BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 7th Place East
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MPUC Docket E-002/GR-24-320; E-002/M-24-321
CAH Docket No. 28-2500-40515

In the Matter of the Application of Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota

EXCEPTIONS OF THE OFFICE OF THE MINNESOTA ATTORNEY GENERAL—RESIDENTIAL UTILITIES DIVISION TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGE

May 15, 2026

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INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits its Exceptions to the Findings of Fact, Conclusions of Law, and Recommendations (Report) issued on April 29, 2026, by the Administrative Law Judge (ALJ).

This proceeding involves complex issues of fact, law, and policy. The OAG appreciates the ALJ's efforts to summarize the voluminous record and provide recommendations to the Commission. The Report is generally thorough and well-reasoned, and the OAG agrees with the bulk of its recommendations. A few of the Report's conclusions, however, misapply the legal standard, go against the weight of the evidence, fail to address OAG arguments, or are otherwise unsupported by the record, and should not be adopted.

The fact that these Exceptions do not address a particular issue should not be interpreted as a waiver of the OAG's recommendation or arguments on that issue. The OAG continues to support all of the positions advanced in its initial and reply briefs unless otherwise noted herein.[1]

ANALYSIS

I. THE REPORT MISSTATES THE LEGAL STANDARD FOR THE REVENUE REQUIREMENT AND RECOVERY OF EXPENSES.

The Report contains contradictory statements regarding the legal standard for rate recovery of expenses. The Report correctly states that the Commission acts in both a quasi-judicial and legislative capacity in setting rates,[2] but incorrectly implies that the determination of the revenue requirement is not a legislative function.[3] It also contains a partial quote from a Minnesota Court of Appeals opinion that implies that recovery of expenses is entirely a quasi-judicial function,

[1] The OAG does not contest the Report's recommendation to allow recovery of residential time-of-use costs because the Report recommends disallowing the capital costs of the rate-comparison tool. *See* ALJ Report ¶¶ 403–24.
[2] ALJ Report ¶ 93.
[3] ALJ Report ¶ 1088.

despite that same case and the Minnesota Supreme Court holding otherwise.[4] These findings should be corrected to ensure that the Commission's order in this case does not misstate the law.

The Report incorrectly states in Finding 1088 that "[r]ate design, in contrast to the determination of the revenue requirement, is a quasi-legislative function."[5] It is true that rate design is a legislative function,[6] but the Commission acts in both a quasi-judicial and legislative capacity when determining the revenue requirement, as the Supreme Court has said explicitly:

> [I]n the exercise of the statutorily imposed duty to determine whether the inclusion of the item generating the claimed cost is appropriate, or whether the ratepayers or the shareholders should sustain the burden generated by the claimed cost, *the MPUC acts in both a quasi-judicial and a partially legislative capacity.*[7]

Because the determination of the revenue requirement is a function of these claimed costs that the Commission assesses "in both a quasi-judicial and partially legislative capacity," the determination of the revenue requirement is necessarily both a quasi-judicial and partially legislative function of the Commission. Finding 1088 is therefore incorrect.

Similarly, the Report states that "a 'utility is entitled to recover necessary, ongoing expenses incurred in the business of providing utility service,'"[8] implying that a utility need only prove that it has incurred an expense to recover it. This is incorrect, as the Commission must also determine whether ratepayers or shareholders should pay for the expense. The case that the Report quotes says as much, stating earlier in the opinion that the decision to allow recovery of expenses is an exercise of both legislative and quasi-judicial functions.[9] Indeed, the Report acknowledges

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[4] ALJ Report ¶ 91.
[5] ALJ Report ¶ 1088.
[6] *St. Paul Area Chamber of Commerce v. Minn. Pub. Util. Comm'n*, 251 N.W.2d 350, 357 (Minn. 1977).
[7] *In re N. States Power Co*., 416 N.W.2d 719, 722–23 (Minn. 1987) (emphasis added).
[8] ALJ Report ¶ 91 (quoting *In re Request of Interstate Power Co.*, 559 N.W.2d 130, 134 (Minn. Ct. App. 1997)).
[9] *In re Request of Interstate Power Co.*, 559 N.W.2d at 133.

this in Finding 93, stating: "The Commission acts in both a quasi-judicial and quasi-legislative capacity in setting rates. It considers both the claimed costs and whether ratepayers or shareholders should sustain the burden of the costs."

Moreover, when reviewing that same Court of Appeals opinion, the Supreme Court stated unequivocally that the Commission acts in its legislative capacity when it is determining whether ratepayers or shareholders should bear an expense. In the underlying Commission proceeding, a gas utility requested recovery of costs to clean up manufactured gas plants.[10] The Commission considered the needs of ratepayers and the needs of shareholders and ultimately determined that the utility should recover the cleanup costs from ratepayers.[11] The Supreme Court held that including cleanup costs in rates was a legislative act, stating:

> [T]he MPUC's responsibility was to balance the needs of the customers and the shareholders, the risk to the fiscal integrity of the utility, the fairness of current charges for past environmental harm, the prudence and reasonableness of the utility's actions, and the societal goal of environmental remediation—clearly policy determinations to be resolved by the MPUC acting in a legislative capacity.[12]

Thus, *whether an expense is incurred at all* is a quasi-judicial determination because the Commission is making a factual determination,[13] but *whether ratepayers or shareholders should bear the burden of an expense* is a legislative determination.[14] This is why many revenue

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[10] *In re Request of Interstate Power Co*., 574 N.W.2d 408, 412 (Minn. 1998).
[11] *Id*. at 412–13
[12] *Id*. at 413.
[13] *St. Paul Area Chamber of Com. v. Minn. Pub. Serv. Comm'n*, 251 N.W.2d 350, 358 (Minn. 1977).
[14] *In re Request of Interstate Power Co*., 574 N.W.2d at 413. Xcel may argue that the Supreme Court's holding was drawn into question by the Court of Appeals through a nonprecedential opinion in Xcel's appeal of its last rate case. *See In re N. States Power Co*., 2025 WL 249995, at *4 n.2 (Minn. Ct. App. Jan. 21, 2025). But the Minnesota Court of Appeals has no ability to overrule a holding of the Minnesota Supreme Court. *See, e.g.*, *Citizens for a Balanced City v. Plymouth Congregational Church*, 672 N.W.2d 13, 20 (Minn. Ct. App. 2003) ("This court is bound by decision of the Minnesota Supreme Court and the United States Supreme Court."). And a nonprecedential opinion by the Court of Appeals is not binding except as law of the case in which

requirement-issues require an examination of whether an expense furthers ratepayer interests or shareholder interests, and why legislative requirements such as the requirement that the Commission consider consumers' "ability to pay" are relevant to revenue-requirement disputes.

Finding 91 of the Report should be rejected because it is incomplete and misleading, and is unnecessary given the correct statement of the legal standard in Finding 93.

> ~~91. A "utility is entitled to recover necessary, ongoing expenses incurred in the business of providing utility service."~~[15]

Finding 1088 of the Report should be revised to comport with longstanding Minnesota case law regarding the Commission's authority to determine the appropriate revenue requirement as follows:

> 1088. Rate design~~, in contrast to the determination of the revenue requirement,~~ is a quasi-legislative function. This step of the ratemaking process largely involves policy decisions to be made by the Commission.

II. XCEL FAILED TO PROVE THAT ITS EXTREME WEATHER RECONNECTION PROGRAM COSTS ARE ACCURATE OR REASONABLE AND SHOULD REQUEST TO TRACK ACTUAL COSTS IN THE ORIGINAL DOCKET.

The OAG takes exception to the Report's recommendation to allow full recovery of alleged costs arising from Xcel's Reconnection Program.[16] The Report omits important evidence and misconstrues the evidence it does cite, improperly relieves Xcel of its burden of proof, improperly relies on information outside of the evidentiary record, and overstates the level of ratepayer protection provided by Xcel's capital true-up. When introducing these costs in rebuttal testimony,

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the opinion was released; it only has persuasive authority. *See* Minn. R. Civ. App. P. 136.01. Further, the Court of Appeals did not cite to *Interstate Power*, which is the Minnesota Supreme Court's most searching review of the appropriate standard of review for expenses, making any invocation of the Court of Appeals' dicta not persuasive. *Id*.

[15] Throughout these Exceptions, the OAG omits the Report's original footnotes when reproducing findings unless an exception relates to the source cited, as is the case with certain extreme-weather-reconnection-program findings. Where the OAG's revisions to a finding require citation or support, the citation or support is supplied using a footnote in red underlined text.

[16] ALJ Report ¶¶ 425–39.

Xcel failed to provide any evidence to support both the capital costs and the O&M costs that it has alleged for the Reconnection Program. Moreover, Xcel's statements about the costs of the Reconnection Program are mathematically unsound. Xcel did, however, admit that the costs are highly uncertain. Without competent evidence in the record, Xcel has failed to prove both that these costs exist and that the costs will be as high as Xcel alleges. The Commission should deny recovery of Xcel's alleged Reconnection Program costs but allow Xcel to petition for deferred accounting of these costs in Xcel's service-quality docket.

The Reconnection Program was developed through a notice and comment process in Xcel's annual service-quality docket.[17] In that docket, Xcel provided a preliminary estimate that a mid-range cost of the program would be a $360,000 one-time cost to set up the program and a $107,345 per-event variable cost.[18] The OAG repeatedly raised concerns that Xcel's cost estimates lacked actual substance, both in Xcel's filings and in its responses to discovery requests.[19] In response, Xcel argued that it was not requesting a determination of prudency of its cost estimates and that Xcel "expect(s) the Commission will evaluate the reasonableness of our actual costs at a later time, likely in a future rate case or other appropriate docket. That evaluation can be based on *actual numbers of affected customers and actual costs.*"[20] Then, in this rate case, Xcel alleged that the estimated costs of the program have ballooned into a $404,000 addition to its rate base in 2025, a $1,600,000 addition to rate base in 2026, and $1,893,000 in operating expenses in 2026,[21] amounting to a $28,000 revenue deficiency in 2025 and a $2,445,000 revenue deficiency in 2026.[22]

[17] ALJ Report ¶ 425.
[18] Ex. OAG-3 at 43–44 (Hinderlie Surrebuttal).
[19] Ex. OAG-3 at 43–44 (Hinderlie Surrebuttal).
[20] Ex. OAG-3 at 43 (Hinderlie Surrebuttal) (emphasis added).
[21] ALJ Report ¶ 426.
[22] Ex. OAG-3 at 45 (Hinderlie Surrebuttal).

The Report finds that "Xcel has met its burden to prove that these costs are reasonable and should be included in rates in this proceeding," but fails to make findings of fact based on record evidence that supports this conclusion.[23] This is because the record is largely devoid of evidence supporting the alleged Reconnection Program costs, which prevents an evaluation of the rate-case estimates. As the program is new, Xcel certainly has not based its request on the "actual number of affected customers and actual costs" as it suggested in the service-quality docket.

Xcel introduced this new request with less than a page of rebuttal testimony and no evidence of what the costs allegedly include or how Xcel calculated them.[24] As in the service-quality docket, the OAG served discovery in an attempt to obtain more information from Xcel, and Xcel's responses were so sparse that the OAG could not determine the basis for either the capital costs or the O&M costs.[25] Xcel provided no explanation or evidentiary support for either capital or O&M, other than stating the general cost categories of "Construction Work in Progress," "Net Utility Plant in Service," "Customer Accounting," and "Administrative and General" in its rebuttal testimony.[26] There simply is insufficient record evidence to support a finding of what the costs of the Reconnection Program actually are, much less that Xcel's unsubstantiated claim should be included in rates.

Moreover, the Report repeats a statement from Xcel that is mathematically incorrect. The Report repeats Xcel's statement that the costs it alleged in this rate case include the mid-range estimates from the service-quality docket,[27] leaving out the crucial fact that the mid-range

[23] ALJ Report ¶ 433.
[24] Ex. Xcel-19 at 20 (Halama Rebuttal); Ex. OAG-3 at 45 (Hinderlie Surrebuttal).
[25] Ex. OAG-3 at 48–49 (Hinderlie Surrebuttal); Ex. OAG-3, sched. KH-S-5 (Hinderlie Surrebuttal).
[26] Ex. OAG-3 at 45, 48 (Hinderlie Surrebuttal).
[27] ALJ Report ¶ 430.

estimates and Xcel's rate case request do not match.[28] First, Xcel did not specify whether the mid-range estimates from the service-quality docket were capital costs, O&M costs, or a combination.[29] More significantly, there is no mathematical way to get from Xcel's mid-range estimates of $360,000 in initial costs and $107,345 in per-event costs to Xcel's rate-case request. If Xcel's total alleged O&M costs of $1,893,000 are related to its per-event estimate, the total costs divided by the per-event costs should yield a whole number equal to the number of reconnection events.[30] Instead, $1,893,000 divided by $107,345 equals 17.63, demonstrating that there is no relationship between Xcel's two cost allegations, contrary to the implication of the Report's finding.[31]

In addition to the Report's mistaken treatment of the facts, it improperly resolves the lack of evidence in the record in Xcel's favor. Xcel bears the burden to prove both that it will actually incur a cost and that including the cost in rates is just and reasonable.[32] Minnesota law also requires that all doubts be resolved in favor of the consumer, not the utility.[33] As explained above, Xcel has not provided a coherent justification for its alleged costs even as it has significantly increased these estimates from those provided in the service-quality proceeding. But more than that, Xcel admitted and the Report finds that Xcel lacked empirical data to support its cost estimates,[34] and the record shows that the actual costs will not be known until the Reconnection Program has been implemented.[35] Moreover, Xcel has since stated that its actual 2025 costs were $63,309,

[28] Ex. OAG-3 at 47 (Hinderlie Surrebuttal).
[29] Ex. OAG-3 at 47 (Hinderlie Surrebuttal).
[30] *See* Ex. OAG-3 at 47, 49 (Hinderlie Surrebuttal).
[31] Incorporating Xcel's estimated upfront costs similarly yields a non-whole number: ($1,893,000 - $360,000)/$107,345 = 14.28.
[32] *In re N. States Power Co.*, 416 N.W.2d 719, 722–23 (Minn. 1987).
[33] Minn. Stat. § 216B.03.
[34] ALJ Report ¶ 428.
[35] Ex. OAG-3 at 44–45 (Hinderlie Surrebuttal).

significantly lower than the $404,000 in rate base it estimated for 2025.[36] Xcel's admission of the significant doubt about the accuracy of its cost estimates must be resolved in favor of ratepayers, particularly in light of this proof that Xcel greatly overestimated its 2025 costs. The Report errs when it instead resolves doubt in favor of Xcel by finding that Xcel's disparate cost estimates warrant scrutiny[37] but then concludes that Xcel "provided adequate support for its costs"[38] because "the preliminary nature of the earlier cost estimates renders it unsurprising that the actual costs materially differed from initial estimates."[39] While it may be true that actual costs will differ, Xcel's rate case cost estimates are not *actual* costs. Those will not be known until Xcel implements the program and has experienced a few reconnection events.

Concerningly, the Report also relies on evidence outside of the evidentiary record in this case without making the findings necessary for official notice. This would result in legal error if the Commission were to simply adopt the Report. Minnesota Rules part 1400.8100 provides that "[n]o factual information or evidence which is not a part of the record shall be considered by the judge or the agency in the determination of a contested case." The record in a contested case includes only case materials that have been filed in that case.[40] Yet the Report supports Findings 427, 428, and 430 with citations to materials that are not a part of this record.[41] In all cases, the

[36] Motion to Take Official Notice, Ex. B at 29 of 40 (May 15, 2026) (excerpted from *In re N. States Power Co.'s 2025 Annual Safety, Reliability, and Service Quality Report*, Docket No. E-002/M-26-27, Xcel Energy's Service Quality Annual Report Part III at 116 (Apr. 1, 2026)).
[37] ALJ Report ¶ 435.
[38] ALJ Report ¶ 437.
[39] ALJ Report ¶ 436.
[40] Minn. R. 1400.7400. Commission Orders may also be cited in the same way that court orders may be cited.
[41] The legally defective footnotes are notes 433, 435, 436, and 441. However, while ALJ Report note 435 cites to an Xcel filing in Docket No. 25-27, the same information was included in Ex. OAG-3 at 43, 48 (Hinderlie Surrebuttal). Therefore, the first sentence of Finding 428 does not need to be struck and note 435 can simply be replaced with a correct citation to record evidence.

Report quotes assertions that Xcel made in another docket regarding its cost estimates, even though those quotes were not introduced anywhere in this case.[42] Quotes and facts that are not found in this record are invalid findings as a matter of law, and those findings must be struck in the absence of any basis to take official notice of the underlying facts.

Finally, the Report appears to misunderstand Xcel's capital true-up and overestimate the extent to which it will protect ratepayers from Xcel's unsupported Reconnection Program costs. The Report finds that the capital true-up "does reduce the risk to ratepayers if Xcel's forecasted capital expenditures ultimately prove to be too high."[43] This overlooks the fact that $1,893,000 of the alleged Reconnection Program costs—more than three quarters of the costs in 2026—are O&M costs, which the capital true-up will not affect in any way. Instead, Xcel will be able to forward the financial benefit of any O&M costs not actually incurred to its shareholders.[44]

However, the capital true-up will not even meaningfully reduce the risk of Xcel overbudgeting reconnection-program-related capital costs. Under the mechanism Xcel proposed, Xcel would only refund customers if its *aggregate* actual capital-related revenue requirement falls below the approved revenue requirements in this rate case.[45] This means that if Xcel's actual capital expenditures for the Reconnection Program do end up being lower than Xcel's request, Xcel can avoid the capital true-up refund by making more capital expenditures in other areas of its business. As a general matter, there is nothing preventing Xcel from altering the timelines of capital projects so that overbudget and underbudget capital projects cancel each other out for

[42] ALJ Report ¶ 430. Footnote 441 to ¶ 430 contains additional factual assertions that Xcel made in that other docket that are legally invalid as findings because they lack record support.
[43] ALJ Report ¶ 438.
[44] *See* Ex. OAG-1 at 20 n.69 (Hinderlie Direct) (explaining the interplay between test-year costs and actual costs and referencing the Commission's concern for reducing costs below test-year amounts to increase profits).
[45] Ex. Xcel-15 at 29 (Liberkowski Direct).

purposes of the capital true-up, thus ensuring that Xcel receives its full revenue requirement every year. This fact of the capital true-up is why capital costs claimed in a rate case must be as accurate as possible and overestimating them is a significant harm even with the capital true-up; if capital costs for a project are overstated, Xcel can still make ratepayers pay up to the cap if it goes overbudget on other projects.

For these reasons and the reasons set out in the OAG's testimony and briefing, the Commission should adopt modified and new findings as set forth below:

> 426. The Company added a request in Rebuttal Testimony to recover costs relating to a new program in which Xcel must temporarily reconnect service for disconnected residential customers during periods of extreme heat or poor air quality (Reconnection Program).[426] Xcel stated that t~~T~~his program would add $404,000 to Xcel's rate base in the 2025 Test Year[427] and $1,600,000 to its rate base in the 2026 Plan Year.[428] Xcel also ~~seeks recovery of~~ stated that the program would add $1,893,000 in operating expenses in the 2026 Plan Year.[429] Overall, these changes would increase the 2025 Test Year revenue deficiency by $28,000[430] and increase the 2026 Plan Year revenue deficiency by $2,445,000.[431]
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> 427. During the notice and comment period to approve the program, Xcel estimated that the cost of the program would include a one-time set-up cost of $360,000 and low-end, mid-range, and high-end estimates for variable costs of ~~between~~, respectively, $38,608, $107,345, and $163,780 per event.[432] ~~In Docket No. E002/M-25-27, the OAG had advocated for expedited implementation of the Reconnection Program.[433]~~ The OAG also argued in that docket Xcel's cost estimates were unsupported, as Xcel had failed to provide sufficient information in discovery and in comments to determine the basis for its cost estimates.[434]
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> ~~[433] *In the Matter of Northern States Power Co. d/b/a Xcel Energy's 2024 Annual Safety, Reliability and Service Quality Report*, MPUC Docket No. E002/M-25-27, OAG Letter (July 16, 2025) (supporting decision options 9 and 10, to require implementation effective May 1, 2026); *In the Matter of Northern States Power Co. d/b/a Xcel Energy's 2024 Annual Safety, Reliability and Service Quality Report*, MPUC Docket No. E002/M-25-27, OAG Comments at 2 (May 9, 2025) (recommending plan implementation on an expedited timeline).~~
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> 428. The Company explained in Docket No. E002/M-25-27 that cost assumptions and estimates provided in that proceeding were preliminary and that not all costs had been forecasted.[435] ~~Xcel stated in reply comments, "[i]n short, there are multiple and irreducible uncertainties in making these forecasts. . . . In addition, to the Company's knowledge, no other utilities in the United States are currently implementing heat and/or AQI reconnection, so we lack comparative data from~~

~~other utilities and regions to inform our predictions and cost estimates."[436]~~ The Commission "approved Xcel's plan to institute this program with significant modifications from its original proposal."[437]

[435] Ex. OAG-3 at 42–43 (Hinderlie Surrebuttal). ~~*In the Matter of Northern States Power Co. d/b/a Xcel Energy's 2024 Annual Safety, Reliability and Service Quality Report*, MPUC Docket No. E002/M-25-27, Xcel Energy Reply Comments at 15 (June 3, 2025).~~

[436] ~~*In the Matter of Northern States Power Co. d/b/a Xcel Energy's 2024 Annual Safety, Reliability and Service Quality Report*, MPUC Docket No. E002/M-25-27, Xcel Energy Reply Comments at 15 (June 3, 2025).~~

429. When the Commission ordered Xcel to implement the program, it did not state whether it found Xcel's cost estimates to be reasonable, but it did require Xcel to provide a summary of the costs of the program in future annual Service Quality reports.[438]

OAG 429a. Xcel filed its summary of the costs of the program on April 1, 2026 in its 2025 annual service quality compliance filing. It stated that it spent $63,309 on the Reconnection Program in 2025, significantly less than the $404,000 in additional rate base it claimed in this case.[46]

430. In this docket, Xcel introduced its large request for recovery of Reconnection Program costs in rebuttal testimony with little explanation.[47] It stated in a spreadsheet that its increased rate base was due to "construction work in progress" and "general net utility plant in service."[48] The spreadsheet also indicated that Xcel would incur $1.193 million in "customer accounting" costs and $700,000 in "administrative and general costs."[49] In response to OAG discovery requests regarding the Company's cost estimates,[439] Xcel responded, "[t]he costs included in Halama Direct, Schedules 3A and 3B, column 24 include the mid-range estimates from Table 1 of the June 3, 2025 Reply Comments for per-event variable costs."[440] ~~As Xcel Energy explained in Docket E002/M-25-27, "[a]s a mid-range estimate, we use the highest number of customers of record in a disconnected status in a non-CWR month in 2024. This includes customers newly disconnected that month and customers remaining disconnected from prior months. This occurred in July 2024, when 12,453 residential and commercial customers were in a disconnected status on July 18."[441]~~

[46] Motion to Take Official Notice, Ex. B at 29 of 40 (May 15, 2026) (excerpted from *In re N. States Power Co.'s 2025 Annual Safety, Reliability, and Service Quality Report*, Docket No. E-002/M-26-27, Xcel Energy's Service Quality Annual Report Part III at 116 (Apr. 1, 2026)).
[47] Ex. Xcel-19 at 20 (Halama Rebuttal).
[48] Ex. Xcel-19, sched. 3A at 3 (Halama Rebuttal); Ex. Xcel-19, sched. 3B at 3 (Halama Rebuttal).
[49] Ex. Xcel-19, sched. 3B at 4 (Halama Rebuttal).

~~[441] *In the Matter of Northern States Power Co. d/b/a Xcel Energy's 2024 Annual Safety, Reliability and Service Quality Report*, MPUC Docket No. E002/M-25-27, Xcel Energy Reply Comments at 16 (June 3, 2025). Further, as explained in the Company's Reply Comments, the high-end estimate takes into consideration the expected roll out of additional AMI meters in 2025 and accounts for the possibility that the number of disconnected customers in future years could be higher than 2024. *Id.*~~

431. The Company also ~~confirmed~~ contended, in response to discovery, that the proposed costs were incremental to those costs already included in supplemental direct.[442]

433. Xcel has not met its burden to prove that these costs are reasonable and should be included in rates in this proceeding. Xcel provided contradictory evidence to support the claim that its request in this case includes the mid-range cost estimates from its Reply Comments in Docket E-002/M-25-27. Xcel did not explain whether the mid-range cost estimates in Docket E-002/M-25-27 were for capital costs, O&M costs, or both. Additionally, the OAG demonstrated mathematically that Xcel's cost estimate in this case is unrelated to the per-event mid-range cost estimate from Docket E-002/M-25-27.[50] This casts significant doubt on Xcel's contention that "[t]he costs included in Halama Direct, Schedules 3A and 3B, column 24 include the mid-range estimates from Table 1 of the June 3, 2025 Reply Comments for per-event variable costs" and leaves the Commission unable to determine an evidentiary basis for Xcel's request. Even if one assumes that the mid-range cost is used, the only evidence in the record regarding the reasonableness of estimating 17 reconnection events is the OAG's testimony that this is a "high estimate."[51] Xcel provided no testimony supporting that it used 17 reconnection events as a basis for calculating costs nor that using this figure would be reasonable.

~~434. The Commission directed Xcel to implement the Reconnection Program, and it necessarily follows that Xcel should be allowed to recover the reasonable costs of complying with the Commission's Order~~

435. ~~This does not end the inquiry, however, as t~~The Commission did not render a decision on the appropriate cost level for recovery. It is not, contrary to Xcel's suggestion, inappropriate for the OAG to scrutinize the costs associated with a program that it supported in concept. Support for a given program does not require unequivocal support for any price tag for that initiative, especially when the OAG raised similar cost concerns at the time of Commission approval in Docket E002/M-25-27. And here, certainly, the disparity between the initial estimates and the amounts requested for recovery is significant enough to warrant scrutiny.

[50] Ex. OAG-3 at 47 (Hinderlie Surrebuttal).
[51] Ex. OAG-3 at 47–48 (Hinderlie Surrebuttal).

OAG 435a. The Commission directed Xcel to implement the Reconnection Program, but Xcel has failed to demonstrate what the reasonable costs of the Reconnection Program will be. Xcel failed to demonstrate the basis for its cost estimates, and the little explanation that Xcel did provide is mathematically inaccurate. Moreover, Xcel admitted that the costs of the program are highly uncertain. The Commission demonstrated an interest in determining accurate program costs when it ordered Xcel to file a "summary of costs incurred to implement the heat and AQI even plans in the previous year,"[52] and Xcel's summary of 2025 costs is significantly lower than its 2025 test-year request for these costs in this rate case.[53] Xcel is not entitled to recover unsupported cost estimates that are significantly larger than its actual costs.

OAG 435b. Because of the lack of support for Xcel's claimed costs and the uncertainty regarding the actual costs of the Reconnection Program, the OAG recommended that Xcel be allowed to request deferred accounting in its service-quality docket until Xcel has enough cost information to be able to make reasonable and supported rate-case requests for the costs of the Reconnection Program.[54]

OAG 435c. Xcel has failed to demonstrate that its request for recovery of the estimated costs of the Reconnection Program is accurate or reasonable and the Commission will deny Xcel's request. Xcel may petition in its service-quality docket to track the costs of program implementation until it has enough cost data to make an accurate request in a future rate case.

~~436. Xcel did, however, establish that the preliminary nature of the earlier cost estimates renders it unsurprising that the actual costs materially differed from initial estimates.~~

~~437. The Company provided adequate support for its costs to justify inclusion in rates. Further, the record provides no basis to doubt Xcel's representation that the costs are incremental. The Company has unequivocally stated as much, and in the absence of a basis to doubt this representation, it is unclear what additional evidence Xcel could provide to prove the negative that costs for the Reconnection Program were not included in the initial rate request.~~

~~438. Further, this Report previously recommended approving the Company's capital true-up mechanism. While a true-up mechanism should not be used as a justification to approve unsupported cost levels, its presence does reduce~~

[52] *In re N. States Power Co.'s 2024 Annual Safety, Reliability, and Service Quality Report*, Docket No. E-002/M-25-27, Order at 2 (Jul. 25, 2025).
[53] Motion to Take Official Notice, Ex. B at 29 of 40 (May 15, 2026) (excerpted from *In re N. States Power Co.'s 2025 Annual Safety, Reliability, and Service Quality Report*, Docket No. E-002/M-26-27, Xcel Energy's Service Quality Annual Report Part III at 116 (Apr. 1, 2026)).
[54] Ex. OAG-3 at 49–50 (Hinderlie Surrebuttal).

~~the risk to ratepayers if Xcel's forecasted capital expenditures ultimately prove to be too high.~~

~~439. For these reasons, the Commission should approve Xcel's proposed recovery of costs related to the Reconnection Program.~~

III. RECOVERY OF INDIRECT WILDFIRE-MITIGATION COSTS SHOULD REFLECT THE COMMISSION'S DECISION IN DOCKET NO. 25-245.

The OAG takes exception to the Report's recommendation to allow Xcel to recover its full request for indirect wildfire-mitigation costs. The Commission should instead require Xcel to include reduced amounts in 2025 and 2026 that better reflect Minnesota's contribution to Xcel's wildfire-mitigation costs, consistent with the Commission's decision on Xcel's administrative-service agreement.

Xcel incurs some wildfire-mitigation costs at the service-company level that cannot be directly assigned to an operating company.[55] In this case, Xcel used a method called the total plant ratio to assign Minnesota a share of those "indirect" wildfire-mitigation costs.[56] The OAG and the Department opposed the total plant ratio because it fails to account for the unique wildfire risks in each of Xcel's jurisdictions.[57] We recommended that indirect wildfire-mitigation costs instead be allocated in proportion to the wildfire-mitigation costs that Xcel directly assigns to each jurisdiction.[58] However, because Xcel refused to provide the impact of the OAG and the Department's allocation methodology in the rate case, we recommended removing all indirect wildfire-mitigation costs from the test and plan years.[59]

[55] ALJ Report ¶ 529.
[56] ALJ Report ¶ 529.
[57] ALJ Report ¶¶ 530–31, 533.
[58] ALJ Report ¶ 531; Ex. OAG-5 at 29 (Lee Direct).
[59] ALJ Report ¶ 531; Ex. OAG-5 at 29 (Lee Direct).

The Report concludes that completely disallowing indirect wildfire-mitigation costs would be "extreme" and "inappropriate,"[60] even though Xcel prevented a full record from being developed. The Report recommends that the Commission approve recovery of indirect wildfire-mitigation costs as allocated by the total plant ratio.[61]

After this case was submitted to the ALJ, the Commission addressed the allocation of indirect wildfire-mitigation costs in another docket.[62] Xcel filed for approval an "administrative service agreement" that provides the terms and conditions under which Xcel's corporate service company provides services to Xcel's Minnesota operating company, including wildfire-mitigation services.[63] The Commission found the total plant ratio an unreasonable method for allocating the cost of these services and required Xcel to modify the service agreement to allocate indirect wildfire-mitigation costs based on direct wildfire-mitigation costs.[64] Xcel did not seek reconsideration of this decision. The Commission also ordered Xcel to make a compliance filing providing the financial impact, for the 2025 and 2026 test years, of allocating indirect wildfire-mitigation costs according to direct-assigned wildfire-mitigation costs rather than total plant.[65]

In a motion filed concurrently with these exceptions, the OAG has asked the Commission to take administrative notice of Xcel's April 14, 2026 compliance filing in Docket No. E-002/AI-25-245. Taking administrative notice of this document is unopposed by any party, including Xcel.

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[60] ALJ Report ¶ 543.
[61] ALJ Report ¶ 545.
[62] *See In the Matter of Xcel Energy's Petition for Approval of Its 2025 Annual Administrative Service Agreement*, Docket No. E-002/AI-25-245, Order Approving Modifications of Service Agreement and Requiring Compliance Filing (Apr. 1, 2026).
[63] *Id.* at 1–2.
[64] *Id.* at 3.
[65] *Id.* at 4.

The Commission should take notice of Xcel's compliance filing and adopt the following finding on the test- and plan-year impact of the OAG and the Department's allocation recommendation:

> OAG 532a. The OAG and the Department's recommendation to allocate indirect wildfire-mitigation costs according to direct-assigned wildfire-mitigation costs results in $950,393 in indirect wildfire-mitigation costs being allocated to Minnesota in 2025 and $1,253,901 in 2026. This yields downward adjustments to Xcel's proposed recovery of indirect wildfire-mitigation costs of $753,265 in 2025 and $596,907 in 2026.[66]

The Commission's order in Docket No. 25-245, and Xcel's subsequent compliance filing, also render many of the Report's findings unnecessary. The Commission should therefore adopt the following findings with modifications:

> 532. Based on evidence in the record, Xcel calculated the impact of allocating indirect wildfire costs based on the allocation of direct wildfire costs as decreasing the 2025 test year revenue requirement by $0.1 million and increasing the 2026 plan year revenue requirement by $0.6 million. However, Xcel subsequently made a compliance filing in Docket No. 25-245 showing the correct numbers.
>
> 543. ~~This principle, however, should not be stretched to an extreme such that the absence of a methodologically perfect allocation method warrants categorical removal of costs for an activity that is inarguably reasonable and necessary for the provision of utility service. The very nature of indirect costs are that they cannot be precisely direct-allocated. The task of the Company is to propose, and ultimately the Commission to determine, a reasonably supported proxy for allocating these costs. Both allocation proposals are sufficiently supported to render categorical cost exclusion inappropriate.~~ It is unnecessary, however, to completely remove indirect wildfire-mitigation costs because Xcel subsequently supplied the financial impact of the OAG and the Department's recommendation in Docket No. 25-245.
>
> 544. ~~While both allocation proposals have shortcomings, it is worth emphasizing that the Company's proposal, when netting out the impact to the 2025 Test Year and 2026 Plan Year revenue requirements, positively benefits Minnesota ratepayers. Giving due consideration to resolving doubt as to reasonableness in the customer's favor, as well as the Company's support for the methodology that, in this proceeding, benefits Minnesota ratepayers, the Company's proposal is the most reasonable in the record.~~ On balance, the OAG and the Department's recommendation to allocate indirect wildfire-mitigation costs based on the share of

[66] Docket No. E-002/AI-25-245, Xcel Compliance Filing attach. A, line "24-320 Test Year Adjustment" (Apr. 14, 2026).

wildfire-mitigation costs directly assigned to a jurisdiction is the more reasonable one. By reflecting costs directly incurred to address wildfire mitigation in each jurisdiction, this approach better accounts for the relative risk of wildfires that applies to each jurisdiction, notwithstanding that some fluctuations will occur from year to year. The total plant ratio, by contrast, merely reflects the size of Xcel's transmission and distribution investments in each state; this does not accurately approximate cost causation for wildfire-mitigation expenses.

545. The Commission should approve recovery of indirect wildfire costs ~~as allocated by total plant ratio.~~ in the amounts of $950,393 in 2025 and $1,253,901 in 2026. This yields downward adjustments to Xcel's proposed recovery of $753,265 in 2025 and $596,907 in 2026.[67]

Finally, Finding 541 has been negated by the Commission's order in Docket No. 25-245 and should be rejected in its entirety:

~~541. Conversely, the Department and OAG's suggested methodology of allocating indirect wildfire costs based strictly based on the allocation of direct costs likely overstates the appropriate level of cost responsibility for jurisdictions that incur either more, or more severe, discrete wildfire events in a given year. This would understate the shared benefit of the indirect costs and cause unprincipled annual fluctuations of relative cost responsibility for indirect costs that would be incurred regardless of the distribution of a particular year's wildfire activity.~~

IV. THE COMMISSION SHOULD REQUIRE XCEL TO SHOULDER THE FINANCIAL BURDEN OF ITS VOLUNTARY MEMBERSHIP IN THE EDISON ELECTRIC INSTITUTE.

The OAG takes exception to the Report's recommendation to allow Xcel to recover dues paid to the Edison Electric Institute trade association.[68] The Commission should instead require Xcel to bear the cost of these dues since Xcel has not established whether or to what extent they benefit ratepayers.[69]

Xcel is a member of the Edison Electric Institute (EEI), an association that represents U.S. investor-owned electric utilities.[70] The membership dues that Xcel pays for this privilege are substantial—Xcel estimates that $677,000 in EEI dues are included in both its 2025 test year and

[67] Docket No. E-002/AI-25-245, Xcel Compliance Filing attach. A, line "24-320 Test Year Adjustment" (Apr. 14, 2026).
[68] *See* ALJ Report ¶¶ 683–90.
[69] Ex. OAG-7 at 4–7 (Lee Surrebuttal).
[70] ALJ Report ¶ 683.

its 2026 plan year.[71] In the Commission's most recent decision in a fully litigated rate case, it determined that a utility could not recover trade-association dues where it had failed to identify specific trainings, conferences, or other educational programming that its employees actually used or to otherwise demonstrate that membership benefitted ratepayers.[72]

The Report states that the Commission has "routinely" allowed electric utilities to recover EEI dues[73] and concludes that a "clear history of allowing electric utilities to recover EEI dues supports a determination that a utility acts reasonably and prudently when it continues to incur expenses that the Commission has previously determined to be recoverable."[74] The Report appears to conflate the issue of prudence with the issue of whether it is just and reasonable for ratepayers to bear an expense. They are not the same thing. And this is not the standard the Commission has recently applied to rate recovery of dues for a similar organization.

Certainly, prudence is a prerequisite for rate recovery.[75] But even where prudence is not at issue, the Commission must still assure that is it just and reasonable for ratepayers to bear a claimed cost.[76] Cost recovery for an expense item is, in each instance, "a policy question" for the Commission to decide as it exercises its quasi-legislative ratemaking authority.[77] Considerations that may inform this inquiry include, but are not limited to, prudence or lack thereof,[78] whether

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[71] ALJ Report ¶ 683.
[72] *See In re Application of Greater Minnesota Gas, Inc.*, Docket No. G-022/GR-24-350, Findings of Fact, Conclusions, and Order at 19 (Nov. 26, 2025) (disallowing dues for the American Gas Association, EEI's counterpart for investor-owned natural gas utilities).
[73] ALJ Report ¶ 686.
[74] ALJ Report ¶ 689.
[75] *See, e.g.*, Minn. Stat. § 216B.16, subd. 6 (requiring Commission to "give due consideration . . . to prudent acquisition cost" in determining rate base).
[76] *See In re Petition of N. States Power Co.*, 416 N.W.2d 719, 722 (Minn. 1987) (stating that setting "just and reasonable" rates means determining "whether the ratepayers or the shareholders should sustain the burden generated by the claimed cost").
[77] *In re Request of Interstate Power Co.*, 574 N.W.2d 408, 413 (Minn. 1998).
[78] *See* Minn. Stat. § 216B.16, subd. 19(d).

ratepayers benefit from the utility incurring a cost,[79] and whether the cost is necessary to the provision of utility service.[80]

Here, Xcel failed to substantiate the alleged ratepayer benefits of its voluntary EEI membership, so ratepayers should not be forced to bear the cost.[81] And the Commission should reject the premise that, just because the Commission has allowed recovery of EEI dues in the past, it must continue doing so in this case.

For these reasons and those provided in the OAG's testimony and briefing, the Commission should adopt modified and new findings as set forth below:

> 688. Unlike the Greater Minnesota Gas proceeding, Xcel has identified numerous conferences and other instances where its staff actually engaged with EEI in its initial filing. However, the mere fact that an Xcel expense schedule lists an employee's travel expense for an EEI event, without a description of the event, does not establish that the event has a ratepayer benefit or what that benefit is.[82]
>
> 689. ~~Further, while n~~No single past Commission order constitutes binding precedent in this proceeding.~~, a clear history of allowing electric utilities to recover EEI dues supports a determination that a utility acts reasonably and prudently when it continues to incur expenses that the Commission has previously determined to be recoverable. Nothing in the record suggests that the EEI dues in this proceeding are used for a fundamentally different purpose than dues previously approved for recovery.~~ While the Commission has frequently, but not always, allowed utilities to recover trade-association dues in rates, those past decisions are not determinative of the outcome here. Xcel carries the burden to prove that it is just and reasonable for ratepayers to bear the cost of Xcel's voluntary membership in EEI. On this record, the Commission cannot find that Xcel has done so.
>
> OAG 689a. The OAG requested two types of information from Xcel to support the ratepayer benefit of its EEI membership: (1) evidence demonstrating the ratepayer benefits of membership; and (2) evidence demonstrating what portion of dues benefits ratepayers.[83] Xcel failed to provide sufficient evidence in response to the first request or any evidence in response to the second.

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[79] *See, e.g.*, *In re Application of Greater Minnesota Gas, Inc.*, Docket No. G-022/GR-24-350, Findings of Fact, Conclusions, and Order at 19 (Nov. 26, 2025).
[80] *See* Minn. Stat. § 216B.16, subd. 17(a).
[81] Ex. OAG-7 at 4–5 (Lee Surrebuttal).
[82] *See* Initial Filing Vol. 3, Parts 3 and 4, EER Schedule 1 (listing employee travel expenses).
[83] Ex. OAG-7 at 4 (Lee Surrebuttal).

OAG 689b. Xcel largely made generic claims about the beneficial information that EEI provides.[84] Some benefits, such as "EEI's extensive work related to transmission, the clean energy transition, and coordination with the National Association of Regulatory Utility Commissioners (NARUC),"[85] appear to benefit shareholders as much as or more than ratepayers.

OAG 689c. Xcel declined to provide details on EEI presentations, training courses, and conferences that employees attended, or specific information about the safety and industry information that Xcel receives from EEI, as recommended by the OAG.[86] The information requested by the OAG is similar to what Dakota Electric Association provided pursuant to a settlement in its most recent rate case[87] and could reasonably have been provided here. Instead of providing support for the benefits of various EEI events, Xcel simply pointed to evidence that its employees had traveled to EEI events in 2023.[88] The mere fact that an Xcel employee attended an event, however, does not prove that it has a ratepayer benefit.

690. The Commission should ~~allow the Company to recover EEI dues in its requested amount~~ disallow Xcel's request to recover EEI dues in 2025 and 2026.

V. ONLY SAFETY-RELATED EMPLOYEE AWARDS AND GIFTS SHOULD BE RECOVERED FROM RATEPAYERS.

The OAG takes exception to the Report's recommendation to permit Xcel to recover its requested amount for the Xcelebrate employee-award program, which provides Xcel employees with small awards and gifts.[89] The OAG agrees that Xcel may recover safety-related awards. But Xcel has provided nothing more than conclusory statements about the benefits of the Xcelebrate awards for performance and years of service, and the related administrative fees.[90]

The Report acknowledges the OAG's argument that Xcel's evidence is insufficient[91] but then goes on to unquestioningly accept Xcel's assertions about the awards' alleged benefits.[92] Xcel

[84] Ex. Xcel-28 at 3–4 (Robinson Rebuttal).
[85] Ex. Xcel-28 at 4 (Robinson Rebuttal).
[86] *See* Ex. OAG-5 at 6–7 (Lee Direct).
[87] Ex. OAG-7 at 7 (Lee Surrebuttal).
[88] Ex. Xcel-28 at 8 (Robinson Rebuttal).
[89] ALJ Report ¶ 714; Ex. Xcel-28 at 12 (Robinson Rebuttal).
[90] Ex. OAG-7 at 9 (Lee Surrebuttal).
[91] ALJ Report ¶ 707.
[92] ALJ Report ¶¶ 708–09, 713.

has the burden to show that employee gift expenses are reasonable and necessary for the provision of utility service.[93] Xcel claims that Xcelebrate awards support employee retention but provides no analysis showing how the awards have helped with retention or reduced hiring and training costs.[94] Xcel's conclusory statements do not meet its burden.

The Commission has also recognized that a similar award program provided by Otter Tail Power was ineligible for recovery.[95] Otter Tail argued that employee-recognition gifts should be eligible for ratepayer recovery because they help "build employee morale and promote retention," yet the Commission denied recovery, finding that that the awards were "not reasonable and necessary for the provision of utility services."[96] The Report claims Xcel's program is distinguishable from the Otter Tail Power rate case,[97] stating that Otter Tail had a "much broader employee gift program."[98] However, the Otter Tail program included expenses that "recognize employee achievement,"[99] just as Xcel claims Xcelebrate does.[100] While Xcel uses the word "accomplishment," instead of "achievement," these terms are synonymous.[101] The Commission should reject the Report's reliance on this semantic difference and deny recovery for Xcel as it has for Otter Tail.[102]

[93] Minn. Stat. § 216B.16, subds. 4, 17(a).
[94] Ex. OAG-7 at 9–10 (Lee Surrebuttal).
[95] *See In re Application of Otter Tail Power Co.*, Docket No. E-017/GR-15-1033, Findings of Fact, Conclusions, and Order at 47–48 (May 1, 2017).
[96] *Id.*
[97] ALJ Report ¶ 710
[98] ALJ Report ¶ 712
[99] *In re Application of Otter Tail Power Co.*, Docket No. E-017/GR-15-1033, Findings of Fact, Conclusions, and Order at 47 (May 1, 2017).
[100] *See* Ex. Xcel-26 at 107 (Robinson Direct).
[101] Ex. OAG-5 at 10 (Lee Direct).
[102] Ex. OAG-5 at 11 (Lee Direct); Ex. OAG-7 at 9 (Lee Surrebuttal).

For these reasons and those provided in the OAG's testimony and briefing, the Commission should adopt modified findings as set forth below.

708. The Company responds that the recognition program provided through Xcelebrate helps the Company foster a culture where employees feel valued and appreciated, which drives engagement, productivity, and retention. Xcel claims that c~~C~~ustomers benefit from the Company's retention of knowledgeable, experienced employees that can complete tasks efficiently and by having reduced costs associated with hiring and training new employees. However, there is no evidence in the record, beyond Xcel's conclusory assertions, to show that the program is effective at achieving these goals or that ratepayers benefit from these awards, despite the OAG highlighting this gap in the record for Xcel.[103] Xcel has not shown how the awards support employee retention or how spending money on awards assists in reducing costs with hiring or training new employees.[104] ~~It is reasonable for the Company to reward high performance and years of contribution, and these awards are a key part of the Company's overall approach to employee compensation.~~

709. Xcel asserts that t~~T~~he performance-based awards reinforce "desirable work efforts and contributions in the moment that directly support customer satisfaction and business continuity." Xcel also claims that t~~T~~he years-of-contribution awards recognize long-term employees who bring valuable expertise and knowledge to the Company, and the awards instill both employee pride and renewed loyalty to their work serving customers. ~~The "per-seat fee" component of the Xcelebrate program is an O&M expense and no amount in that category is received by employees.~~ But Xcel provides no evidence or analysis to support these claimed benefits.

710. The OAG also argued that its recommendation is consistent with prior Commission decisions involving employee recognition programs at Minnesota Power and Otter Tail Power. Both cases relied on by the OAG are instructive. ~~are distinguishable from this proceeding.~~

711. In the 2021 Minnesota Power rate case, the Commission excluded gift cards given to employees as awards for certain periods of service, noting that that program was distinguishable from "accomplishing goals or achieving benchmarks that specifically increase product or safety" and "failed to show how service-time-recognition awards encourage or promote similar results. ~~Here, the service-time awards are only one portion of the program that is largely~~ Xcelebrate awards are in part driven by employee performance~~.~~, but the OAG is not challenging safety-related performance awards, and Xcel has failed to establish that the remaining performance awards have ratepayer benefits. Also included in the Xcelebrate program are awards for "years of contribution at five-year intervals,"

[103] *See* Ex. OAG-5 at 12 (Lee Direct).
[104] Ex. OAG-7 at 9–10 (Lee Surrebuttal).

which appear analogous to "service-time recognition awards," of the type disallowed in the 2021 Minnesota Power case.[105] Xcel has not shown how awards for length of service encourage or promote benefits to customers. ~~Further, Xcel has built a record on the customer benefits of employee retention that satisfies its burden on this issue.~~

712. In the 2015 Otter Tail Power Company rate case, the Commission excluded from recovery a much broader employee gift program that included gifts for achievement, retirements, deaths, holidays, and other special events, determining that such gifts were "not reasonable and necessary for the provision of utility services." ~~Such gifts are unrelated to performance and present no obvious customer benefit. Xcel has shown that, in this proceeding, it is not seeking recovery of these types of gifts.~~ The achievement-related awards that the Commission denied recovery for in Otter Tail are similar to the performance-related awards at issue here for which Xcel has failed to establish a ratepayer benefit. Moreover, Xcel's years-of-service awards are like the employee-recognition gifts disallowed in Otter Tail and similarly lack any ratepayer benefit.

713. The Company has not met its burden to prove that the portion of its employee gift program it seeks to recover is reasonable and necessary for the provision of utility service.

714. The Commission should disallow ~~Xcel to recover its requested amount for the Xcelebrate program.~~ $737,144 for non-safety awards and administrative fees in the 2025 test year and $768,252 for non-safety awards and administrative fees in the 2026 plan year.[106]

VI. THE COMMISSION SHOULD REQUIRE XCEL TO SHARE IN THE BURDEN OF RATE CASE EXPENSES SINCE RATE INCREASES BENEFIT SHAREHOLDERS AT LEAST AS MUCH AS RATEPAYERS.

The OAG takes exception to the Report's recommendation to require ratepayers to pay 100 percent of the costs that Xcel incurs to litigate its rate case.[107] The record establishes that a just and reasonable rate would instead reflect a 50/50 sharing of these expenses between ratepayers and shareholders, to recognize that shareholders benefit from this proceeding at least as much as ratepayers.[108]

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[105] *See In re Application of Minn. Power*, Docket No. E-015/GR-21-335, Findings of Fact, Conclusions, and Order at 30 (Feb. 28, 2023).
[106] Ex. OAG-7 at 10 (Lee Surrebuttal).
[107] *See* ALJ Report ¶¶ 721–39.
[108] Ex. OAG-7 at 13–16 (Lee Surrebuttal).

The Report reasons that since the Commission's duty in a rate case is to determine Xcel's reasonable and necessary cost of service, it "necessarily follows" that the cost to bring the rate case is a necessary cost of service.[109] This comes perilously close to contradicting the Report's earlier finding that "[B]y merely showing that it has incurred . . . expenses, the utility does not necessarily meet its burden of demonstrating that it is just and reasonable that the ratepayers bear the costs of those expenses."[110] There are at least three additional problems with the Report's logic.

First, just and reasonable rates benefit shareholders. The fact that the rates resulting from this case will have been found just and reasonable does not, therefore, undermine the OAG's argument that the costs should be shared because they benefit shareholders as much as ratepayers. Indeed, some costs of litigating a rate case would appear to solely benefit shareholders, such as the high costs of retaining outside consultants to produce reams of testimony on return on equity.

Second, if the Commission adopted the Report's logic, it would mean that no rate-case expenses could ever be disallowed, at least not without a painstaking inquiry into discrete line items and a showing that particular line items were imprudently incurred or otherwise unreasonable. Such an inquiry itself could drive up rate-case expenses.

Third, the Report does not give sufficient weight to the discretionary nature of Xcel's rate requests—both whether to file them and how much to request. While the Report correctly finds that "Xcel chooses when the rate case is filed,"[111] this finding does not capture the aggressiveness with which Xcel has pursued annual rate increases. As detailed in the OAG's interim-rate comments, the increases that Xcel is seeking in this case would extend a 13-year period during

[109] ALJ Report ¶ 734.
[110] ALJ Report ¶ 90 (quoting *In re N. States Power Co.*, 416 N.W.2d 719, 723 (Minn. 1987)).
[111] ALJ Report ¶ 729.

which Xcel has pursued, and received, a rate hike in every year but one.[112] For comparison, over the same period Otter Tail Power Company received three rate increases,[113] Minnesota Power received three,[114] and Dakota Electric Association received two.[115] This underscores that utilities have ways other than filing rate cases to provide adequate, efficient, and reasonable service while remaining profitable. Simply saying that "the purpose and outcome of this case will be that Xcel is allowed to charge customers for reasonable and necessary costs"[116] does not account for this reality.

The Report's findings also do not acknowledge that over the 2010–2023 period, Xcel asked for nearly $1 billion *more* in rate hikes than the Commission ultimately found was just and reasonable.[117] Xcel's overstatement of its need for revenues is a theme that continues in this case.[118] For example, Xcel routinely requests returns on equity well above a reasonable level and has done so again here.[119] By focusing only on the end result of the rate case, the Report ignores Xcel's agency in choosing how much revenue to seek and which discrete expenses to request recovery for, regardless of the Commission's past determinations on similar issues. Xcel's choices set the frame for the entire proceeding and compel a response by regulators, driving up rate case expenses.

Xcel's rate cases are not just another cost of doing business. Treating them as such, without considering whether it is fair for shareholders to carry some of the burden for a proceeding that

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[112] *See* OAG Comments at 3–4 (Nov. 12, 2024) (detailing Xcel's rate requests over 2011–2023).
[113] *See* Docket Nos. E-017/GR-10-239, 15-1033, 20-719.
[114] *See* Docket Nos. E-015/GR-16-664, 19-442, 21-335.
[115] *See* Docket Nos. E-111/GR-14-482, 19-478.
[116] ALJ Report ¶ 734.
[117] OAG Comments at 13 (Nov. 12, 2024).
[118] *See, e.g.*, Ex. DOC-2 at 36 (Johnson Surrebuttal) (recommending reducing Xcel's requested cumulative rate increase by $259.85 million or 55 percent).
[119] *See* ALJ Report ¶¶ 928, 993 (rejecting Xcel's proposed ROE of 10.30 percent).

clearly benefits them, would not yield just and reasonable rates. For these reasons and those provided in the OAG's testimony and briefing, the Commission should adopt modified findings as set forth below:

> 722. The Commission has ~~consistently~~ allowed utilities to recover reasonable and prudent rate case expenses through general rate cases. This practice is grounded in the principle that utilities should be permitted to recover costs that are necessary for providing adequate and efficient service to ratepayers, including the costs associated with regulatory proceedings, where such recovery will result in just and reasonable rates. As the Commission has recognized, rate case proceedings are complex and "the Commission must decide a wide range of issues, from the accuracy of the financial information provided by the utility to the prudence and reasonableness of the underlying transactions and business judgments, to the proper distribution of the final revenue requirement among different customer classes." Intervenors have not traditionally challenged rate-case expenses. However, in recent cases, the OAG and other parties have begun to challenge these expenses, resulting in several recent settlement agreements that involved rate-case expenses being split 50/50.[120] The Commission found the rates resulting from these settlements to be just and reasonable based upon the parties' proposed resolution of the issues.

> 734. The OAG focuses more on the broad point about splitting responsibility for rate case expenses, rather than the reasonableness of the specific amount in controversy. The OAG~~, in a sense,~~ is correct that shareholders stand to benefit from a rate case. ~~But this argument is somewhat reductive. The outcome of this proceeding will be the Company's statutorily authorized regulator determining the appropriate cost of providing service, and allowing Xcel to recover that amount in rates. In other words, by definition, the purpose and outcome of this case will be that Xcel is allowed to charge customers for reasonable and necessary costs. It necessarily follows that the cost of the regulatory proceeding to recover those costs is, in and of itself, a necessary cost.~~ Rate cases benefit shareholders by enabling the utility to increase the revenue requirement it collects from ratepayers, which supports the utility's ability to issue consistent dividends.[121] Most obviously, expenses for a utility's cost-of-capital and return-on-equity witnesses benefit shareholders by supporting arguments for an increased return on investment.[122] But

[120] *See, e.g.*, *In re Petition by CenterPoint Energy Minn. Gas*, Docket No. G-008/GR-23-173, Order Accepting Settlement Agreement (June 27, 2025) (adopting parties' November 25, 2024 settlement); *In re Application of N. States Power Co.*, Docket No. G-002/GR-23-413, Order Accepting and Adopting Agreement Setting Rates (Mar. 5, 2025) (adopting parties' June 26, 2024 settlement); *In re Application of Minn. Power*, Docket No. E-015/GR-23-155, Order Accepting and Adopting Agreement Setting Rates (Nov. 25, 2024) (adopting parties' May 3, 2024 settlement).

[121] Ex. OAG-5 at 17 (Lee Direct).

[122] Ex. OAG-5 at 18 (Lee Direct).

all rate case expenses, to the degree that they support arguments for a higher revenue requirement, benefit shareholders by increasing the likelihood that a utility will have enough cash available to pay consistent dividends.[123]

736. The OAG's arguments with respect to the utility lacking an incentive to control costs that it passes on to customers through rates ~~are also unpersuasive~~ also have merit. ~~This feature is not unique to rate case expenses, as the same can be said of any expense category recovered through rates. This proceeding is the very remedy for this concern. Intervenors have recommended reductions for various expense categories and, where appropriate, this Report recommends adjustments. This is not a basis for a substantial categorical reduction in the recovery level for one type of expense.~~ Unless rate-case expenses are scrutinized in a rate case and the Commission disallows some or all of them, they are simply passed through to customers.[124] While rate-case expenses represent a relatively modest percentage of Xcel's overall revenue requirement, requiring the utility to share them will provide a measure of fiscal discipline without necessitating intensive scrutiny of line items. Such an inquiry itself could drive up rate-case expenses.

737. ~~It is true t~~That other jurisdictions have reached different conclusions, while not determinative, is also a fact that supports changing course from past practice. ~~The Commission, however, has consistently treated reasonable and prudent rate case expenses as a fully recoverable cost of providing service. This record does not support changing course.~~

738. The Company has not met its burden to demonstrate that ~~its requested rate case expenses are a reasonable and necessary cost of providing service~~ it is just and reasonable for ratepayers to bear all Xcel's rate-case expenses. Instead, given the relative benefits of the rate case for shareholders and ratepayers, it is just and reasonable to require Xcel to bear half of these expenses.

739. The Commission should approve recovery of rate case expenses at half the Company's requested level.

VII. RATEPAYERS SHOULD BE PROTECTED FROM BALLOONING COSTS FOR XCEL'S TARGETED UNDERGROUNDING PROJECTS.

The OAG takes exception to the Report's recommendation that the Commission approve Xcel's proposed 2025 and 2026 investment in the targeted undergrounding program.[125] The

[123] Ex. OAG-5 at 18 (Lee Direct).
[124] Ex. OAG-5 at 18 (Lee Direct).
[125] ALJ Report ¶ 805.

Commission should instead cap these costs based on the per-mile cost estimate that Xcel provided in an April 2025 filing in its service-quality docket.[126]

The Report finds that Xcel "adequately justified its estimates, and explained why the estimates, based on the nature of the projects planned for 2025 and 2026, exceed the more general estimates that the OAG compares them to."[127] This finding inappropriately resolves significant doubt about the accuracy and reliability of Xcel's estimates against ratepayers. It also appears to be based on a misapprehension that Xcel's capital true-up protects ratepayers if the rate-case budget for targeted undergrounding is set too high.[128]

In reaching the conclusion that Xcel adequately justified its estimates, the Report credits Xcel's unsupported claims about the ballooning estimates while discounting the OAG's critiques. In supplemental direct testimony filed in March 2025, Xcel claimed targeted undergrounding costs of $2.3 million per mile in the test year and $2.2 million in the plan year.[129] Then, in April 2025, Xcel estimated a cost of between $1 million and $1.5 million per mile in its service-quality docket.[130] After the OAG pointed out the inconsistency in its direct testimony, Xcel filed rebuttal testimony stating that it was still identifying where to conduct the targeted undergrounding and its engineering assessments had not even begun.[131] Xcel did not update its budget forecast for 2025 to reflect actual capital expenditures and capital additions to date, despite the OAG's request in direct testimony that Xcel provide an update showing the actual progress of its targeted-undergrounding work.[132] At the time rebuttal was filed, Xcel could have provided ten months of

[126] Ex. OAG-5 at 32–34 (Lee Direct).
[127] ALJ Report ¶ 804.
[128] *See* ALJ Report ¶ 802.
[129] Ex. OAG-5 at 33 (Lee Direct).
[130] Ex. OAG-5 at 33 (Lee Direct).
[131] Ex. OAG-5, sched. SL-D-15 at 4 (Lee Direct).
[132] *See* Ex. OAG-7 at 24–25 (Lee Surrebuttal).

actual expenses for the 2025 test year but chose not to do so.[133] The Report acknowledges these facts but gives them inadequate weight, particularly in light of the statutory requirement that all doubt as to the justness and reasonableness of rates be resolved in favor of ratepayers.[134]

Finally, the Report appears to misunderstand Xcel's capital true-up and overestimate the extent to which it will protect ratepayers from Xcel's likely inflated targeted undergrounding costs. The Report finds that the capital true-up "does prevent customers from paying for capital costs not actually incurred, but it does nothing to protect customers from paying the actual costs for a project that is simply too expensive."[135]

While it is true that the capital true-up will not protect customers from paying for projects that are too expensive, the Report overstates the extent to which it protects customers from paying for capital costs not actually incurred. Under the capital true-up mechanism Xcel proposed, Xcel would only refund customers if its *aggregate* actual capital-related revenue requirement falls below the approved revenue requirement in this rate case.[136] This means that if Xcel's actual capital expenditures for targeted undergrounding do end up being lower than Xcel's request in this rate case, Xcel can avoid the capital true-up refund by making more capital expenditures in other areas of its business. As a general matter, there is nothing preventing Xcel from altering the timelines of capital projects so that overbudget and underbudget capital projects cancel each other out for purposes of the capital true-up, thus ensuring that Xcel receives its full revenue requirement every year. This fact of the capital true-up is why capital costs claimed in a rate case must be as accurate as possible and overestimating them is a significant harm even with the capital true-up.

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[133] Ex. OAG-7 at 25 (Lee Surrebuttal).
[134] Minn. Stat. § 216B.03.
[135] ALJ Report ¶ 802.
[136] Ex. Xcel-15 at 29 (Liberkowski Direct).

For these reasons and those provided in the OAG's testimony and briefing, the Commission should adopt modified findings as set forth below:

796. The Company presented evidence that the cost for undergrounding a particular feeder can vary greatly depending on the location of the feeder, the type of feeder, and the construction method. The Company ~~demonstrated~~ argued that the undergrounding costs estimates cited by the OAG in the 2024 Service Quality Report (SQR) are for a select group of undergrounding projects that do not account for the different construction requirements of targeted undergrounding program projects. However, Xcel's own discovery response concedes that the projects discussed in its rate-case testimony are for the same areas identified in its service-quality dockets.[137] The Company also stated that the 2025 and 2026 rate case budgets were based on historical undergrounding costs and added cost allowances to provide for construction of secondary service lines, customer service drops, and construction in urban areas. The Company's unspecified allowances do not change the need for a cost cap to protect ratepayers from an overstated capital budget.[138]

797. The Company provided evidence in Rebuttal Testimony about the location of potential targeted undergrounding projects already selected for design and construction. These potential projects comprise over 180 projects distributed across 59 cities or townships in multiple regions of the service territory, with a concentration in the southeast metro and Saint Paul areas. But the Company failed to update the budget forecast for 2025 to reflect actual capital expenditures and capital additions.[139] Nor did the Company identify the locations it is prioritizing for targeted undergrounding in response to the OAG's direct testimony.[140] Xcel failed to provide more specifics in rebuttal even though it was already working on an update for the Integrated Distribution Plan that was to be filed November 1, 2025.[141]

798. Further, the locations and feeders Xcel identifies do not explain how the Company's project plans for one mile of undergrounding in 2025 and three miles in 2026[142] led to such large project costs. There are various factors that will determine which projects go ahead first, including coordination with landowners to secure easements, navigating multiple agency permitting processes, managing construction schedules around weather conditions, and addressing site-specific design constraints. But the Company has not outlined which of the 1,157 miles of

[137] See Ex. OAG-5, sched. SL-D-15 at 3–5 (Lee Direct) (Revised Xcel Energy Response to Joint Intervenors Information Request No. 5).
[138] Ex. OAG-5 at 33–34 (Lee Direct); Ex. OAG-7 at 25 (Lee Surrebuttal).
[139] Ex. OAG-7 at 24–25 (Lee Surrebuttal).
[140] *See* Ex. OAG-5 at 31–32 (Lee Direct).
[141] *See* Ex. OAG-5 at 32 (Lee Direct).
[142] Ex. OAG-5 at 30 (Lee Direct).

overhead distribution line that it identifies as feeder locations will be undergrounded.[143]

801. The Company has provided sufficient evidence to establish that its distribution targeted undergrounding will yield substantial reliability and other benefits to customers but has not provided a cost–benefit analysis showing net ratepayer benefits. The question to be resolved here is whether the cost estimates presented by Xcel are reasonable and justified by the benefits to consumers. Xcel has not provided sufficient evidence on either point, and the significant doubts raised about its cost estimates show that a cost cap is needed to protect ratepayers.

803. System reliability is one of the core objectives of utility regulation. The Company has shown that its distribution targeted undergrounding will lead to significant improvement in reliability. It has not shown, however, that the benefits justify its requested costs or that its requested costs are accurate.

804. Further, the Company has not ~~adequately~~ justified its estimates, ~~and~~ or explained why the estimates, based on the nature of the projects planned for 2025 and 2026, exceed the more general estimates that the OAG compares them to.

805. The Commission should not approve the Company's proposed 2025 and 2026 investment in the targeted undergrounding program~~, subject to Xcel's capital true-up~~.

Finally, because the capital true-up does not protect ratepayers from overbudgeting for targeted undergrounding, Findings 799 and 802 should be modified as shown:

799. The Company also argues that a cost cap is unnecessary because the targeted undergrounding program is a capital program and subject to the Company's proposed capital true-up mechanism. However, the capital true-up does not protect ratepayers from overbudgeting on targeted undergrounding because the Company can spend more in other areas to offset any underspending of the targeted-undergrounding budget used in this case.

802. While the capital true-up does provide some protection to customers for the aggregate capital costs in a utility's test year, it does not incentivize cost containment on the project level or protect ratepayers from cost overruns for specific projects. ~~is not a complete solution if the costs continue to increase.~~ The true-up ~~does prevent customers from paying for capital costs not actually incurred, but it~~ does nothing to protect customers from paying the actual costs for a project that is simply too expensive. ~~Here, however, t~~The Company has not met its burden to prove that the costs in this proceeding are reasonable for these projects or even

[143] Ex. OAG-5 at 31–32 (Lee Direct).

likely to be incurred in the test years. The OAG's proposal to cap the costs of these projects is reasonable on this record. ~~and should be included in rates.~~

VIII. THE COMMISSION SHOULD NOT ADOPT CERTAIN FINDINGS RELATED TO CLASS COST OF SERVICE.

A class cost of service study, or CCOSS, is a tool used to guide the apportionment of responsibility for funding a utility's overall revenue requirement among its customer classes.[144] In general, the Commission does not definitively adopt or reject individual CCOSSes or components thereof.[145] Rather, the Commission analyzes the relative merits of the various CCOSSes presented in a case and applies that analysis when determining the revenue apportionment.[146]

In this case, the Report recommends adoption of the OAG's revenue apportionment, concluding that it "most faithfully balances cost of service with other relevant factors."[147] The OAG is nonetheless compelled to respond to the Report's critiques of certain OAG's CCOSS recommendations to ensure that the Commission does not set unintended precedents for Xcel's next rate case. First, the Commission should reject certain findings related to the "D10S" peak-demand allocator and should require Xcel to move to an allocator that better reflects MISO's seasonal resource-adequacy construct. Second, the Commission should not adopt findings suggesting that the Peak-and-Average Method is an unreasonable method for classifying shared distribution costs. Third, the Commission should correct a clerical error in the Report's recommendation regarding advanced metering infrastructure (AMI) costs that could otherwise cause confusion. Finally, the Commission should require Xcel, in its next rate case, to allocate the cost of economic-development discounts in a way that more appropriately reflects cost causation.

[144] ALJ Report ¶¶ 995, 997.
[145] ALJ Report ¶ 997.
[146] ALJ Report ¶ 997.
[147] ALJ Report ¶ 1108.

A. Unlike Xcel's D10S Allocator, the OAG's D10S Allocator Reasonably Reflects How Customer Classes Drive Xcel's MISO Reserve Requirement.

The OAG takes exception to the Report's conclusion that the OAG's alternate D10S allocator is "severely flawed."[148] On the contrary, the OAG's allocator carries out the Commission's directive in Xcel's last two rate cases that demand-related production costs be allocated based on the classes' loads at the time of the MISO system peak, rather than at the time of Xcel's system peak.[149]

The Report correctly faults Xcel's D10S allocator on the basis that Xcel chose to reflect peak hours in the D10S allocator that are not coincident with MISO's system peak, or even with Xcel's own system peak, because they fall on weekends.[150] This absurd result occurred because Xcel unreasonably applied the Commission's directive to create a MISO-based D10S allocator "based on historical data." Xcel simply identified the calendar date and hour on which MISO had peaked in 2023 (August 23 at 4 p.m.) and, without further analysis, applied it to the 2025 and 2026 sales forecast.[151] August 23 falls on weekends in both 2025 and 2026, which means that Xcel's D10S allocator does not accurately represent MISO's peak in either year.[152]

Despite all this, the Report deems the OAG's allocator *equally* flawed because it relies on class shares from multiple hours to approximate peak conditions.[153] The Report states that "[t]he OAG's alternate D10S allocator is not truly a measure of Xcel's system peak, it is an average peak that does not reasonably model Xcel's system and the cost causation of various aspects of the Company's peaking generation."[154] The Commission should reject this finding.

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[148] ALJ Report ¶ 1018.
[149] Ex. OAG-8 at 6 (Scharber Direct).
[150] *See* ALJ Report ¶ 1019.
[151] Ex. OAG-8 at 7–9 (Scharber Direct).
[152] Ex. OAG-8 at 7 (Scharber Direct).
[153] ALJ Report ¶ 1018.
[154] ALJ Report ¶ 1018.

As an initial matter, the Report appears to critique the OAG's allocator on the basis that it does not reflect Xcel's system peak. Yet the OAG's D10S allocator *better* matches Xcel's peak than Xcel's own allocator does due to Xcel's unreasonable selection of weekends to represent the "peak."[155] And, in any event, whether the OAG's allocator reflects Xcel's system peak is beside the point because the Commission has directed that the D10S allocator should be based on class load shares coincident with the *MISO peak*, not Xcel's system peak.

Moreover, contrary to the Report, the OAG reasonably implemented the Commission's directive to create a MISO-peak-based allocator by reflecting the average class load shares during hours when the MISO system is likely to peak.[156] Basing the allocator on a single hour, as Xcel does, makes the allocator unduly sensitive to the choice of a peak hour.[157] The OAG's alternate D10S allocator solves this problem by not putting all its eggs in one "peak hour" basket.[158] The OAG's allocator thus accomplishes the intent of the Commission's order, which is to represent the classes' contributions to Xcel's load at the time of MISO's peak.

Additionally, a higher-level drawback of the D10S allocator is that, by relying on a single summer peak, it fails to reflect MISO's seasonal resource-adequacy construct, which requires member utilities to demonstrate resource adequacy across all four seasons.[159] Accordingly, the OAG recommended that in future rate cases, Xcel use a MISO-coincident 12CP allocator to better align with MISO's seasonal reliability criteria.[160] A 12CP allocator would reflect the classes'

[155] *See* Ex. OAG-10 at 4 & tbl.1 (Scharber Surrebuttal).
[156] *See* Ex. OAG-8 at 11–13 (Scharber Direct).
[157] Ex. OAG-8 at 8 (Scharber Direct).
[158] *See* Ex. OAG-8 at 9–13 (Scharber Direct).
[159] Ex. OAG-10 at 2 (Scharber Surrebuttal).
[160] Ex. OAG-8 at 14–16 (Scharber Direct); Ex. OAG-10 at 8–11 (Scharber Surrebuttal).

contributions to MISO's peak in each month of the year and is a type of allocator that Xcel is already using for demand-related transmission costs.[161]

Regardless of whether Xcel moves to a 12CP allocator for demand-related production costs, or continues to use the D10S allocator, the Commission should provide further guidance on how to construct a MISO-based allocator to avoid endorsing Xcel's absurd application of its prior orders.[162] In the next case, Xcel should use actual class load data derived from its AMI investment to find the class load shares coincident with the historic MISO peak hour used (or *hours* used in the case of a 12CP allocator), adjusting those shares in the allocator to reflect anticipated load changes in the test year. If actual class load data are not yet available, Xcel should construct its allocator by using forecasted class loads at the time of likely MISO peak hours, as the OAG did for its alternate D10S allocator in this case, with an explanation of how the likely MISO peak hours were chosen.

For these reasons and those provided in the OAG's testimony and briefs, the Commission should adopt new and modified findings, as follows:

> 1018. Both versions of the D10S allocator proposed in this proceeding are imperfect because MISO does not publish a forecasted peak, requiring parties to use historical data to reflect that peak. Between Xcel and the OAG's allocators, however, the OAG's is more reasonable. ~~severely flawed. The OAG's alternate D10S allocator is not truly a measure of Xcel's system peak, it is an average peak that does not reasonably model Xcel's system and the cost causation of various aspects of the Company's peaking generation.~~ The OAG's approach to the D10S allocator avoids making it overly sensitive to the choice of peak hour, while also fulfilling the Commission's directive that the allocator reflect the classes' contributions to Xcel's load at the time of MISO's peak. Even if ascertaining class loads at the time of Xcel's system peak were the goal, which it is not, the OAG's D10S allocator better matches Xcel's peak than Xcel's own allocator does.[163] This occurred because Xcel took the unreasonable approach of applying MISO's 2023

[161] Ex. OAG-8 at 15–16 (Scharber Direct).
[162] Ex. OAG-10 at 12, 48 (Scharber Surrebuttal).
[163] *See* Ex. OAG-10 at 4 & tbl.1 (Scharber Surrebuttal).

peak hour to its 2025 and 2026 sales forecasts "in a vacuum"—that is, without accounting for the fact that the hour fell on a weekend in both years.[164]

1021. Ultimately, with respect to the D10S allocator, the record in this proceeding calls for a choice between two models that both suffer from flaws that have been shown to significantly impact the results of the CCOSS. This, perhaps more than any other dispute with respect to the CCOSS in this case, underscores the dangers of assuming that any one model, or even an amalgamation of models, can provide a precise and accurate measure of cost causation. However, the OAG's D10S allocator better reflects the MISO peak (and Xcel's own peak) than does Xcel's allocator due to Xcel's unreasonable selection of weekend days to represent the 2025 and 2026 peaks.

1022. The Commission should accord relatively greater weight to the OAG's CCOSSes because they accurately reflect class load shares at the time of MISO's peak while avoiding making arbitrary peak-hour choices that "have economically significant effects on class cost shares."[165] ~~not give greater or less weight to any of the CCOSS results presented in the case based on how the proponent applied the D10S allocator. Rather,~~ In apportioning revenue, the Commission should consider these models in tandem and give due recognition to the fact that the disparate results of the models reflect their sensitivity to unavoidable limitations of the modeling process itself. These limitations should also limit the extent to which CCOSS results are perceived to imply any particular revenue apportionment proposal as an objective reflection of class cost causation.

OAG 1022a. For Xcel's next rate case, the OAG persuasively argued that Xcel should transition to a 12CP peak-demand allocator to reflect the impact of MISO's seasonal resource-adequacy construct.[166] As the Commission has recognized, MISO prescribes how much capacity that Xcel must maintain.[167] The Commission therefore directed Xcel to move to a MISO-peak-based allocator and further required Xcel to reflect in the allocator any future changes in MISO's resource-adequacy construct.[168]

OAG 1022b. MISO adopted a seasonal resource-adequacy construct beginning in the 2023–2024 planning year.[169] Xcel should likewise begin relying on a peak-demand allocator that accounts for MISO-driven reliability costs that

[164] *See* Ex. OAG-8 at 7 (Scharber Direct).
[165] Ex. OAG-8 at 9 (Scharber Direct).
[166] Ex. OAG-8 at 15–16 (Scharber Direct).
[167] Ex. OAG-10 at 9–10 (Scharber Surrebuttal) (citing *In re Application of N. States Power Co.*, Docket No. E-002/GR-15-826, Findings of Fact, Conclusions, and Order at 46 (June 12, 2017)).
[168] Ex. OAG-10 at 10 (Scharber Surrebuttal) (citing *In re Application of N. States Power Co.*, Docket No. E-002/GR-15-826, Findings of Fact, Conclusions, and Order at 46 (June 12, 2017)).
[169] Ex. OAG-10 at 10 (Scharber Surrebuttal).

occur year-round. Xcel can accomplish this by moving to a 12CP peak-demand allocator.[170] Xcel is hereby ordered to do so in its next rate case.

OAG 1022c. Once Xcel has fully rolled out its AMI meters, actual class load data will be available to determine class load shares at the time of historic MISO peaks. In its next rate case, if such data are available, Xcel should base the peak-demand allocator on actual class load shares coincident with the MISO peaks used, adjusting those historical shares to account for forecasted load changes in the test year.[171] If actual data are not available, Xcel should construct its peak-demand allocator using forecasted class loads at the time of likely MISO peak hours, with an explanation of how the likely MISO peak hours were chosen.[172]

B. The Peak-and-Average Method Is a Reasonable Method for Classifying Shared Distribution-System Costs Because Much of the Cost of Xcel's Distribution System Is Energy-Related.

The OAG takes exception to the Report's conclusion that the Peak-and-Average Method of classifying shared distribution costs is flawed.[173] This conclusion is based on the Report's finding that "the OAG has not identified any specific cost items that vary based on customer energy usage."[174] Elsewhere, the Report states a variation of the same finding: "The OAG does not provide specific examples of what costs should be considered energy-related."[175] These findings are incorrect.

The OAG provided a nonexclusive list of ways distribution investment is driven by energy use beyond the need to meet peak demand. For example, energy transfer in high-load (yet non-peak designated) hours leads to heat buildup, which increases the sagging of overhead lines, speeds the aging of insulation in underground lines, and reduces the ability of lines and transformers to survive brief load spikes on the same day.[176] Moreover, costs incurred to reduce line losses provide

[170] Ex. OAG-10 at 10–11 (Scharber Surrebuttal).
[171] Ex. OAG-10 at 12, 48 (Scharber Surrebuttal).
[172] Ex. OAG-10 at 12, 48 (Scharber Surrebuttal).
[173] *See* ALJ Report ¶ 1055.
[174] ALJ Report ¶ 1055.
[175] ALJ Report ¶ 1045.
[176] Ex. OAG-8 at 25 (Scharber Direct) (citing Jim Lazar et al., Regul. Assistance Project, *Electric Cost Allocation for a New Era: A Manual* 148 (Jan. 2020) [hereinafter *RAP Manual*],

energy-related benefits. Xcel's capacitor banks deployed across distribution feeders and substation buses help minimize line losses.[177] Other examples of costs incurred to reduce line losses include converting from a single- to three-phase distribution line, selecting a larger conductor, or increasing primary voltage.[178] Therefore, contrary to the Report's findings, the OAG provided multiple examples of what costs should be considered energy-related.

The Commission has long relied on the Peak-and-Average Method as one of several models that provide valuable insights about distribution-cost causation, and the Regulatory Assistance Project's cost-allocation manual recognizes this method as the best practice for classifying shared distribution costs.[179] The method recognizes that "[t]he fundamental reason for building distribution systems is to deliver energy to customers."[180] The insight that customers' energy needs drive distribution costs is precisely why the Commission has adopted the Peak-and-Average Method as an informative model, and the record here continues to support its use.

For these reasons, the Commission should adopt the following modified findings:

> 1045. The OAG recommends, and in fact prefers, the use of the Peak-and-Average method for the CCOSS because it treats some distribution costs as energy-related under the assumption that some shared distribution costs would be needed even if all customers used power at a 100 percent load factor. ~~The OAG does not provide specific examples of what costs should be considered energy-related.~~ The OAG provides several examples, supported by both Xcel discovery responses and the RAP Manual, of distribution-system costs that are energy-related.[181]
>
> 1055. ~~While t~~The OAG provided ~~some~~ a persuasive justification for treating a portion of the shared distribution costs as energy-related~~, the Company, Department, and XLI provided persuasive arguments that the analytical framework of the Peak-and-Average Method is significantly flawed~~. Specifically, the OAG ~~has not~~ identified ~~any~~ specific cost items that ~~vary based on~~ are driven by customer

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https://www.raponline.org/wp-content/uploads/2023/09/rap-lazar-chernick-marcus-lebel-electric-cost-allocation-new-era-2020-january.pdf [https://perma.cc/N5LR-4CW7]).

[177] Ex. OAG-8 at 25 (Scharber Direct) (citing Xcel Response to OAG IR 7001).

[178] Ex. OAG-8 at 25 (Scharber Direct) (citing *RAP Manual* at 148).

[179] *RAP Manual* at 18–19.

[180] Ex. OAG-10 at 20 (Scharber Surrebuttal) (quoting *RAP Manual* at 148).

[181] Ex. OAG-8 at 25 (Scharber Direct).

energy usage. Accordingly, the Peak-and-Average should be given ~~significantly less weight than~~ at least as much weight as the Basic Customer Method or the Minimum System Method when setting rates in this proceeding. Moreover, the OAG dem

1085. ~~The OAG's Peak-and-Average Model is entitled to significantly less weight than other models in the record because of theoretical shortcomings of that model. Also,~~ XLI's Hybrid model is entitled to significantly less weight because of its treatment of fixed production plant costs.

1086. The Commission should give the most weight to the Hybrid models proposed by the Department and Xcel as well as the Basic Customer models presented by the Department and the OAG, and the Peak-and-Average model proposed by the OAG. These CCOSSes reflect a variety of modeling decisions and assumptions that, as described above, are meritorious and defensible despite their respective flaws. Accordingly, the Commission should consider these models when evaluating the cost-causation of various customer classes. In doing so, the Commission should recognize that none of the models produce a result that can be said to be an objectively accurate reflection of class cost-causation. Any revenue apportionment result that falls within the results of these models can be said to be "at cost" to the extent cost can be fairly determined on this record.

1106. ~~One key weakness of the OAG's recommendation is the extent to which it is weighted by the Peak-and-Average model. That said, t~~The OAG's apportionment recommendation is the only one in this record that gives weight to all three methods that the Commission has found reasonable for informing revenue apportionment. Moreover, the OAG's recommended apportionment still falls within the range of results of its Basic Customer and Minimum System cost estimates for both the Residential and Large General Service classes. These are both defensible CCOSSes methodologies, which renders the OAG's proposal a cost-based recommendation, even if the Peak-and-Average Method is not considered, as recommended by some parties. It is further reasonable to exclude the Small General Service class from any increase based on the persuasive evidence that that class is already paying significantly above cost as estimated by ~~a range of~~ all models in the record.[182]

C. The Commission Should Clarify that the Report's Recommended Classification and Allocation of AMI Costs Will Apply Until Final Rates in Xcel's Next Rate Case.

Finding 1069 contains what appears to be a clerical error and could create confusion if left unmodified. The finding is included in the Report's discussion of the classification and allocation of AMI costs. The Report notes Xcel's argument that the Commission need not decide this issue

[182] *See* ALJ Report ¶ 1083.

because most AMI costs are currently being recovered through Xcel's TCR Rider.[183] The Report then notes the OAG's response that it is appropriate to decide the issue now because the OAG anticipates that Xcel will roll AMI costs into rate base in the next case.[184]

Then, in Finding 1069, the Report recommends that the Commission "approve the OAG's proposed classification of AMI costs for any relevant rate purpose between now and a decision in Xcel's rate case." The intent appears to be that the Commission's decision here would remain effective through final rates in the next rate case. Accordingly, the Commission should make the following clarifying change to Finding 1069:

> 1069. The Commission should approve the OAG's proposed classification of AMI costs for any relevant rate purpose between now and a decision in Xcel's next rate case.

D. In Its Next Rate Case, Xcel Should Allocate Economic-Development Discount Costs Based on an Average of Its Energy and Peak-Demand Allocators.

The OAG takes exception to the Report's conclusion that economic-development discount costs should be allocated according to base revenues as proposed by Xcel.[185] Adopting Xcel's proposed change would shift more costs to the residential and small general service classes without a proportionate increase in the benefits received by these classes.[186] Instead of using a revenue-based allocator, Xcel should allocate economic-development discounts using an average of its energy and peak-demand allocators, which would better reflect how the benefits of economic-development discounts are distributed among Xcel's customer classes.

In this case, Xcel accepted XLI's proposal to move from using the R01 Total Present Revenue allocator to the R02 Base Present Revenue allocator for economic-development discount

[183] ALJ Report ¶ 1068.
[184] ALJ Report ¶ 1068.
[185] *See* ALJ Report ¶¶ 1075–82.
[186] Ex. OAG-10 at 30–31 (Scharber Surrebuttal).

costs.[187] The primary difference between these two allocators is that the latter does not include fuel and riders.[188] The Report recommends approving Xcel's allocator change,[189] but as explained by the OAG's witness, the change is not tethered either to cost-causation or to benefit distribution.[190]

The reason that economic-development discount costs are allocated to all classes is that other classes theoretically benefit from the added revenues that the discount recipients contribute.[191] Ideally, then, economic-development discount costs would be allocated in proportion to the benefits received by each class.[192] To do so accurately, however, would require assessing the change in revenue deficiency for each class, and for the system, with and without the load, costs, and revenues associated with the customers receiving the discounts—a resource-intensive exercise that would require conducting entire CCOSSes for counterfactual scenarios in which discount recipients are not on the utility system.[193] No party to this case undertook that analysis.

It will be important to allocate economic-development discount costs appropriately in the future with the addition of data centers and other very large customers.[194] The Commission should direct Xcel to allocate these costs based on an average of the energy and peak-demand allocators, to reflect that other classes benefit by discount recipients' peak load and energy requirements being reflected in these allocators.[195] This would be more straightforward than attempting to calculate the difference in each class's revenue deficiency with and without discount recipients on the

[187] ALJ Report ¶ 1075.
[188] *Id.*
[189] ALJ Report ¶ 1082.
[190] Ex. OAG-10 at 31–32 (Scharber Surrebuttal).
[191] Ex. OAG-10 at 32 (Scharber Surrebuttal).
[192] Ex. OAG-10 at 32 (Scharber Surrebuttal).
[193] Ex. OAG-10 at 32–33 (Scharber Surrebuttal).
[194] Ex. OAG-10 at 35 (Scharber Surrebuttal).
[195] *See* Ex. OAG-10 at 32–33, 35–36 (Scharber Surrebuttal).

system, and is similar to how Xcel allocated discount costs when it first introduced the discounts.[196]

For these reasons and the reasons provided in the OAG's testimony and briefing, the Commission should adopt the following modified and new findings:

> 1079. The Company argued ~~explained~~ that the OAG's recommendation is not consistent with cost causation because "[e]conomic development discounts are not related to fuel costs, so it makes more sense to allocate them using a revenue allocator that does not include fuel costs". But this does not dictate that Xcel's proposal is reasonable, because economic-development discounts are not related to the classes' base revenues either.[197] Cost-causation is not the reason for socializing these costs; rather, they are allocated to all classes because other customers benefit from the discount recipients' contribution to covering the utility's fixed costs.[198]
>
> 1082. ~~Because economic discount rates do not provide a discount on fuel costs, it would be unreasonable to use an allocator that incorporates fuel. Thus, the Commission should approve use of the R02 Base Present revenue allocator for Xcel's economic development discounts.~~ Other classes benefit from economic development discounts by the recipients' peak load and energy requirements being reflected in Xcel's demand and energy allocators.[199] A straightforward way of reflecting this benefit distribution would be to use a combination of Xcel's peak demand and energy allocators.[200] Accordingly, the Commission will direct Xcel, in its next rate case, to allocate the costs of economic-development discounts based on an average of the energy and peak-demand allocators, unless Xcel can provide evidence that the benefits of discounts to each class exceed the amounts allocated on this basis.[201]

CONCLUSION

For the reasons described above and in the OAG's testimony and briefs in this matter, the Commission should protect residential and small-business ratepayers from being charged unreasonable rates by adopting the Report with the modifications described in these Exceptions.

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[196] *See* Ex. OAG-10 at 33–34 (Scharber Surrebuttal).
[197] Ex. OAG-10 at 31 (Scharber Surrebuttal).
[198] Ex. OAG-10 at 32 (Scharber Surrebuttal); ALJ Report ¶ 1080.
[199] Ex. OAG-10 at 32 (Scharber Surrebuttal).
[200] Ex. OAG-10 at 33 (Scharber Surrebuttal).
[201] Ex. OAG-10 at 35 (Scharber Surrebuttal).

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