublic securities issuances.⁸¹ NSPM, itself, successfully issued \$700 million in bonds in February of 2024⁸² and another \$1.1 billion in long-term debt in April of 2025.⁸³ It is no wonder that, given these results, the Company informed parties to this case that “NSPM has not experienced difficulties accessing capital markets since its last litigated base rate case.”⁸⁴ The Company’s suggestion that it will only be able to maintain these results if the Commission approves a 105 basis point *increase* to its ROE defies common sense and the real results and evidence presented in the record.

NSPM is also able to attract debt investment at reasonable terms due to its strong credit rating.⁸⁵ As XLI Witness LaConte testifies, “the Company’s “credit metrics exceed, or are well within the range, required by S&P to maintain an A/A- credit rating which is the rating that NSPM wishes to continue to support and maintain.”⁸⁶ Fitch Ratings assigned an A+ rating to NSPM’s \$700 million debt issuance in 2024.⁸⁷ Fitch Ratings concluded NSPM’s long-term issuer rating remains stable at an A- Rating.⁸⁸ And in October 2025, Fitch adjusted Xcel Energy, Inc.’s credit outlook from negative to stable.⁸⁹ The Company has not demonstrated that increasing its authorized ROE by 105 basis points is needed to maintain these favorable ratings.

NSPM also argues that, “[i]f higher returns are available from other investments of comparable risk, investors (including parent companies) have an incentive to direct their capital to those investments, rather than to the Company.”⁹⁰ The implication that NSPM’s parent company, Xcel Energy, Inc., might divert capital to its other regulated utility subsidiaries over NSPM unless the Commission increases NSPM’s authorized ROE is illogical when viewed alongside the *actual* earnings per share reported by each such subsidiary. As shown in Xcel Energy, Inc.’s 2023 and 2024 Forms 10-K, NSPM outperformed each of Xcel Energy, Inc.’s other regulated utility subsidiaries in 2024, and NSPM’s EPS performance was comparable to that of PSCo in 2022 and 2023, despite PSCo having more total customers and a larger rate base than NSPM.⁹¹ NSPM is also the only regulated utility subsidiary that has reported

⁸⁰ Tr. Vol. 1 at 50-51 (Wehner) (citing Ex. DOC-26 (Xcel Energy Inc. 2024 Form 10-K) and Ex. DOC-25 (Xcel Energy Inc. 2023 Form 10-K)).

⁸¹ Ex. CUB-2 at SK-D-25 (Kihm Direct Schedules).

⁸² Tr. Vol. 1 at 42 (Wehner).

⁸³ *Id.* at 44.

⁸⁴ Ex. XLI-7 at 9-10, Appendix F (LaConte Surrebuttal).

⁸⁵ Tr. Vol. 1 at 44 (Wehner).

⁸⁶ Ex. XLI-2 at 8 (LaConte Direct).

⁸⁷ Dep’t Initial Brief at 8 (citing Tr. Vol. 1 at 43 (Wehner)).

⁸⁸ *Id.*

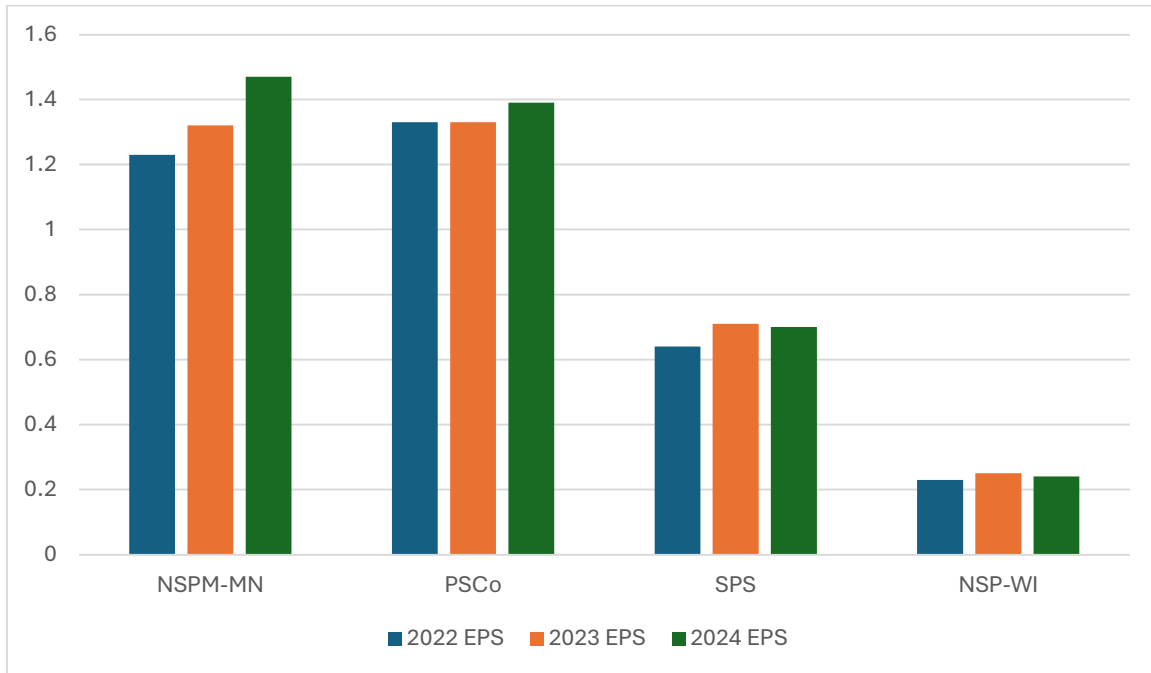
⁸⁹ *Id.*

⁹⁰ NSPM Initial Brief at 20 (citing Ex. Xcel-24 at 11 (Nowak Direct)).

⁹¹ *See* Ex. DOC-25 at 26 (2023 Form 10-K); Ex. DOC-26 at 25 (2024 Form 10-K).

increased earnings per share (“EPS”) year-over-year in that three-year period.⁹² Looking back even further, Xcel Energy, Inc.’s EPS attributable to NSPM increased 135% from 2010 to 2024.⁹³

Figure 2: Ongoing Diluted Earnings per Share for XEI Subsidiaries



NSPM achieved all these results while operating with “only” a 9.25 percent authorized ROE (and an even lower ROE prior to NSPM’s last electric rate case). Given these results, the suggestion that Xcel Energy, Inc. would divert capital away from NSPM based on the Commission’s ROE decision is illogical, uneconomical, and contrary to evidence. Even if NSPM’s performance did not exceed that of its sister-subidiaries, any intimation that Xcel Energy, Inc. would withdraw capital necessary for the provision of safe and reliable service would be directly violative of the compact that allows the Company to operate as a regulated monopoly. It is in the interest of NSPM, Xcel Energy, Inc, and the public that capital continues to flow to Minnesota.

b. NSPM has had no trouble maintaining its financial integrity.

Just as NSPM emphasizes its hardships in filings with the Commission, it emphasizes its successes in SEC reports and presentations shared with shareholders and investors. In its 2024 Form 10-K, Xcel Energy, Inc. reported \$1.94 billion in *net* earnings, which is \$165 million higher than net earnings reported in 2023.⁹⁴ Likewise, in its 2023 Form 10-K, Xcel Energy, Inc. reported \$1.77 billion in *net* earnings, which is \$30 million higher than the net earnings it reported in 2022.⁹⁵ This steady increase

⁹² See *id.*

⁹³ Ex. DOC-1 at 25 (Johnson Direct).

⁹⁴ Ex. DOC-26 at 25 (2024 Form 10-K) (showing that Xcel’s net income was \$1.94 billion in 2024 compared with \$1.77 billion in 2023).

⁹⁵ Ex. DOC-25 at 26 (2023 Form 10-K) (showing that Xcel’s net income was \$1.77 billion in 2023 compared with \$1.74 billion in 2022).

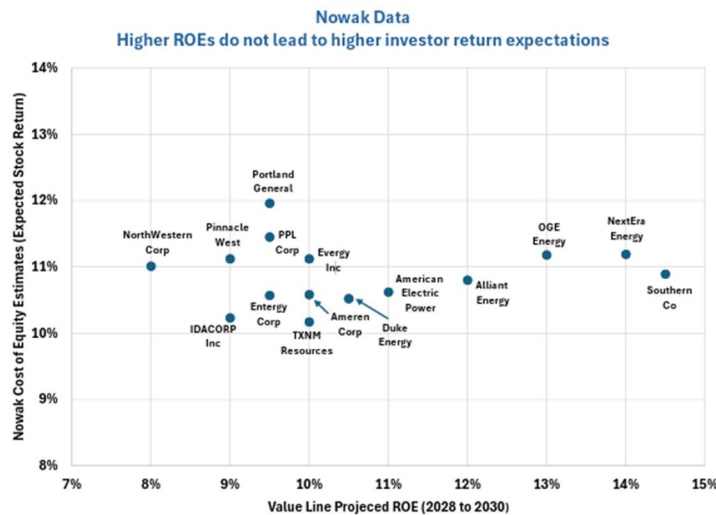
is particularly noteworthy now, given that Xcel Energy, Inc. and other of its subsidiaries faced significant financial liabilities attributable to wildfires in Colorado and Texas over that same three-year period.⁹⁶ All of these results enabled Xcel Energy, Inc. to meet or exceed its EPS guidance every year for the past 22 years, supporting continuous and steadily increasing quarterly dividend payments over that time period.⁹⁷

The evidence is clear: NSPM’s current ROE of 9.25 has allowed the Company to earn a return that is not just “sufficient” to cover the operating expenses and capital costs needed to maintain financial integrity, but enough to grow its net profits despite significant headwinds in other states. Again, the Company’s suggestion that it will only be able to maintain these results if the Commission now approves a 105 basis point increase to its ROE and collects \$100 million more per year from its Minnesota customers is contrary to substantial record evidence and defies common sense.

c. NSPM earns a return comparable to returns on investments of similar risk.

The Company claims that proxy groups, when used to inform ROE models, are “designed to provide a unique estimate of the return required to attract equity investment.”⁹⁸ However, as Dr. Kihm demonstrated in his testimony, the cost of equity estimates Witness Nowak produces for each of the companies in his proxy group say little about their ability to produce a return required to attract investment. This is not just Dr. Kihm’s opinion, it is a straight-forward conclusion he draws from comparing Witness Nowak’s cost of equity estimates to independent analyst *Value Line*’s projected market returns for the same companies.

Figure 3: Nowak Expected Stock Return Estimates vs. Value Line Projected ROE⁹⁹



⁹⁶ See Ex. DOC-26 at 74 (2024 Form 10-K) (showing that, if Xcel Energy Inc. or PSCo was found liable for damages caused by the Marshall Fire, “and were required to pay damages, such amounts could exceed our insurance coverage of approximately \$500 million and have a material adverse effect on our financial condition, results of operations or cash flows”).

⁹⁷ *Id.* at 7.

⁹⁸ NSPM Initial Brief at 25.

⁹⁹ Ex. CUB-1 at 11 (Kihm Direct).

The lack of significant correlation between the y-axis and x-axis variables is explained by another standard finance principle: investors pay relatively more to acquire stock the market expects will produce a high return, and relatively less to acquire stock the market expects to produce a modest return.¹⁰⁰ Due to these offsetting market corrections, a lower *authorized* ROE does not necessarily translate to a lower *actual* return on investment.

This hypothesis is not one made in a vacuum; it is demonstrated by NSPM's and Xcel Energy, Inc.'s own performance. NSPM appealed the Commission's last order setting an ROE much lower than NSPM requested, claiming that action harmed Xcel Energy, Inc.'s stock price.¹⁰¹ However, we now know that the Commission's prior decision had no meaningful or lasting impact on the Company's ability to attract capital; that Xcel Energy, Inc.'s stock price has since increased to an all-time record high;¹⁰² and that Xcel Energy, Inc. continues to generate billions of dollars in net profits for its shareholders year after year.

iii. Comparing NSPM's authorized ROE to the mean or median authorized ROE of other companies is an illogical means of determining "fairness" in this proceeding.

The Company also criticized Dr. Kihm's cost of equity estimate as being "a figure more than 150 basis points below any ROE authorized for a vertically integrated electric utility in the United States in recent memory."¹⁰³ Through its creative use of syntax, Xcel intentionally mischaracterizes Dr. Kihm's testimony by comparing his cost of equity estimate, rather than his return on equity recommendation, to other ROEs authorized in other proceedings. Dr. Kihm opens his Direct Testimony with the following overview;

I provide a recommended return on equity (ROE) for NSPM (the Company) of 9.0%. Note that my recommended ROE is a different estimate from my cost of equity figure of 7.7%. The two returns are distinct.¹⁰⁴

A 9.0 percent ROE is just 25 basis points below NSPM's currently authorized ROE and six basis points below NSPM's ROE prior to the Commission's decision in NSPM's last electric rate case. Dr. Kihm's 9.0 percent ROE recommendation is also between the recommendations of two other, highly experienced and credible experts testifying in this case. In contrast, a 10.3 percent ROE would be 80 basis points above the average ROE most recently established in Minnesota rate cases for vertically-integrated electric utilities and 46 to 66 basis points *above* the national average ROE for vertically integrated utilities over the past three years.¹⁰⁵

¹⁰⁰ *Id.* at 9.

¹⁰¹ *Id.* at 15-16 (Kihm Direct) (citing Ex. CUB-2, SK-D-8).

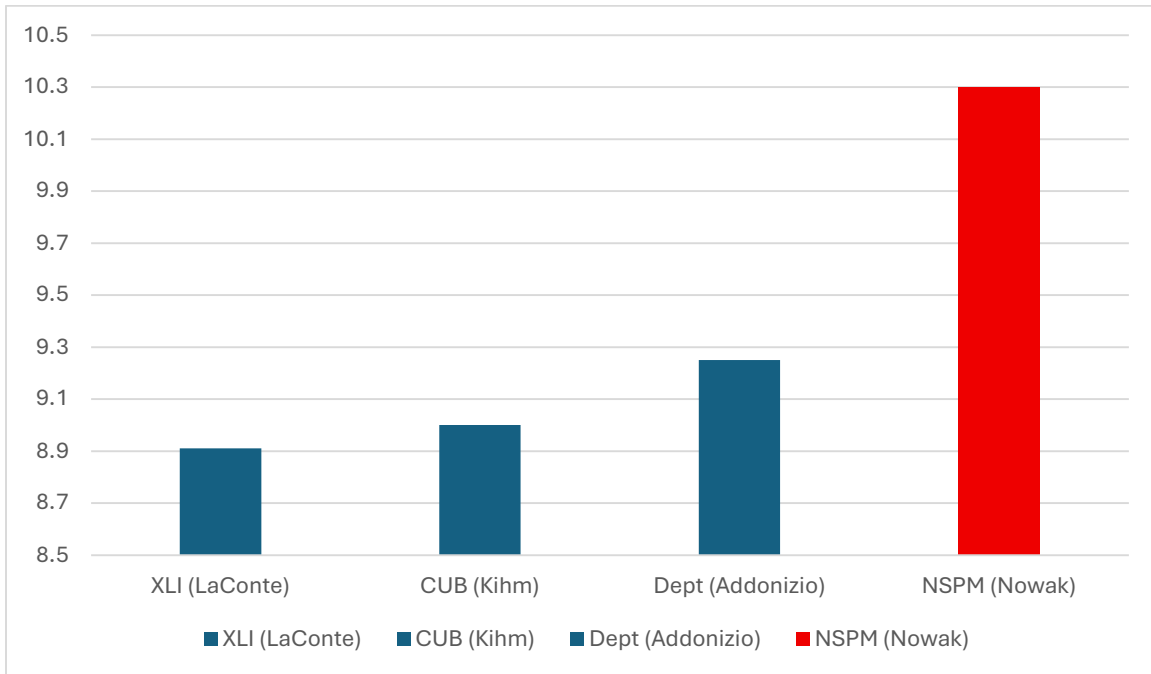
¹⁰² Ex. CUB-6 at SK-SR-26 (Kihm Surrebuttal Schedules)

¹⁰³ NSPM Initial Brief at 48.

¹⁰⁴ Ex. CUB-1 at 4 (Kihm Direct).

¹⁰⁵ See Ex. XLI-1 at 28 (LaConte Direct) (noting the national average ROE for vertically integrated utilities has ranged from 9.74% to 9.84% over the past three years).

Figure 4: Recommended ROEs for NSPM



Try as the Company might to cast Dr. Kihm’s recommendation as the outlier in this case, it is Witness Nowak’s recommendation that stands far apart from the recommendations of other expert witnesses testifying in this proceeding.

A 9.0 percent ROE *is* below the national average ROE for vertically integrated electric utilities.¹⁰⁶ However, the standard for establishing an appropriate ROE in this case is not simply to determine the mean ROE for other utilities and set NSPM’s ROE based on its proximity to that average. Applying that logic would create a race to the top, where ever-increasing ROE averages support ever-increasing authorized ROEs for individual utilities, and vice versa. Dr. Kihm draws an apt analogy pointing out the flaw in this logic:

Consider the following medical analogy. Assume that a U.S. man weighs himself and his scale reads 195 pounds. He finds a chart that shows the average weight for U.S. males of his height and body type is 200 pounds. The man concludes that he is at a healthy weight, or even slightly underweight.

But of course we know this to be an illogical conclusion. Assume that medical researchers have shown that the optimal or healthy weight for a man of his body type

¹⁰⁶ See Ex. CUB-6 at 9 (Kihm Surrebuttal) (Dr. Kihm views the national average ROE to be between 9.7% and 9.8%). See also Exhibit WAL-1 at Exhibit 4 (Austin Direct) (Walmart witness Austin views the national average ROE to be 9.77%). See also Ex. XLI-1 at 28 (LaConte Direct) (noting the national average ROE for vertically integrated utilities has ranged from 9.74% to 9.84% over the past three years).

is 165 pounds. Rather than being fit, the man in question is 30 pounds overweight. But he cannot determine that by looking at what other men weigh. He must look outside the narrow confines of actual weight comparison to find the scientific answer. To conduct a proper assessment, he needs a different reference variable, not what men *actually* weigh, but what they *should* weigh. And certainly no traditionally trained medical professional would tell the man in this analogy he should *gain* additional weight to be healthy.¹⁰⁷

The evidence before the Commission in this case demonstrates that approving NSPM's recommended 105 basis point increase to its ROE would only fatten NSPM shareholders' return at the expense of, and to the detriment of, NSPM's ratepayers. "By long standing usage in the field of rate regulation, the 'lowest reasonable rate' is one which is not confiscatory in the constitutional sense" and "[i]f the rate permits the company to operate successfully and to attract capital all questions as to 'just and reasonable' are at an end so far as the investor interest is concerned."¹⁰⁸ To protect ratepayers from paying more than is reasonable or necessary for the Company to earn a reasonable return, the Commission should soundly reject NSPM's proposal to increase its ROE.

iv. The Commission should lower NSPM's ROE to fairly balance the competing interests of ratepayers and shareholders and to produce just and reasonable rates.

Instead of increasing NSPM's ROE, the Commission should lower it to 9.0 percent. The testimony and arguments introduced by CUB, XLI, and the Department provide substantial evidence demonstrating that lowering NSPM's ROE would more fairly balance the competing interests of ratepayers and shareholders and produce just and reasonable rates.¹⁰⁹ Such an action would also comply with *Bluefield, Hope, Hibbing*, and other precedential Court decisions applicable to the Commission's ROE determination.

a. NSPM will be able to attract capital at a 9.0 percent ROE.

As noted above, despite NSPM's complaints about the Commission's 2023 rate case decision hurting XEI's stock price, neither NSPM nor XEI have had trouble raising capital in the years since.¹¹⁰ Lowering NSPM's authorized ROE by 25 basis points will not suddenly prevent NSPM from attracting capital. Finance principles and observable market data reveal that a utility's authorized ROE generally "does not drive capital attraction because it does not affect investor return expectations."¹¹¹ This is due to how securities are priced on the market.

Stocks of utilities with high ROEs trade in the market at substantial premiums to book value, which dilutes the effect of ROEs on investor returns. Stocks of utilities with low ROEs, on the other hand, trade at more modest relative prices, which has much less of a diluting effect.¹¹²

¹⁰⁷ Ex. CUB-6 at 3 (Kihm Surrebuttal).

¹⁰⁸ *FPC v. Natural Gas Pipeline Co.*, 315 U.S. at 585, 607 (1942).

¹⁰⁹ E-002/GR-21-630 Findings of Fact, Conclusions, and Order at 79 (citing Minn. Stat. § 216B.16, subd. 6 (emphasis added)).

¹¹⁰ Ex. CUB-1 at 14-15 (Kihm Direct) (citing Ex. CUB-2, SK-D-25 (Kihm Direct Schedules)).

¹¹¹ *Id.* at 8.

¹¹² *Id.* at 9.

Increasing NSPM's authorized ROE might temporarily cause XEI's stock price to rise, which would benefit *existing* shareholders. However, as investors become aware of that higher ROE, "the possibility of high returns to investors will melt away in higher stock prices."¹¹³ On the other hand, *lowering* NSPM's authorized ROE might temporarily cause XEI's stock price to go down, but a lower stock price allows *new* investors to acquire XEI stock at a perceived discount.

b. NSPM will maintain its financial integrity at a lower authorized ROE.

In *Hope*, the Court upheld the Federal Power Commission's ("FPC") decision to significantly limit the return of Hope Natural Gas. In so doing, the Court held that a reduction in the authorized rate of return could "not be condemned as unjust and unreasonable from the investor or company viewpoint," even though it might "produce only a meager return."¹¹⁴ As the Court went on to state, "[t]he fixing of prices, like other applications of the police power, may reduce the value of the property which is being regulated. But the fact that the value is reduced does not mean that the regulation is invalid."¹¹⁵

The Court further observed the FPC had "stressed the importance of maintaining the financial integrity of the company" and "considered the financial history of [Hope Natural Gas] and a vast array of data bearing on the natural gas industry, related businesses, and general economic conditions" before deciding the evidence warranted lowering Hope's authorized return.¹¹⁶ Among those considerations, the FPC observed that Hope was a "seasoned enterprise whose risks have been minimized" and that it had "concurrent high profits."¹¹⁷ NSPM, too, is a "seasoned enterprise whose risks have been minimized" and which is experiencing "concurrent high profits." As noted above, XEI has met or exceeded its EPS guidance every year for the past 22 years, supporting continuous and steadily increasing quarterly dividend payments over that time period. XEI reported \$1.94 billion in *net* earnings in 2024.¹¹⁸ As discussed further below, NSPM also has numerous risk mitigation measures in place that help protect its financial integrity, even at a lower authorized ROE. All of these various factors suggest that a reduction in NSPM's authorized return on equity will not impact the financial integrity of the Company, nor its ability to continue providing safe and reliable service to Minnesotans throughout its service territory.

c. NSPM will earn a return comparable to returns required on investments of similar risk.

As the *Bluefield* Court explained, "[a] rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally."¹¹⁹ On balance, the evidence in this record supports lowering NSPM's authorized

¹¹³ *Id.* at 13 (citing Ex. CUB-2, SK-D-6 (Kihm Direct Schedules)).

¹¹⁴ *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591, 600, 605 (1944).

¹¹⁵ *Id.* at 601 (citing *Block v. Hirsh*, 256 U.S. 135, 155-157 (1921); *Nebbia v. New York*, 291 U.S. 502, 523-539 (1934)).

¹¹⁶ *Id.* at 604.

¹¹⁷ *Id.*

¹¹⁸ Ex. DOC-26 at 25 (2024 Form 10-K) (showing that Xcel's net income was \$1.94 billion in 2024 compared with \$1.77 billion in 2023).

¹¹⁹ *Bluefield*, 262 U.S. at 693.

ROE so that it is closer to its cost of equity. This will cause NSPM's authorized ROE to be lower than other comparable companies. Though, as the Department notes in its Initial Brief, neither allowed ROEs nor the average cost of equity for similar companies (at least those in the DOC Proxy Group) show any meaningful upward trend over the past year.¹²⁰

Further, XLI Witness LaConte provides extensive testimony on the risk mitigation measures available to NSPM.¹²¹ Interim rates, multi-year rate plans, cost-recovery riders, and revenue decoupling mechanisms all permit the Company to consistently recover costs outside the rate case context, thereby reducing cash flow risks.¹²² These risk-mitigation measures will still be in place if the Commission lowers NSPM's authorized ROE to 9.0 percent and will continue to insulate NSPM from risk relative to other investments of similar risk described included in Witness Nowak's proxy group.¹²³

III. CONCLUSION

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

- The Commission should deny the Company's request to raise its authorized return on equity.
- The Commission should set the Company's authorized ROE at 9.0 percent.
- The Commission should prohibit the Company from recovering more than 50 percent of its investor relations costs.
- The Commission should prohibit the Company from charging late payment fees to residential customers.
- If the Commission prohibits late payment fees, then it should also deny the Company's proposal for a Residential Arrears Management Program.
- If the Commission does not prohibit late payment fees, then it should (1) lower the fee amount to be reflective of costs borne by the Company; and (2) require fee waivers for low-income customers.
- The Commission should eliminate the imposition of reconnection fees for residential customers.
- If the Commission does not fully eliminate reconnection fees, it should (1) waive such fees for low-income households and those indicating they are unable to pay; and (2) consider excluding labor costs from future fee calculations.

¹²⁰ Department Initial Brief at 28 (citing Ex. DOC-12 at 85 (Addonizio Direct)).

¹²¹ Ex. XLI-1 at 12-13 (LaConte Direct).

¹²² *Id.*

¹²³ Ex. XLI-1 at 29 (LaConte Direct).

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Respectfully submitted,

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