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**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Joseph K. Sullivan	Vice Chair
Hwikwon Ham	Commissioner
Audrey Partridge	Commissioner
John Tuma	Commissioner

In the Matter of Xcel Energy's Competitive
Resource Acquisition Process for up to 800
Megawatts of Firm Dispatchable Generation

DOCKET NOS. E-002/CN-23-212
E-002/M-24-195 (HSTS)

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

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Comments in response to the Public Utilities Commission's Notice of Comment Period issued on October 2, 2025 regarding Xcel's petition for approval of Power Purchase Agreements (PPAs). The unredacted version of these Comments has been filed in Docket No. E-002/M-24-195.

Xcel's petition raises numerous concerns. First, the PPAs have come back from negotiations at higher prices than in their original bids, and with provisions to increase risks to ratepayers further. If the Commission approves the PPAs, it should reject Xcel's proposal to allow it to pass up-to-20-percent price increases onto ratepayers for new projects without Commission review. Second, one PPA would result in operation of a gas plant past the year 2040, and Xcel has failed to model or otherwise analyze the increased cost of running the plant while complying with the Carbon Free by 2040 law. The OAG requests that Xcel provide further information on its modeling and plans in reply. Third, the PPAs include Right of First Offer provisions that primarily

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benefit Xcel, and the Commission should make clear that these provisions remain subject to the required Commission review under Minnesota law. Finally, Xcel suggests that it will seek to alter its capital structure as a result of the PPAs. This is unreasonable, but more importantly, this docket is an inappropriate forum for that request.

BACKGROUND

Xcel's request for approval of these PPAs arises from a stipulation among many parties in a resource acquisition process and Xcel's most recent IRP.¹ The parties to that stipulation agreed to halt the competitive bidding process before testimony was filed and ask the Commission to approve project bids from all remaining bidders.² The OAG observed that cutting the competitive bidding process short would remove competitive pressure to control generation resource costs.³ Accordingly, the OAG recommended that PPA costs be capped at each project's bid unless Xcel demonstrated by clear and convincing evidence that (1) the original bid reasonably accounted for all known costs to the bidding party, or that should have been known to the bidding party, at the time of submission; (2) any additional costs were caused by events outside of Xcel's or the bidding party's control and are otherwise prudent; and (3) accepting the PPA will result in just and reasonable rates.⁴

The Commission instead ordered that costs "be capped at the bid amounts as of October 2, 2024, unless Xcel demonstrates by substantial evidence that additional costs were caused by events

¹ Docket No. E-002/CN-23-212, Order Approving Settlement Agreement with Modifications at 6-8 (Apr. 21, 2025).

² Docket No. E-002/CN-23-212, Settlement Agreement at 4-5 (Oct. 3, 2024); *see* First Prehearing Order at 4 (May 1, 2024); *see also* Order Suspending Procedural Schedule at 2 (Aug. 27, 2024).

³ Docket No. E-002/CN-23-212, Initial Comments of the Office of the Attorney General – Residential Utilities Division at 18-23 (Dec. 4, 2024).

⁴ Docket No. E-002/CN-23-212, Reply Comments of the Office of the Attorney General – Residential Utilities Division at 16 (Dec. 18, 2024).

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outside of Xcel's control and are otherwise prudent.”⁵ The Commission also informed parties in its order that it would evaluate the negotiated PPAs according to at least four metrics, namely “whether:

- a. the prices and terms put ratepayers at risk for costs that are higher than bid or for benefits assumed in bids that do not materialize;
- b. the agreements had terms which sufficiently protected ratepayers from risks associated with the non-deliverability of accredited capacity and/or energy from the project(s) as proposed;
- c. the terms of any agreements that inappropriately shifted risk or unknown costs to ratepayers; and
- d. the reasonableness of delay and cancellation provisions.”⁶

At the time of the Commission's modification and approval of the stipulation, Xcel had increased its cost estimates for its proposed self-build projects, whereas the PPA prices remained unchanged from initial bids.⁷ However, the OAG observed that the stipulation only set a floor for costs, and because Xcel passes the costs of PPAs through the fuel-adjustment clause, Xcel does not have a direct interest in holding bidders to their bid commitments.⁸ The OAG therefore predicted that the stipulation could result in PPAs with increased costs and little ability to verify how reasonable the cost increases actually are.⁹

The PPAs for which Xcel is seeking approval are more expensive than the original bids. Invenergy's Cannon Falls Energy Center bid included **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** [REDACTED]

⁵ Docket No. E-002/CN-23-212, Order Approving Settlement Agreement with Modifications at 21-22.

⁶ *Id.* at 23.

⁷ Docket No. E-002/CN-23-212, Settlement Agreement at 4-5.

⁸ Docket No. E-002/CN-23-212, Initial Comments of the Office of the Attorney General – Residential Utilities Division at 29.

⁹ *Id.* at 29-30.

████████████████████ [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].¹⁰ All capacity prices would be escalated at [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]

[REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].¹¹ Invenergy's proposal also included a turbine start payment of [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]¹² in 2028¹³ dollars [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED]

[REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].¹⁴

The Cannon Falls PPA prices that Xcel proposes are now [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]¹⁵ an over 19-percent increase from the bid, and significantly more expensive than even the [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] under the original bid. It also includes [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED]

¹¹ *Id.*

¹² *Id.* at 17

¹³ Xcel's petition for approval states on page 2 of Attachment E that the original bid price was in [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED] [REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] making it appear that this price has gone down, but that is incorrect. Invenenergy Cannon Falls Initial Proposal HSTSI at 17.

¹⁴ Docket No. E-002/CN-23-212, Second Revised Xcel Petition for Approval, Attach. E at 2. (Oct. 29, 2025).

¹⁵ *Id.* at 1.

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[REDACTED]

[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].¹⁶

Onward's Mankato Energy Center was bid in at **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** [REDACTED]

[REDACTED] **[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].¹⁷**

The Mankato Energy Center PPA prices are **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** [REDACTED]

[REDACTED] **[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].¹⁸**

Finally, whereas Xcel's petition states that the DESRI price for an 80 MW facility has **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** [REDACTED] **[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS],¹⁹** it was actually **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** [REDACTED] **[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** in the original bid,²⁰ meaning it has increased by **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** [REDACTED] **[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** per kW-month.²¹

¹⁶ *Id.* at 1-2.

¹⁷ Docket No. E-002/M-24-195, Onward MEC Proposal at 8 (May 24, 2024)

¹⁸ Second Revised Xcel Petition for Approval, Attach. E at 1.

¹⁹ *Id.* at 2.

²⁰ Docket No. E-002/M-24-195, DESRI Bid Resubmission at 2 (Jul. 25, 2024).

²¹ *Id.*

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In addition to the price increases from the bids for the PPAs, the PPAs include various other terms not contemplated in the original bids. Most notable among these are the provisions for the North Star BESS and MEC BESS to account for geopolitical uncertainty.²² These provisions include exit provisions to account for changes in tax law and federal permitting delays or denial.²³ In addition, the Sellers can increase their rates up to 20 percent “[i]f a new or modified import tariff is imposed on the project’s major components.”²⁴ If a full 20 percent increase is realized, these projects could reach the amounts shown below:

Project	Settlement Price	PPA Price	PPA Price w/ 20 percent increase
	[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]		
MEC BESS	[REDACTED]	[REDACTED]	[REDACTED]
North Star BESS	[REDACTED]	[REDACTED]	[REDACTED]
			[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]

ANALYSIS

I. XCEL’S PROPOSAL TO PASS A POTENTIAL 20 PERCENT INCREASE ABOVE THE CURRENT PPA PRICES ONTO RATEPAYERS INAPPROPRIATELY MAKES RATEPAYERS THE SOLE BEARERS OF GEOPOLITICAL RISKS.

The terms of the proposed PPAs for the North Star BESS and MEC BESS inappropriately shift risk to ratepayers by asking the Commission to authorize a potential 20 percent price increase above the already updated PPA terms. The Commission should reject Xcel’s proposal to have ratepayers bear the full costs of the uncertain and ever-changing actions of the federal government.

²² Second Revised Xcel Petition for Approval at 31-32.

²³ *Id.* at 32.

²⁴ *Id.*

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Instead, if costs increase beyond the prices stated in the proposed PPAs, the Commission should require that Xcel affirmatively prove to the Commission that it is just and reasonable for ratepayers, not its shareholders, to bear these additional unknown costs.

Xcel states that, due to geopolitical uncertainty, the North Star BESS and MEC BESS have been granted three “relief mechanisms.” Two of these mechanisms relate to delay and cancellation and appear reasonable. The third, which Xcel refers to as the New Trade Measure Event, allows for substantial cost increases that would go unreviewed by the Commission under the current proposed agreement. As Xcel describes it, “If a new or modified import tariff is imposed on the project’s major components, the Seller may request a rate increase, capped at no more than 20 percent, to account for the change in tariff impact on the project.” These rate increase requests can occur multiple times for various tariffs that may be put in place.²⁵ These tariff requests would be reviewed by an independent auditor retained by the seller.²⁶ The rate increase is automatically applied to the PPA for the remainder of the term if “the Independent Auditor verifies the new tariff event and also verifies the Seller’s calculation of the rate increase.”²⁷ In other words, the auditor would only verify that a tariff was enacted and that the cost calculations were correct; the auditor would not assess the reasonableness of imposing the increased costs on ratepayers.

Allowing an up-to-20-percent price increase unreasonably shifts risks from the Sellers’ and Xcel’s shareholders to ratepayers. While the OAG understands the ongoing economic uncertainty around federal tariffs is being felt throughout the economy, it is unreasonable for Xcel to request

²⁵ Second Revised Xcel Petition for Approval at 32.

²⁶ See Attach. 1 (Xcel Response to OAG IR No. 13) (“For each project, the Independent Auditor is selected by Seller to perform a scope of work that is mutually agreed to by both seller and the Company. Seller may select from Deloitte LLP, PricewaterhouseCoopers, Klynveld Peat Marwick Goerdeler, or another firm that is mutually agreed upon by both seller and the Company.”).

²⁷ Second Revised Xcel Petition for Approval at 32.

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that ratepayers continue to be the sole bearers of this risk and pay for the costs of federal tariffs. The Commission should condition any approval of the PPAs for the North Star BESS and MEC BESS on the addition of stronger ratepayer protections. Specifically, the Commission should require that, before Xcel can recover additional costs from the Sellers availing themselves of the New Trade Measure Event provisions, Xcel must show that the increased costs are just and reasonable for ratepayers to bear versus Xcel's shareholders.

Xcel's requests that ratepayers absorb additional costs from federal tariffs follows increasing costs and risks that have already been put on ratepayers. Xcel already requests ratepayers to absorb [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED] [REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] for the MEC BESS. For the North Star BESS, Xcel requests ratepayers [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS] [REDACTED] [REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] than DESRI's original bid. Now Xcel asks for the ability to pass on costs to ratepayers of up to 20 percent more than the already-increased PPAs if an independent auditor determines that cost increases were due to a tariff.

Xcel's request that the Commission approve PPAs with additional increases beyond the already updated price increase is the latest in a long line of cost increases for projects that Xcel has proposed to fill its firm dispatchable resource needs. To recap this docket, several developers submitted bids in January 2024, which were contemplated to be reviewed through the Track 2 competitive bidding process using a contested case to select 800 MW of firm dispatchable resources authorized in Xcel's 2019 IRP.²⁸ Instead of completing the contested case, various

²⁸ Docket No. E-002/CN-23-212, Notice and Order for Hearing at 1 (Apr. 2, 2024).

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parties entered into a multi-party stipulation that proposed to select bids from all bidders remaining in the contested case proceeding to fill a proposed need for additional firm-dispatchable resources requested by Xcel in its 2024 IRP.²⁹

The OAG objected to the stipulation chiefly because we believed it placed “substantial risks of escalating costs onto Minnesota ratepayers” and there were “warning signs in the Stipulation of the potential for price escalations and rate increases,” as the bids were only the “starting point” for negotiations.³⁰ The OAG was concerned that following the negotiation process, the Commission would feel pressured to accept price increases to the PPAs or other unfavorable terms with a take-it-or-leave it offer.³¹ To protect ratepayers from price increases, the OAG requested that the Commission cap PPA costs at the bid level, unless Xcel made a particularly strong showing that it was reasonable for ratepayers to bear the increased costs.³² While the Commission did not adopt this recommendation exactly, it committed itself, among other items, to reviewing whether “the prices and terms put ratepayers at risk for costs that are higher than bid or for benefits assumed in bids that do not materialize” and “the terms of any agreements that inappropriately shifted risk or unknown costs to ratepayers.”³³

The terms of the PPAs for the North Star BESS and MEC BESS inappropriately shift the risks of geopolitical uncertainty from large energy developers and an investor-owned utility to Minnesota’s ratepayers. Among the various parties that could absorb the risks, ratepayers are in

²⁹ See generally, Joint Settlement Agreement (Oct. 3, 2024).

³⁰ Docket No. E-002/CN-23-212, Initial Comments of the Office of the Attorney General – Residential Utilities Division at 26, 28 (Dec. 4, 2024).

³¹ *Id.* at 29-30.

³² Docket No. E-002/CN-23-212, Reply Comments of the Office of the Attorney General – Residential Utilities Division at 16 (Dec. 18, 2024).

³³ Docket No. E-002/CN-23-212, Order Approving Settlement Agreement with Modifications at 23, Order Point 19a. and 19c. (Apr. 21, 2025).

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the worst position to be able to mitigate these risks or to absorb cost increases. Many ratepayers' inability to absorb these additional cost increases are clearly demonstrated by Xcel's cold weather rule filings. Xcel reported that in September of this year, 7,305 customers were disconnected and 48,988 customers were on payment plans.³⁴ Moreover, 185,428 residential customers' accounts were past due and these customers owed \$466 on average, with total residential arrearages of \$86.34 million.³⁵

Allowing another up-to-20-percent price increase, beyond the increases from the bids already included in Xcel's current petition, is unreasonable without further review. The Commission should condition approval of the PPAs on Xcel's agreement to cap cost-recovery for any further cost increases. Xcel agrees that the Commission has authority to impose such a cap, but suggests that the Commission's review should be limited to a determination that the cost increases were due to "governmental action."³⁶ The Commission should not constrain its review to simply determining whether government action caused the tariffs. Instead, the Commission should retain the ability to review any cost increases to determine whether they are just and reasonable, including whether ratepayers or Xcel's shareholders should bear the cost increase.

While the OAG understands that these are uncertain times, the risks of the present economic uncertainty and the cost of federal tariffs must stop falling solely on ratepayers. To protect ratepayers, the Commission should require that, before Xcel can recover any rate increases from the operation of the New Market Trade Event provisions in the PPAs from ratepayers, Xcel must show that it is just and reasonable for ratepayers, and not its shareholders, to bear these costs.

³⁴ Docket No. E, G-999/PR-25-02, Xcel September Residential Monthly Status Report. Because Xcel does not separate gas and electric reporting, the OAG is unable to determine whether these disconnections or payment plans were for gas, electric, or both.

³⁵ Docket No. E, G-999/PR-25-02, Xcel September Residential Monthly Status Report.

³⁶ Attach. 1 (Xcel Response to OAG IR No. 13).

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II. PURCHASING GAS-FIRED POWER FROM INVENERGY UNTIL 2048 WILL EXPOSE RATEPAYERS TO RISKS OF INCREASED COSTS FOR RENEWABLE ENERGY OFFSETS WELL AFTER 2040.

The Commission should require Xcel to provide further information to support the 20-year term it requests for purchasing power from the Cannon Falls Energy Center, as this plant runs on gas, which may force Xcel to procure additional renewable energy certificates in the years 2040-2048. Even though Invenergy anticipated concerns about PPA terms that could extend beyond the 2040 Carbon Free Standard³⁷ in its proposal and the potential need to purchase RECs, Xcel has failed to model or otherwise conduct analysis of the impact of additional RECs on the reasonableness of the PPA, even when asked directly by the OAG.³⁸ Instead, Xcel merely insists without support that its proposal complies with “100x40” through the Settlement Agreement, even though the relevant analysis Xcel submitted in support of the settlement ended in the year 2040.³⁹ Xcel must provide additional information to show that the necessary additional costs to procure renewable energy offsets beyond 2040 are reasonable. Otherwise, the Commission should make clear that Xcel’s shareholders may be required to bear these costs.

Xcel requests the Commission approve its PPA with Invenergy Renewables, LLC for firm dispatchable capacity and energy from two Natural Gas Combustion Turbines in Cannon Falls for a term of 20 years. Notably, Invenergy submitted the bid for the Cannon Falls PPA [HIGHLY

SENSITIVE NOT PUBLIC DATA BEGINS [REDACTED]

[REDACTED] [HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]. Invenergy’s initial proposal for the Cannon Falls PPA appears to have recognized the potential downsides of a 20-year PPA with gas plant that would run beyond 2040. Invenergy described how the “power

³⁷ See Minn. Stat. § 216B.1691, subds. 2g, 4.

³⁸ Attach. 2 (Xcel Response to OAG IR No. 9).

³⁹ Docket No. E-002/CN-23-212, Xcel’s Comments in Support of Settlement Agreement at 4 (Oct. 25, 2024).

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purchase agreement could also contain an option to extend the term beyond 2040 in the event offramps in the carbon-free standard are triggered and utilities are unable to meet the statute's milestones."⁴⁰ Invenenergy also stated that "it may be possible to include a commitment to retire renewable energy credits ('RECs') generated outside of this facility in conjunction with the supplied energy/capacity."⁴¹

Even though Invenenergy appeared to recognize the potential need to retire RECs to operate the facility after 2040, Xcel has not clearly analyzed the impact of the 20-year term. The OAG asked Xcel to "[e]xplain how Xcel incorporated the cost of renewable energy certificates or other renewable energy offsets that may be needed in years 2040 through 2048 of the proposed PPA into its analysis of the public interest of the PPA."⁴² Further, the OAG asked "whether Xcel incorporated the cost of renewable energy certificates or other renewable energy investments that may be needed in years 2040 through 2048 of the proposed PPA into any modeling performed to support the PPAs."⁴³ Xcel responded to both these questions with the following sentence: "The Company did not model renewable offsets, but the Settlement Agreement with a 20-year Cannon Falls PPA meets the 100x40 requirement, and we will continue to explore ways to reduce system carbon emissions post 2040."⁴⁴

Xcel admits, therefore, that it has not modeled the impact of purchasing or creating renewable offsets for the Cannon Falls PPA from 2040-2048.⁴⁵ And it has given no further explanation of how or whether the PPA is reasonable and in the public interest in light of the

⁴⁰ Docket No. E-002/CN-23-212, Refiled [Invenenergy Cannon Falls Proposal](#) at 6 (Jul. 29, 2024).

⁴¹ *Id.*

⁴² Attach. 2 (Xcel Response to OAG IR No. 9).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Attach. 2 (Xcel Response to OAG IR No. 9).

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additional costs Xcel may incur to purchase, procure, or create renewable energy credits or other renewable energy investments for gas combusted after 2040.

Further, Xcel's statement that "the Settlement Agreement with a 20-year Cannon Falls PPA meets the 100x40 requirement" is not supported. There are two problems with this claim. First, the Settlement Agreement did not contemplate a 20-year PPA and instead simply stated that the settling parties "Select Invenenergy Cannon Falls Energy Center to proceed to the PPA negotiation phase."⁴⁶ The Stipulation was silent regarding which of the **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** **[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** offered for the Cannon Falls PPA the settling parties were supporting.

Second, Xcel's claim that the settlement agreement with a 20-year Cannon Falls PPA meets the "100x40" standard is unsupported. While Xcel provided an analysis for how it would meet the Carbon Free Standard in 2030, 2035, and *in the year 2040* in support of the Stipulation, Xcel has provided no analysis for how it will achieve Carbon Free standard compliance *after* 2040.⁴⁷ Because the Carbon Free Standard requires that Xcel either produce or procure 100 percent of its electricity from carbon free sources or purchase RECs to serve its Minnesota electric retail load,⁴⁸ an analysis from 2040 to 2048 is particularly important, as Xcel is projecting large load increases from data centers. Without further support, Xcel has not shown that extending the PPA to 2048 will continue to allow it to meet the Carbon Free standard in 2041-2048 at a reasonable cost.

In reply comments, Xcel should provide evidence that the Cannon Falls PPA will still be reasonable even accounting for the increased costs of purchasing renewable offsets or generating

⁴⁶ Docket No. E-002/CN-23-212, Settlement Agreement at 4.

⁴⁷ See Docket No. E-002/CN-23-212, Xcel's Comments in Support of Settlement Agreement at 4, Table 1.

⁴⁸ Minn. Stat. § 216B.1691, subds. 2g, 4.

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additional renewable energy after 2040. If Xcel cannot or will not show this adequately, the Commission should make clear that Xcel's shareholders may be found responsible for the costs of purchasing renewable energy offsets or generating additional renewable energy after 2040 for the Cannon Falls PPA.

III. XCEL'S RIGHT OF FIRST OFFER (ROFO) PROVISIONS TO ACQUIRE THE PROJECTS ARE SELF-SERVING AND POTENTIALLY CAME AT THE EXPENSE OF RATEPAYERS.

Xcel states that the PPAs for the Cannon Falls and Mankato Energy Center gas plants include "strengthened key terms compared to the current agreement, aimed at meaningfully reducing risk to our customers."⁴⁹ This includes PPA provisions granting Xcel a Right of First Offer (ROFO), which require Invenergy and Onward to **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]** [REDACTED]

[REDACTED] **[HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]**.⁵⁰ The PPA for DESRI's North Star BESS has a similar provision.⁵¹

It is not clear how an agreement to give Xcel an opportunity to increase its rate base would benefit ratepayers. Exercising the ROFOs would allow Xcel to purchase the Cannon Falls and Mankato Energy Centers and place the cost of purchase into rate base, meaning that Xcel would earn a return on the money it spent to purchase them. It would also make ratepayers responsible for additional fixed and variable costs, such as decommissioning costs, property taxes, operations and maintenance expenses, and plant outages and failures. In fact, Xcel already attempted to purchase the Mankato Energy Center for \$100 million more than the remaining payments Xcel

⁴⁹ Second Revised Xcel Petition for Approval at 20, 23.

⁵⁰ *Id.* at 21, 24.

⁵¹ Second Revised Xcel Petition for Approval, Attach. D at 65-66 (of 141).

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was going to make under the then-operative PPA.⁵² The Commission denied it, finding the purchase to be against the public interest.⁵³

The existence of the ROFOs also raises the concern that the PPAs contain terms less favorable to ratepayers than they otherwise might have been. This is due to the nature of negotiations. Any term valued by one party to a negotiation gives the other party leverage to extract value. Thus, the fact that the model PPAs at the beginning of the bidding process included ROFO language could have influenced the initial bid prices. Moreover, once the contemplated Track 2 bidding procedure was curtailed and bids from all parties were accepted, the ROFO provisions for the gas plants were renegotiated, as evidenced by their variance from the original model PPA language.⁵⁴ There is no record of the negotiation process, so it is impossible to know how exactly the inclusion of the ROFO provisions influenced the process, prices, or other terms, but it is clear that these terms primarily benefit Xcel.

If Xcel does eventually attempt to exercise the ROFOs, the Commission will still need to conduct a separate proceeding to evaluate the proposed purchase. Minnesota law requires Commission approval to purchase any plant of \$1,000,000 or more, and the Commission must find the purchase to be in the public interest before authorizing it.⁵⁵ While Xcel cannot contract out of the law, if the Commission approves the PPAs, it should explicitly state in its order that final approval of any attempt to exercise the ROFOs will trigger the investigation required by statute.

⁵² Docket No. IP-6949, E-002/PA-18-702, Order Denying Petition and Requiring Supplemental Modeling at 9 (Dec. 18, 2019).

⁵³ *Id.* at 10.

⁵⁴ The model PPAs for this case can be found at https://www.xcelenergy.com/company/rates_and_regulations/filings/nsp%202023%20firm%20dispatchable by clicking on the “supplemental materials” tab. Compare Article 19 of the model PPAs to Article 19 of each of the negotiated PPAs.

⁵⁵ Minn. Stat. § 216B.50.

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IV. THE COMMISSION SHOULD MAKE IT CLEAR THAT IT IS NOT PRE-AUTHORIZING AN INCREASE IN THE EQUITY RATIO.

Xcel suggests that the proposed PPAs will impact some of its 2028 credit metrics. Xcel states that there are two primary avenues through which it could “mitigate the negative impact of incremental imputed debt.”⁵⁶ It does not list any secondary mitigation avenues and only provides a brief and insufficient discussion of rating agency approaches to imputed debt.⁵⁷ The incomplete capital structure record does not substantiate Xcel’s claims and equity-ratio solution. The Commission should be clear that it is not endorsing Xcel’s claims about imputed debt or pre-authorizing an increased equity ratio for future ratemaking purposes.

A. The Commission Has Other Forums to Approve a Utility’s Actual Capital Structure and Ratemaking Capital Structure.

Xcel mentions that it intends to propose an increase in its equity ratio in its next Minnesota electric rate case filing.⁵⁸ Xcel suggests that an equity ratio increase is necessary to accommodate the four projects proposed in this docket.

It’s important to be clear about which “equity ratio” Xcel is referring to. The term “equity ratio” refers to one part of an organization’s capital structure, which in turn refers to the mix of debt and equity that an organization uses to fund its ongoing operations and future growth. The capital structure quantifies how a company finances its assets (such as power plants) through a combination of borrowed funds (debt) and owners’ funds (equity). The capital structure can be used to estimate the weighted average cost of capital or to calculate the ratemaking rate of return. Therefore, there is an “actual” capital structure and a “ratemaking” capital structure.

Capital structure determinations primarily occur in two docket types:

⁵⁶ Second Revised Xcel Petition for Approval at 17.

⁵⁷ Each of the three major rating agencies may impute debt differently.

⁵⁸ Second Revised Xcel Petition for Approval at 16-17.

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1. Actual Capital Structures are considered in annual capital structure dockets.
2. Ratemaking Capital Structures are considered during rate cases.

The Commission reviews the capital structures in accordance with statute and Commission rules, which includes specific requirements for the capital structure application.⁵⁹ The Commission reviews the utility's request and orders that the utility maintain its capital structure, including the equity ratio, within a specified range. The Commission's order generally includes a relatively wide range within which the utility's equity ratio must remain for the following 12 months, or until the Commission's next capital structure order takes effect. The Commission does not frequently deny or modify utility capital structure requests during these proceedings.

The ratemaking capital structure is set in rate cases. One part of rate cases relates to the capital structure. This ratemaking capital structure is often a hypothetical capital structure that can be used to calculate "a fair and reasonable" ratemaking rate of return that the utility is allowed an opportunity to earn on its investment in "its utility property used and useful in rendering service to the public."⁶⁰ The Commission modifies ratemaking capital structure requests more frequently during rate cases than during annual capital structure filings. The ratemaking capital structure is used for calculating the revenue requirement that is established during each rate case and does not directly impact the utility's flexibility to manage its actual capital structure.

The dual determination of actual and ratemaking capital structures helps with transparency and financial stability, including avoiding rate-shock for customers. The annual review of the actual capital structure helps determine whether the utility remains within its approved equity ratio range. If the utility were to deviate from the approved capital structure ranges, a Commission

⁵⁹ Minn. Stat. § 216B.49 and Minn. R. 7825.1000-7825.1500

⁶⁰ Minn. Stat. § 216B.16, subd. 6.

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review should follow. The ratemaking capital structure applies reasonableness and prudence as the Commission sets energy rates for Minnesotans. So, if a utility acts imprudently or has implemented a temporary capital structure deviation, the Commission can adjust the capital structure used for ratemaking purposes. The system helps ensure that rates remain fair while giving utilities flexibility to manage their capital structure.

B. This Type of Proceeding Is Not Where the Commission Approves Capital Structures and Should Have No Impact on Proceedings where the Commission Does Approve Capital Structures.

A petition like this one, however, is neither a proceeding to determine whether Xcel's actual capital structure is in the approved range or a rate case proceeding to set the ratemaking capital structure. This is not the appropriate docket to explore capital structures or approve equity ratio changes. Xcel is free to make any proposals it wishes in both its next annual capital structure filing and its next rate case, and those proposals can and will be scrutinized in those filings. The Commission should not pre-authorize an increased equity ratio in this docket or otherwise and the Commission should clarify that it is not approving any changes to Xcel's actual or ratemaking capital structure in this docket.

CONCLUSION

The OAG requests that the Commission carefully review Xcel's proposed PPAs, particularly the aspects of Xcel's proposal laid out above. The OAG will offer its final recommendations in supplemental comments following the receipt of the additional information requested from Xcel above.

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Dated: October 31, 2025

Respectfully submitted,

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State of Minnesota
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/s/ Joey Cherney

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Xcel Energy	Information Request No.	13
Docket No.:	E-002/CN-23-212	
Response To:	Minnesota Office of the Attorney General	
Requestor:	Katherine Hinderlie	
Date Received:	October 14, 2025	

Question:

References: Petition for Approval of PPAS for Firm Dispatchable Resources at 32.

C. New Trade Measure Event

If a new or modified import tariff is imposed on the project's major components, the Seller may request a rate increase, capped at no more than 20 percent, to account for the change in tariff impact on the project. Each new tariff and requested rate increase must be verified by an Independent Auditor. The Independent Auditor shall be granted the opportunity to review Seller's major equipment and determine the validity and impact of any new tariff. If the Independent Auditor denies the new tariff, or if Seller's calculation of the rate increase is determined by the Independent Auditor as materially inaccurate or otherwise in bad faith, no rate increase will be granted. The Seller has the right to submit multiple requests for different tariff events and is granted up to 75 days of COD delay during the review process. If the Independent Auditor verifies the new tariff event and also verifies Seller's calculation of the rate increase, then the rate increase will be automatically applied to the PPA for the remainder of the term.

Request:

- A. Confirm that this provision only applies to the North Star BESS and MEC BESS.
 1. If the provision applies to Cannon Falls or MEC I, explain why this provision is reasonable for existing generation facilities.
- B. For each project, state which party is responsible for payment of the Independent Auditor and where this responsibility is accounted for in the PPAs.
 1. If no provisions are provided in the PPA related to the payment of the Independent Auditor, state whether Xcel plans to execute an addendum

or other agreement with Seller to memorialize any agreements related to payment.

2. If no provisions are provided in the PPA related to the payment of the Independent Auditor, state whether Xcel has discussed payment of the Independent Auditor by the Seller.
- C. For each project, explain how the Independent Auditor will be selected and where the selection process is described in the PPAs.
1. If no provisions are provided in the PPA related to the selection of the Independent Auditor, state whether Xcel plans to execute an addendum or other agreement with Seller to memorialize this process.
- D. Because the Independent Auditor has the ability to verify the Seller's calculation of the rate increase and that will be automatically applied, explain how the Commission can evaluate the PPA without the final price?
- E. Explain whether Xcel has performed modeling of North Star BESS and MEC BESS at a 20 percent rate increase for each project.
- F. If the answer to part E above is affirmative, provide the impact in Present Value Societal Costs (PVSC) and Present Value Revenue Requirement (PVRR) of a 20 percent price increase for each project.

Any responsive documents must be provided in their unlocked native format with all formulas and links intact.

Response:

- A. The Company confirms that the New Trade Measure Event provision only applies to North Star BESS and MEC BESS, and not to Cannon Falls or MEC I. An existing resource (like Cannon Falls and MEC I) would not be exposed to the same level of tariff risks.
1. N/A
- B. For each project, the seller is responsible for the payment of the Independent Auditor. This responsibility is accounted for in the definition of Independent Auditor in each agreement, where it is stated that the Independent Auditor "is selected and retained by Seller... at Seller's expense".
1. N/A
 2. N/A
- C. For each project, the Independent Auditor is selected by Seller to perform a scope of work that is mutually agreed to by both seller and the Company. Seller may select from Deloitte LLP, PricewaterhouseCoopers, Klynveld Peat

Marwick Goerdeler, or another firm that is mutually agreed upon by both seller and the Company. This selection procedure is described in the definition of Independent Auditor within each agreement.

1. N/A

- D. With respect to this contractual provision, the Commission has the authority and discretion to place conditions on approval that it deems are in the public interest, such as requiring a soft cost cap that allows the Company to return to the Commission for further approval of increased costs after demonstrating those costs are the result of government action.

Further, this approach aligns with Commission Orders in other similar matters. For example:

- October 25, 2023 Order, Docket No. E002/M-22-403, In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of Sherco Solar 3 and Apple River Solar Power Purchase Agreement, Order Point 5a: *Authorize Xcel to request Commission approval to exceed the symmetrical cost-cap if it can show that any cost it incurred above the cap are the result of government action (e.g., tariff, trade investigation, etc.) that causes meaningful disruption to solar panel supplies and market prices, and*
- May 13, 2025 Order, Docket No. E015/M-24-344, In the Matter of the Petition of Minnesota Power for Approval of Investments and Expenditures in the Boswell Solar Projects for Recovery through Minnesota Power's Renewable Resources Rider under Minn. Stat. § 216B.1645, at Order Point 5: *The Commission authorizes Minnesota Power to request approval to exceed the cost cap if it can show that any costs incurred above the cap are the result of government action that causes meaningful disruption to solar panel supplies and market prices.*

- E. No, the Company did not perform modeling of North Star BESS and MEC BESS at a 20 percent rate increase for each project.

- F. N/A. Please see the response to Part E above.

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☐ Public Document

Xcel Energy Information Request No. 9
Docket No.: E-002/CN-23-212
Response To: Minnesota Office of the Attorney General
Requestor: Katherine Hinderlie
Date Received: October 14, 2025

Question:

References: Petition for Approval of PPAS for Firm Dispatchable Resources at
Table 4 – Cannon Falls Project

Table 4
Cannon Falls Project Details

Project Type	Natural Gas Simple Cycle CTs
Nameplate Capacity	357 MW
Developer	Invenergy Renewables, LLC
Project Location	Cannon Falls, Minnesota
Project Structure	PPA
COD	June 2028
Contract Terms	20 years

Invenergy LLC, Thermal Energy Generating System Proposal (Jan. 22, 2024)

[TRADE SECRET INFORMATION BEGINS

TRADE SECRET INFORMATION ENDS]

Request:

- A. State whether Xcel explored the potential of a contract term of less than 20-years in negotiations.
1. If the answer to Part A above is affirmative, list all contract term lengths that were explored.
- B. **[TRADE SECRET INFORMATION BEGINS** **TRADE SECRET**
INFORMATION ENDS]
- C. Explain how Xcel incorporated the cost of renewable energy certificates or other renewable energy offsets that may be needed in years 2040 through 2048 of the proposed PPA into its analysis of the public interest of the PPA.
- D. Explain whether Xcel incorporated the cost of renewable energy certificates or other renewable energy investments that may be needed in years 2040 through 2048 of the proposed PPA into any modeling performed to support the PPAs.
1. If the answer to part D above is negative, explain why Xcel did not do so.
 2. If the answer to part D above is positive, provided a narrative explanation of the impact of the results of any modeling.
 3. If the answer to part D above is positive, provide the impact in Present Value Societal Costs (PVSC) and Present Value Revenue Requirement (PVRR).

Any responsive documents must be provided in their unlocked native format with all formulas and links intact.

Response:

- A. **[PROTECTED DATA BEGINS**

[PROTECTED DATA ENDS]

- B. As discussed in the Company's Petition filed September 26, 2025,
[PROTECTED DATA BEGINS

PROTECTED DATA ENDS].

Also, when the Company modeled **[PROTECTED DATA BEGINS**

PROTECTED DATA ENDS]

- C. The Company did not model renewable offsets, but the Settlement Agreement with a 20-year Cannon Falls PPA meets the 100x40 requirement, and we will continue to explore ways to reduce system carbon emissions post 2040.
- D. Please see the response to Part C above.

Portions of this response are marked “Not-Public” as they contain information the Company considers to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). This data includes confidential negotiation details and contractual terms. The information has independent economic value from not being generally known to, and not being readily ascertainable by, other parties who could obtain economic value from its disclosure or use.

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Date:	October 24, 2025	