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ELECTRONIC FILING

Sasha Bergman
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

**Re: In the Matter of Xcel Energy’s Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges
Docket No. E-002/AA-22-179**

Dear Ms. Bergman:

The Xcel Large Industrials (“XLI”) submit this filing in response to the March 31, 2026, filing by Northern States Power Company, d/b/a Xcel Energy (“Xcel” or “the Company”) regarding the Administrative Law Judge (“ALJ”) Findings of Fact, Conclusions of Law, and Recommendations (“ALJ Report”) issued in this matter on March 11, 2026.¹ For the reasons stated below, the Minnesota Public Utilities Commission (“Commission”) should reject Xcel’s proposal to modify the ALJ Report, adopt the ALJ Report without modification, and order customer protections to safeguard against the future imposition of unreasonable costs stemming from Xcel’s imprudent and unplanned outages.

¹ Xcel Letter at 1 (Mar. 31, 2026) (eDocket No. 20263-229829-01).

1. No Basis for Rejecting the ALJ Report

Xcel's proposal to strike the majority of the ALJ's Findings of Fact and all of Conclusions of Law is illogical and legally flawed. After months of litigation necessitated by Xcel's request for a contested case proceeding, Xcel now claims the majority of the ALJ Report is "unnecessary" because it agrees to refund the amount recommended by the ALJ. There is no purpose for the Commission to modify or reject the ALJ's Findings as Xcel proposes. As the case is currently postured the Commission can issue the relief Xcel requests, based on the ALJ's Findings and Conclusions, and 1) order the \$40.6 million refunded to customers, 2) require a compliance filing to establish the interest and timing of the refund, 3) explore methodologies to calculate future replacement power costs, and 4) disallow Xcel's recovery of legal costs incurred in the contested case proceeding.² Nothing in the ALJ Report is inconsistent with the relief Xcel requests so it is difficult or impossible to understand why the Commission would strike any part of the ALJ Report.

Not only is there no purpose or reason to strike the ALJ Findings and Conclusions, such action would be entirely problematic under the law. Minnesota Statutes section 14.62 requires:

Every decision and order rendered by an agency in a contested case shall be in writing, shall be based on the record and shall include the agency's findings of fact and conclusions on all material issues. A decision or order that rejects or modifies a finding of fact, conclusion, or recommendation contained in the report of the administrative law judge required under sections 14.48 to 14.56, or requests remand under subdivision 2b, must include the reasons for each rejection, modification, or request for remand.

To strike the bulk of the ALJ Report as Xcel requests, the Commission would need to explain the reason for the rejection. According to Xcel that reason is because the Findings and Conclusions are "unnecessary," because Xcel has agreed to comply with those Findings and Conclusions.³ XLI

² Xcel Letter p 2-3.

³ Xcel Letter p. 2.

sees no need, purpose or advantage for the Commission to strike the ALJ Report as Xcel proposes. It is illogical that Xcel claims the ALJ Findings and Conclusions are “unnecessary” after Xcel demanded the contested case and now agrees to refund the amount recommended by the ALJ after months of litigating the issue. There is no legitimate basis upon which the Commission could reject any aspect of the ALJ Report. No other party has filed exceptions to any aspect of the ALJ Report, and Xcel has provided no reason to amend it other than it agrees to comply with it. The Commission should not reject the ALJ’s Findings and Conclusions but should adopt the ALJ Report in its entirety.

2. Customer Safeguards to Protect Against Unreasonable Litigation and Outage Costs

a. Legal Costs

XLI supports the entirety of the ALJ Report and requests the Commission adopt it without modification, including ALJ’s Findings of Fact 196-203 regarding the recovery of legal costs incurred in litigating this proceeding. Xcel argues the Commission should reject these Findings to exclude the internal costs of employee time spent on this matter, claiming the recommendation is 1) untimely, 2) unnecessary because the employee cost is not “incremental,” and that 3) there is no mechanism to implement the adjustment without constituting retroactive ratemaking. The Commission should reject all of these arguments – the recommendation is not untimely, but made in this proceeding for costs incurred herein; Xcel employees spent time litigating this matter and it is not clear to XLI why the time they spent needs to be “incremental” to anything as Xcel argues; and the adjustment to rates should be implemented in Xcel’s next rate case proceeding by requiring Xcel to “provide testimony or other evidence in its next rate case,”⁴ as it proposes to do for outside legal expenses but oddly claims it cannot do for its internal employee expenses. The Commission

⁴ Xcel Letter at 2-3.

should adopt the entirety of the ALJ Report, including Finding 203, and require Xcel to “make compliance filings demonstrating that it has excluded its litigation expenses for this proceeding from all applicable rate case and cost recovery proceedings,”⁵ and the Commission should make explicitly clear that “litigation expenses for this proceeding” includes external and internal expenses.

b. Future Reporting in Fuel Clause Adjustment Filings

Finally, this contested case proceeding arose out of the Company’s March 1, 2024, Annual Fuel Clause True-Up and Compliance Report for fuel forecast and fuel-cost charges approved for the 2023 calendar year.⁶ As part of its Order referring this matter for contested case proceedings the Commission required Xcel to provide additional information regarding outages in future fuel clause true-up filings, ordering in Order Point 4:

In future true-up petitions, Xcel must include the following information for planned outages: unit, outage category, primary reason for planned outage, outage start and end dates, duration in days, reason for planned outage, description of actions taken during outage, and change in energy costs due to outage.⁷

XLI requests the Commission order Xcel to provide the information required in Order Point 4 for *unplanned* outages, in addition to the information for planned outages. This information regarding outages is important for stakeholder and Commission review of fuel clause filings, and there is no

⁵ Finding 203 states in its entirety:
There is no legal or policy reason to require customers to fund Xcel’s litigation here; neither traditional litigation rules nor utility ratemaking principles warrant it. In addition, the Commission should require Xcel to make compliance filings demonstrating that it has excluded its litigation expenses for this proceeding from all applicable rate case and cost recovery proceedings.

⁶ In the Matter of Xcel Energy’s Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges, Docket No. E-002/AA-22-179, ORDER APPROVING 2023 FUEL-CLAUSE TRUE-UP REPORT, REQUIRING ADDITIONAL FILINGS, FINDING IMPRUDENCE, AND NOTICE OF AND ORDER FOR HEARING, November 15, 2024, p. 1.

⁷ In the Matter of Xcel Energy’s Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges, Docket No. E-002/AA-22-179, ORDER APPROVING 2023 FUEL-CLAUSE TRUE-UP REPORT, REQUIRING ADDITIONAL FILINGS, FINDING IMPRUDENCE, AND NOTICE OF AND ORDER FOR HEARING, November 15, 2024, p. 11.

reason to distinguish between planned and unplanned outages when requiring this information. In fact, the information regarding dates, timing and “change in energy costs” for unplanned outages could be more important to ensure customers do not pay for future outage and replacement power costs arising from Xcel’s imprudence. XLI requests, as part of its consideration of the ALJ Report, the Commission order additional information regarding unplanned outages be provided in future fuel clause true up filings.

3. Conclusion

For the reasons stated above, XLI requests the Commission 1) adopt the ALJ Report in its entirety, 2) order customer protections to safeguard against the future imposition of unreasonable costs stemming from Xcel’s imprudent and unplanned outages, including disallowance of all litigation costs, external and internal, Xcel incurred in this contested case proceeding, and 3) require additional reporting on Xcel’s unplanned outages in future fuel clause filings.

Please contact us with any questions.

Sincerely,

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