STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in Minnesota	PUC Docket No. E-002/GR-13-868 OAH Docket No. 68-2500-31182

REPLY BRIEF OF CLEAN ENERGY INTERVENORS

October 14, 2014

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I. INTRODUCTION

Northern States Power Company's ("Xcel") multi-year rate case raises significant rate design issues directly related to conservation and the statutory mandate that the Commission "set rates to encourage conservation to the maximum reasonable extent."[1] In this Reply Brief, Clean Energy Intervenors[2] address three main arguments made in the parties' Initial Briefs. As explained herein, these arguments are unsubstantiated on the record and should be rejected:

(1) The Commission should reject the Office of the Attorney General's ("OAG") claim that the Inclining Block Rate ("IBR") Stipulation supported by Clean Energy Intervenors, Xcel, Energy CENTS Coalition ("ECC"), Suburban Rate Authority ("SRA"), and the Department of Commerce ("Department") is somehow contrary to customer interests. This argument is unfounded.

(2) The Commission should reject Xcel and the Department's argument that an increase in the customer charge for residential and small general service customers is reasonable. The majority of parties to this case oppose any such increase, because it would discourage conservation. Xcel and the Department have the burden to show why the recommended increases would be in the public interest. They have failed to do so.

(3) The Commission should reject the Department, OAG and AARP's objections to Xcel's proposed revenue decoupling mechanism ("RDM"), which are primarily based on impacts on customers. But the RDM is actually not the basis for customer impacts, and to the extent they occur any impacts can be offset by low-cost conservation measures,

[1] Minn. Stat. § 216B.03.

[2] Clean Energy Intervenors include the Minnesota Center for Environmental Advocacy, Natural Resources Defense Council, The Izaak Walton League- Midwest Office, Fresh Energy, and Sierra Club.

and by the system-wide benefits of decoupling itself. The weight of the record evidence supports a finding that the RDM should be approved.

II. NO PARTY HAS SHOWN THAT THE IBR STIPULATION IS NOT IN THE PUBLIC INTEREST OR NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND IT SHOULD, THEREFORE, BE ADOPTED.

The only party to argue in opposition to the IBR Stipulation is the OAG, which simply re-states its general opposition to an inclining block rate structure. The OAG fails to show that the Stipulation, which will allow for full participation by all parties, including the OAG, in a further proceeding is not supported by substantial evidence or is not in the public interest.[3] The OAG alleges that: (1) an IBR will severely harm certain rate payers; and (2) the Stipulation unreasonably restricts evaluation of an IBR structure. Neither argument has any merit.

A. The OAG's Continued Reliance On Examples From The CenterPoint Case Is Misplaced And Unpersuasive.

The OAG continues to offer the same blanket objections to an IBR structure, asserting that it will harm low-income, high-use customers. These objections are based on anecdotes it compiled in response to the CenterPoint IBR in 2010.[4] The OAG's arguments are unpersuasive.

As an initial matter, the OAG's general opposition to inclining block rates is not relevant to the question currently before the ALJ and Commission: whether to adopt the parties' Stipulation. If adopted, the Stipulation calls for a new proceeding, culminating in a decision by the Commission on the merits of an IBR. It is at that time that the OAG can make arguments in opposition to the proposal if it believes its concerns have not been adequately addressed.

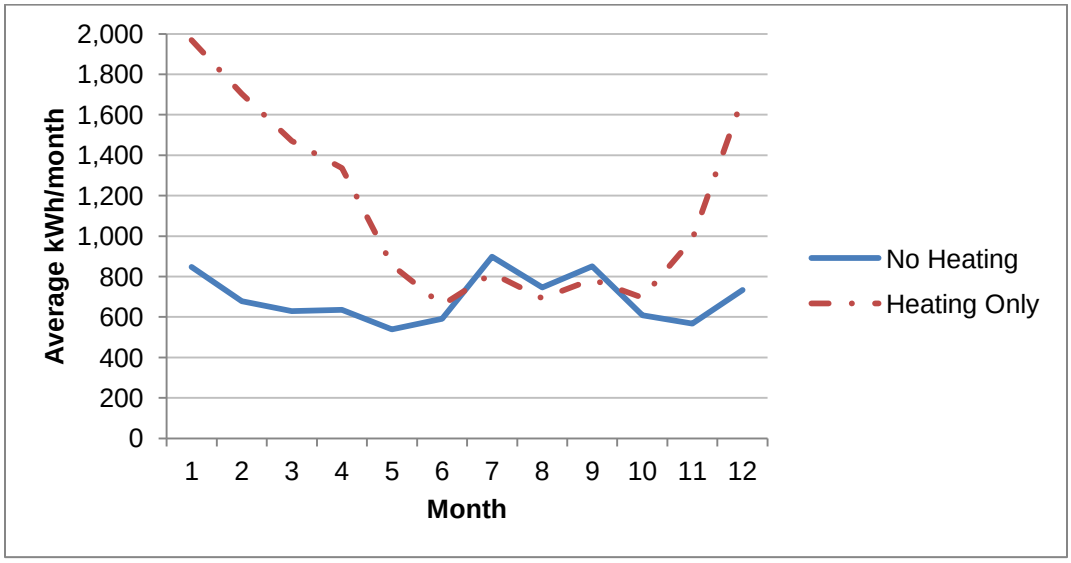
Even if the OAG's argument opposing an IBR were relevant, however, it remains unpersuasive. In his surrebuttal testimony, Clean Energy Intervenors' Witness Paul Chernick

[3] *See* Minn. Stat. § 216B.16, subd. 1a.
[4] Exh 377, schedule REN 24 (Nelson Rebuttal).

responded to the arguments raised by the OAG. The OAG's Initial Brief ignores Mr. Chernick's testimony and simply re-states its anti-IBR position based on the CenterPoint experience.

But as Mr. Chernick explained, the comparison between this case and the CenterPoint case is baseless because CenterPoint's IBR applied to natural gas while this proposal is for electricity. Not to mention the fact that the Clean Energy Intervenors' proposal ***exempts electric home heating customers***. The complaints the OAG received related to the CenterPoint IBR were from customers using gas for home heating.[5] Heating uses a far greater percentage of the overall energy consumed by residential customers than do other sources of energy consumption, including cooling. For example, Mr. Chernick provided the following table showing the relative amounts of energy by month used by homes that have electric heat versus those that do not:

Figure S-1: Xcel Residential Average Use by Month



He reports that "January heating use is three times the spring minimum, while July cooling load is only about 66% higher than the spring minimum."[6] This variation means that the effect of an inclining rate structure on energy used to heat will be much greater than on energy used to cool.

[5] Exh. 295 at 2 (Chernick Surrebuttal).
[6] *Id.* at 3.

In other words, an IBR structure for a gas utility will have a much greater impact than an IBR for an electric utility, particularly where the latter exempts electric home heating customers from the rate structure. The CenterPoint experience, therefore, is simply inapposite.

The OAG fails to acknowledge that home heating customers are exempt from the IBR in Clean Energy Intervenors' proposal. Accordingly, its reliance on the CenterPoint example is flawed and without merit.

B. The Stipulation Provides A Reasonable Approach For Further Evaluation of The IBR Proposal.

The OAG calls the IBR Stipulation "unreasonable in any circumstance…",[7] though the Stipulation has been signed by Xcel, Clean Energy Intervenors, ECC, and the SRA, supported by the Department through testimony and in its Initial Brief, and has not been objected to by any other party in this proceeding. The OAG is alone and unjustified in its opposition.

The IBR Stipulation does not "restrict[] evaluation" of the IBR proposal as the OAG asserts. The Stipulation *furthers* evaluation of such a structure by specifically allowing for an alternative to be proposed by Xcel and allowing more time for parties to voice concerns and offer solutions if valid concerns are raised. Moreover, it could not have been a surprise to the OAG that the IBR proposal "first arose" in Clean Energy Intervenors' direct testimony. An IBR was proposed in Xcel's previous rate case.[8] This is not a new idea.

As envisioned in the Stipulation, concerns about any potential unintended consequences of the proposed IBR structure can be identified and solutions sought during the evaluation period, so that any harmful consequences are avoided. Nothing in the Stipulation limits the OAG's role in the process or what concerns or – better yet – *solutions* the OAG may wish to

[7] OAG Initial Brief at 75.

[8] *In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota,* MPUC Docket No. E-002/GR-12-961, Direct Testimony of Pam Marshall (February 28, 2013), p. 20.

offer. The suggestion that the Stipulation restricts the evaluation of the IBR is ludicrous. In describing these concerns to be discussed the Stipulation specifically states that "[i]ssues may include, *without limitation*, the identification of any additional customer groups…."[9] [10]

As set out in Clean Energy Intervenors' Initial Brief, the IBR Stipulation is supported by a robust record, including a detailed proposal and evidence clearly establishing its conservation benefits. All parties had an opportunity to vet this proposal through discovery and cross examination. The Stipulation offers parties an additional opportunity to further evaluate whether and how to implement an IBR. Adopting the Stipulation is in the public interest.

III. NO PARTY HAS SHOWN THAT IT IS IN THE PUBLIC INTEREST TO INCREASE THE FIXED CUSTOMER CHARGE.

The majority of parties to this case – Clean Energy Intervenors, ECC, the OAG, the SRA and AARP – oppose any increase in the fixed, customer charge for residential and small general service customers.[11] Only Xcel and the Department request an increase. Because an increase in the customer charge *reduces* the conservation incentive, the burden is on Xcel and the Department to show why it would be in the public interest. They have not met their burden.

Clean Energy Intervenors rely on the arguments submitted in their testimony and Initial Brief on this matter, which continue to be unrebutted by either Xcel or the Department. Surprisingly, the Department's Initial Brief does not even mention the impact increasing the

[9] Exh. 135, ¶ 4 (IBR Stipulation).

[10] The OAG's other objections are all red herrings. *See* OAG Initial Brief at 72-73. Its complaint about extended billing cycles and multi-unit, single-metered buildings has been addressed by Minnesota Power and can likewise be resolved if an IBR is ordered for Xcel. Indeed, these are specifically the types of issues that can be addressed by the parties if the Commission adopts the IBR Stipulation. The OAG's suggestion that an IBR would require recalculation of the CCOSS is incorrect. The CCOSS is based on historical data. Changes in consumption due to the IBR will be reflected in future cases.

[11] Clean Energy Intervenors Initial Brief at 6; ECC Initial Brief at 19-23; OAG Initial Brief at 65, 76-77; SRA Initial Brief at 10-11; AARP Initial Brief at 22-23.

customer charge would have on conservation.[12] Likewise, the Department's brief fails to offer any argument in opposition to Clean Energy Intervenors' Witnesses Chernick[13] and Cavanagh's[14] unrebutted testimony on this issue. Nor does it effectively address these same concerns raised by AARP, the OAG, or ECC.[15] The Department's recommendation has not placed adequate weight on the statutory mandate to design rates to encourage conservation to the maximum reasonable extent and should be rejected.

The Department and Xcel try to base the request for an increase in the customer charge on a flawed notion of "moving toward cost."[16] But because the customer cost figure obtained through the CCOSS does not reflect the true average cost of connecting and maintaining an additional customer, an increased fixed charge does not "move toward cost." As Mr. Chernick's unrebutted testimony showed, "moving toward cost" would actually require a *reduction* in the fixed customer charge.[17]

Moreover, neither Xcel nor the Department has explained why an increase in the customer charge would be needed in light of their support for revenue decoupling. Minnesota law imparts to this Commission a mandatory duty to design rates that favor energy conservation, and it explicitly acknowledges the importance of rate design in achieving the state's ambitious energy savings goals.[18] The RDM would provide the same cost recovery as increasing fixed charges, but without the reduction in conservation incentives that accompanies higher fixed charges.

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[12] Department Initial Brief at 289-93, 298-303.
[13] *Id*. at 289-294; Exh. 280 (Chernick Direct); Exh. 293 (Chernick Rebuttal); Exh. 295 (Chernick Surrebuttal).
[14] Department Initial Brief at 289-294; Exh. 290 at 8-9 (Cavanagh Direct).
[15] Department Initial Brief at 289-294; Exh. 376 at 40-52 (Nelson Direct); Exh. 310 at 24 – 33 (Brockway Direct); Exh. 234 at 35-40 (Colton Direct)
[16] Exh. 420 at 20 (Peirce Direct); Exh. 105 at 15 (Huso Direct).
[17] Exh. 293 (Chernick Rebuttal)
[18] *See* Minnesota Statutes §§ 216B.2401, 216B.241, 216B.03, 216B.2412.

An increase in the customer charge has not been justified on this record and is contrary to the statutory mandate to design rates to encourage conservation. It should be rejected. To the extent that the utility is seeking to recover its authorized nonfuel costs through fixed charge increases, revenue decoupling meets the same need without adversely impacting consumer propensity to conserve.[19]

IV. XCEL'S PROPOSED RDM SATISFIES THE REQUISITE STATUTORY REQUIREMENTS AND SHOULD BE APPROVED.

While a fixed charge increase is universally opposed by the parties representing residential consumer interests in this proceeding (AARP, the OAG, ECC) and a portion of small business interests (the SRA), Xcel's proposed RDM has not been met with the same degree of opposition. In fact, ECC supports the current proposal,[20] and the SRA, Minnesota Chamber of Commerce, Commercial Group, and ICI Group do not oppose it.[21] Thus, the only remaining disputes with regard to the RDM lie with the Department, OAG and AARP. And the Department concedes in its Initial Brief that the RDM meets the first two criteria of decoupling under Minn. Stat. § 216B.2412 (i.e. removal of the throughput incentive, designed to determine whether it achieves conservation gains), leaving any perceived burden on customers as its only lingering concern with the RDM.

As a threshold matter, Clean Energy Intervenors also note that we are sensitive to the concerns raised by AARP that Xcel's decoupling proposal is "unfair."[22] But while we share

[19] *See* Exh. 290 at 8-9 (Cavanagh Direct).
[20] *See* ECC Initial Brief at 23-25 (endorsing Xcel's proposal to implement the RDM, with one minor modification of how annual adjustments are calculated).
[21] *See* SRA Initial Brief at 10-11 (stating that it does not oppose decoupling on a pilot basis); Commercial Group Initial Brief at 11 (no position on its approval, given that the RDM would not apply to demand customers); ICI Group Initial Brief at 1, FN 4 (stating that issues raised with respect to the RDM have been moved to a separate docket and is not argued herein); Minnesota Chamber of Commerce Initial Brief (no mention).
[22] AARP Initial Brief at 3.

AARP's goal of ensuring that rates are "just and reasonable" as required by Minn. Stat. § 216B.03, the RDM is consistent with that goal. Moreover, in the same statutory section, Minnesota has articulated a parallel mandate that is no less significant: that rates be set to encourage energy conservation to "the maximum reasonable extent." These dual directives must both be considered in designing rates in Minnesota, and thus the Commission cannot forsake one for the other as it reviews the host of proposals Xcel is making in this proceeding. Clean Energy Intervenors are also mindful of the fact that Minn. Stat. § 216B.2412 directs the Commission to consider revenue decoupling as a means of accomplishing the state's energy conservation goals.[23] As set out in our Initial Brief and here on Reply, Clean Energy Intervenors submit that the RDM, paired with the current customer charge, achieves the proper balance required by Minnesota law. The facts on the record simply do not bear out AARP's conclusion that the RDM could have "serious" impacts on low-use customers. In fact, the record evidence supports a finding that the RDM is reasonable, fair and satisfies the statutory criteria for decoupling. Thus, the Commission should not hesitate to approve it.

Clean Energy Intervenors request that the Commission approve Xcel's proposed RDM for the following reasons: (1) decoupling does not expand a utility's revenue requirement, thus the customer impacts cited by the parties are unlikely to materialize; and (2) the remaining concerns of the OAG and AARP continue to be unsubstantiated on this record and, in some instances, are based on a faulty understanding of how the RDM would function. Moreover, if the RDM were implemented, it would obviate Xcel's request for an increase in the fixed charge, while – importantly – maintaining consumer incentives to invest in energy efficiency. Thus, the

[23] Minn. Stat. §§ 216B.03 (reasonable rates), 216B.241 (energy saving goals), 216B.2412 (decoupling).

RDM is a valuable tool in helping further the Commission's dual directives under Minn. Stat. § 216B.03 to approve rate structures that both encourage conservation and are just and reasonable.

A. Decoupling Would Satisfy the Minnesota Statute's Criteria of Removing Xcel's Disincentive to Promote Conservation While Not Adversely Affecting Consumers.

A common theme running through the Initial Briefs of the Department, OAG and AARP is their belief that decoupling – particularly when comparing the potential effects of a "partial" versus a "full" mechanism – would result in customers paying "more" for their electric bills than they otherwise would have.[24] But this argument is undermined by the very way in which decoupling mechanisms function: to provide a utility its exact, commission-approved revenue requirement in a given year, no more and no less. While Clean Energy Intervenors share the goals of the other parties in this case to encourage rate designs that shield consumers from undue impacts, decoupling is simply not the "boogeyman" that it has been made out to be.

As explained by the Department, Minnesota requires decoupling mechanisms to achieve three objectives: (1) to reduce a utility's disincentive to promote energy efficiency; (2) be designed to determine whether a decoupling strategy achieves energy savings; and (3) to not adversely impact ratepayers. In its Initial Brief and in testimony the Department finds that the RDM meets these first two criteria. [25]

Where the parties primarily differ, however, is the third criterion of how decoupling interacts with customer rates – and thus customer impacts. To be sure, depending on how the Commission rules on the design elements of the RDM, the level of adjustments will vary from year to year. But what has been muddied in the parties' positions is the notion that decoupling is

[24] Department Initial Brief at 189-214; OAG Initial Brief at 69-71; AARP Initial Brief at 8-13.
[25] *See* Department Initial Brief at 191-196; *see also* Exh. 417 (Davis Direct at 18:1-13). On cross-examination, the Department's witness Christopher Davis confirmed his position that Xcel has a throughput incentive and that the RDM addresses that incentive. *See* Evidentiary Hearing Transcripts, Vol. 4 at 140:24-25, 141-142:1-7.

somehow a "surcharge" on electric rates that will add to the underlying revenue requirement that the Commission approves in this case. This error was addressed by Clean Energy Intervenors' witness Ralph Cavanagh: "Decoupling doesn't affect the revenue requirement. It simply assures that it will not be under or over recovered as a result of the fluctuations in sales."[26] While the RDM would indeed adjust volumetric rates every year (resulting in either an addition or subtraction to this portion of customer bills), it would *not* affect the underlying, Commission-approved revenue requirement in this proceeding.[27] This point is acknowledged by the Department in its summary of how Xcel would calculate the RDM each year: by "fixed revenues per customer and a fixed energy charge, based on approved information from this rate case."[28] In the RDM's absence, customers run the risk of over-compensating the utility in years when it over-collects its revenue. But with the RDM in place customers would pay *exactly* the approved costs of service, with surcharges or refunds acting as corrective annual true-ups.

To the extent the parties are concerned with the overall rate increase for each customer class that is being proposed in this docket, the proper forum in which to address that is Xcel's revenue request itself. How and on what basis Xcel is calculating its revenue requirement is where potential impacts on customers lie; not with the proposed RDM.

And though decoupling itself is not the culprit for any underlying impacts on customer rates, Xcel has nonetheless incorporated in the RDM several consumer protection elements to mitigate annual surcharges added to volumetric rates (to the extent there are any). For example, the RDM caps annual surcharges while – importantly – placing no limit on refunds.[29] It also applies to all residential customers and a subset of small commercial and industrial customers,

[26] *See* Transcript of Evidentiary Hearings, Vol. 3 at 83-86 (cross-examination of Ralph Cavanagh).
[27] *Id*.
[28] Department Initial Brief at 187, FN 223 (specifying the formula that Xcel proposes to calculate the deferrals).
[29] Exh. 109 at 9-16 (Hansen Direct).

but makes separate annual adjustments for each of these classes.[30] As a result, it avoids cross-class subsidies. In addition, any annual adjustments for each covered customer class are made to volumetric rates for the following year,[31] thus maintaining the conservation signal in current rates by not adding to the fixed charge portion of customers' bills.

Xcel has also modified several elements of the RDM to address recommendations made by the parties, many of which are now resolved. First, the RDM will be implemented as a pilot over the course of three years. [32] Second, surcharges in a given year will be disallowed if Xcel has not reached a target of 1.2 percent savings through its efficiency programs.[33] Third, the annual RDM evaluation plan will be expanded to include a comparison of how revenues under traditional regulation would have differed from those collected under "partial" and "full" decoupling, among other information.[34] Clean Energy Intervenors support the additional reporting features recommended in the Department's Initial Brief, to the extent Xcel has not already incorporated them.[35] These additional features would presumably also address the OAG's request that the RDM be tracked to quantify how it is impacting conservation efforts.[36] Fourth, the annual cap will be modified to exclude fuel and all applicable riders.[37]

The three main remaining areas of disagreement – whether the RDM should be a "partial" or "full" mechanism, the magnitude of the annual cap on any surcharges, and whether

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[30] *Id*.
[31] *Id.*
[32] Department Initial Brief at 180 (stating that this issue is resolved); AARP Initial Brief at 17-18 (included in recommendation #10); OAG Initial Brief at 70 (included in recommendation #20).
[33] Department Initial Brief at 180 (stating that this issue is resolved); AARP Initial Brief at 17-18 (recommendation #1.b, that annual performance requirements be established linking the RDM to proven utility-sponsored savings); OAG Initial Brief at 70 (included in recommendation #20).
[34] Department Initial Brief at 180 (stating that this issue is resolved), 194-196 (stating unequivocally that the evaluation plan for the RDM meets the Commissions revenue decoupling criteria).
[35] Department Initial Brief at 196 (recommending an analysis of how the RDM is impacting Xcel's Conservation Improvement Programs, among other additional features).
[36] OAG Initial Brief at 68.
[37] AARP Initial Brief at 17-18 (recommendation #4).

the RDM should allow deferrals to subsequent years of any adjustments in excess of the cap (i.e., a "soft" vs. a "hard" cap) [38] – are elements on which the Commission has much evidence to consider. Clean Energy Intervenors support a "soft" cap on adjustments, which, as Xcel noted in testimony, is currently the norm for decoupled utilities nationwide.[39] Clean Energy Intervenors would also support either a "full" or "partial" decoupling mechanism, depending on which approach this Commission determines to be the most protective of customers.[40] We do not take a position on the remaining design elements, including the magnitude of the cap. As noted in Clean Energy Intervenors' Initial Brief, to the extent the Commission elects to concur with the Department that the RDM would effectively remove Xcel's disincentive to promote energy efficiency, [41] and with its recent ruling in favor of decoupling in the CenterPoint case,[42] the remaining design elements can be appropriately evaluated during the term of the pilot.

Importantly, the Department notes in its Initial Brief that even in the event the Commission determines that the RDM results in adverse customer impacts, this is "not necessarily [a reason] for the Commission to deny approval of decoupling."[43] Instead of rejecting it as unreasonable, the Department explains, the Commission has the option to address its concerns by looking to different forms of decoupling ("full" vs. "partial"), or otherwise modifying the parameters of the utility's proposal as it deems necessary to fully realize the criteria of Minn. Stat. § 216B.2412.

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[38] Department Initial Brief at 201-206; AARP Initial Brief at 68-70; OAG Initial Brief at 69-71.
[39] Exh. 109 at 5-6 and Schedule 2 (Hansen Direct).
[40] Exh. 294 at 4-6 (Cavanagh Rebuttal).
[41] Department Initial Brief at 191-196.
[42] *See* MPUC Docket No. G-008/GR-13-316, Findings of Fact, Conclusions and Order at 47-48 (finding that the "Company established that, more likely than not, it has a throughput incentive, and decoupling will fully separate the Company's revenue from changes in energy sales. The Commission concludes that full decoupling has substantial potential to align the Company's interests with the public's interest in energy efficiency.").
[43] Department Initial Brief at 197.

B. The Parties' Remaining Criticisms Of Decoupling Are Unsubstantiated And Reflect A Faulty Understanding of the RDM.

Clean Energy Intervenors' Initial Brief laid out the robust statutory basis for this Commission to approve decoupling,[44] and anticipated (and responded to) many of the remaining arguments against decoupling raised in the Initial Briefs of the OAG, AARP.[45] Thus, we rely on those sections of our Initial Brief on this matter and relevant testimony from Clean Energy Intervenors' witnesses, which continue to be unrebutted in any persuasive manner by the parties.

While we do not restate in this Reply Brief the unsubstantiated nature of all of the parties' remaining arguments, below Clean Energy Intervenors respond to a few specific statements that OAG and AARP continue to make – and which are implausible given the weight of evidence in this proceeding. Specifically, OAG and AARP incorrectly assert that: (1) the RDM would cause cross-class subsidization and customer confusion; (2) it would be prohibitive for low-use and special needs customers to overcome any potential RDM surcharges; (3) Xcel does not need the RDM to meet its conservation goals; and (4) decoupling necessitates a downward adjustment to Xcel's return on equity ("ROE"). The record reflects that these concerns are unfounded.

1. Claims that decoupling would cause cross-class subsidization and "customer confusion" continue to be unfounded.

Clean Energy Intervenors are surprised to see in the Initial Briefs of AARP and OAG two arguments against decoupling that have already been unequivocally rebutted on the record.

First, AARP believes that, somehow, the RDM would result in cross-class subsidies. According to its logic, "residential consumers would experience disproportionate rate increases" if large commercial and industrial sales decline at a faster rate than residential sales, for example

[44] Clean Energy Intervenors Initial Brief at 21-22.
[45] *Id*. at 21-30.

in a difficult economy where industrial customers unexpectedly drop from the system.[46] There would certainly be cause for concern if this scenario were possible. *However, it is not.* Xcel's witness Dan Hansen rebutted the plausibility of any such cross-subsidies in his testimony:

> In fact, the cross-subsidy concern raised by AARP is impossible for two reasons: large commercial and industrial customers are excluded from the RDM; and ***the RDM uses within-class deferral and rate change calculations***. Regarding the latter point, even for the classes included in the RDM proposal (Residential, Residential Space Heating, and Commercial Non-Demand), separate RDM deferrals and rate changes are calculated for each customer group, using only changes in usage per customer for that customer group. Because of this, the Company's proposed RDM design does not allow for cross-subsidies across rate groups.[47]

Thus, it appears that AARP's concerns to this effect are not based on a proper understanding of how Xcel's RDM works, or its potential effects on customers.

Second, OAG expresses concern that if implemented the RDM could add to customers' "confusion over their already complicated utility bills."[48] But this remains unsubstantiated. OAG has produced evidence neither documenting that customers are already confused about their electric bills, nor that the RDM would add additional confusion. And when pressed, OAG's expert witness was unable to produce *any* specific instances where decoupling has led to customer confusion or complaints.[49] Compare this lack of substantiation with Xcel's survey of three independent evaluations of decoupling mechanisms, which uncovered no evidence of widespread customer confusion.[50]

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[46] AARP Initial Brief at 9.
[47] Exh. 110 at 22 (Hansen Rebuttal) (emphasis added).
[48] OAG Initial Brief at 70.
[49] *See* Exh. 375 at 53:8-11, 54:7-14 (Nelson Direct); *see also* Transcript of Evidentiary Hearings, Vol. 3 at 274-275 (Nelson Cross-Examination).
[50] Exh. 110 at 16-17 (Hansen Rebuttal).

2. AARP's concern that the RDM will adversely impact low-use and special needs consumers is unsubstantiated on the record.

In its Initial Brief, AARP also voices concern about potential impacts low-use customers and high-use customers with special needs as a result of the RDM's annual adjustments.[51] This assertion is not supported by the record evidence, though.

Tellingly, AARP's opposition to decoupling is shared neither by SRA,[52] nor by ECC – a low-income consumer advocate.[53] In fact, in its Initial Brief, ECC voices its support for the RDM and suggests a single modification to address any lingering concerns about customer impacts. ECC recommends that, rather than applying annual adjustments to the per-kWh variable charge as the RDM is currently designed, instead any surcharges or refunds be calculated as a percentage of Xcel's total residential energy revenue, and the annual adjustment to bills be calculated as a percentage of the customer's total bill.[54] Clean Energy Intervenors support this modification, to the extent the Commission finds it more protective of low-use customers than the current design. Likewise, AARP indicates in its Initial Brief its support for this approach, stating that the modification would provide "benefits [to] those customers who use the least energy,"[55] thus presumably addressing at least a portion of its concerns.

Any remaining concerns that AARP has beyond the above elements have already been addressed in the parties' testimony. In particular, in its Initial Brief AARP levels a host of charges against decoupling, stating that it would result in low-use customers and others who "cannot obtain the direct benefits of DSM" subsidizing other customers who invest in

[51] AARP Initial Brief at 10-13.
[52] SRA Initial Brief at 11 (agreeing that any decoupling surcharges would be offset by conservation efforts).
[53] ECC Initial Brief at 23-25.
[54] *Id*. at 24-25
[55] AARP Initial Brief at 18 (recommendation #8).

efficiency.[56] AARP also believes that the RDM would reduce incentives for energy efficiency for "most" low-use customers and those high-use customers with special needs.[57] Both of these statements appear to be based on the premise that these customers do not have the same opportunities to conserve as other customers – a premise that has already been disproven.

For example, AARP ignores Xcel's analysis in which it produced a series of examples for how the RDM may interact with residential customers' bills.[58] The utility found that for "low-use" customers – by AARP's own definition, those who use 200 kWh or less per month –the amount of conservation required to offset any bill impact associated with even the maximum allowable RDM surcharge under Xcel's proposal (5 percent of base rates) is attainable for these customers.[59] And while AARP continues to be concerned about the upfront cost of efficiency investments,[60] one need only look to Xcel's examples to conclude that any potential impacts can be overcome at low-cost; i.e., by replacing a single 60-watt incandescent light bulb with an equivalent compact fluorescent bulb.[61] Thus, it would appear that AARP's "beggar thy neighbor"[62] scenario is simply not plausible.

Clean Energy Intervenors also note that AARP's continued reliance on a recently-eliminated Electric Weather Normalization Adjustment ("eWNA") in South Carolina to support its objections to the RDM is misplaced.[63] As Xcel's witness Hansen explains in his surrebuttal testimony, the South Carolina example is inapposite from the RDM in every way, including its purpose, design, its level of complexity, and the degree and nature of customer concerns logged

[56] *Id*. at 9-10.
[57] *Id*. at 11.
[58] Exh. 111 at 5-10 (Hansen Surrebuttal).
[59] *Id*.
[60] AARP Initial Brief at 13.
[61] Exh. 111 at 10 (Hansen Surrebuttal).
[62] AARP Initial Brief at 13.
[63] *Id*.

with the eWNA.[64] The fact that the adjustment was withdrawn in South Carolina says nothing about the prospects for Xcel's proposed RDM.

Finally, as mentioned in Clean Energy Intervenors' Initial Brief, one of the many benefits of the RDM is that it obviates the need for Xcel to seek an increase in its customer charges in order to ensure that it recovers its fixed costs. ECC concurs, stating that an increase in the customer charge would have a substantive adverse impact on the affordability of Xcel's rates.[65] In fact, ECC has found that increasing the customer charge creates a "reverse subsidy," a dollar subsidy flowing *from* low-income, low-use customers *to* higher income, high-use customers.[66] It is this perverse effect on the conservation signal – and the associated impact on customer bills – that Clean Energy Intervenors seek to avoid by rejecting the customer charge increase and supporting approval of the RDM.

3. OAG and AARP misconstrue the basis for decoupling in this proceeding and rely on unpersuasive evidence.

While OAG and AARP continue to question the necessity of the RDM,[67] this premise ignores substantial record evidence documenting how essential decoupling is for Xcel to continue delivering successful programs to its customers.[68] In an effort to substantiate their objections, OAG and AARP cite to Xcel's statement that it remains committed to meeting its conservation targets in the coming years, irrespective of whether decoupling is ordered by this

[64] Exh. 111 at 11-12 (Hansen Surrebuttal).
[65] ECC Initial Brief at 21.
[66] *Id*.
[67] OAG Initial Brief at 68-69; AARP Initial Brief at 5-7.
[68] *See* Exh. 109 at 2-9 (Hansen Direct); *see also* Exh. 42 at 3-5 (Sundin Rebuttal); Transcript of Evidentiary Hearings, Vol. 3 at 95-96, 107-108 (Hansen Cross-Examination); Transcript of Evidentiary Hearings, Vol. 1 at 153-156 (Sundin Cross-Examination); Exh. 290 at 7-8 (Cavanagh Direct); Exh. 294 at 3-4 (Cavanagh Rebuttal); Evidentiary Hearing Transcripts, Vol. 3 at 72-87 (Cavanagh Cross-Examination); Exh. 417 (Davis Direct at 18-19); Evidentiary Hearing Transcripts, Vol. 4 at 140:24-25, 141-142:1-7.

Commission.[69] This commitment is not surprising; after all, Xcel is required by law to achieve a specified amount of energy savings through its efficiency programs year in and year out. But that is only part of the story. AARP omits from its Initial Brief Xcel's testimony that the annual requirements are becoming more difficult to meet because of changing conditions in an increasingly challenging energy marketplace.[70] OAG raises these circumstances in its Initial Brief, but appears unconvinced by them.[71] It seems odd, however, to praise Xcel for successfully meeting its targets, but then penalize the utility by denying a rate mechanism designed to deepen its commitment to energy efficiency in the coming years.

Clean Energy Intervenors also note that AARP continues to cite to an outdated report from Resources for the Future, which concluded back in 2006 that there was no "statistically significant relationship" between decoupling and conservation.[72] This "finding" is not surprising, however, given that the report is nearly 10 years old and as a result excludes most of the relevant decoupling mechanisms that have been approved to date across the nation. A more reliable series of reports can be found in testimony submitted by the Clean Energy Intervenors[73] and Xcel,[74] including Graceful Systems' 2012 review of nationwide decoupling mechanisms[75]and the Consortium for Energy Efficiency report that draws a strong association between efficiency performance and per-capita investment in residential programs.[76] Thus, AARP's assertions should be afforded little (if any) weight.

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[69] *Id*.
[70] *See* Transcript of Evidentiary Hearings, Vol. 3 at 103-105 (Hansen Cross-Examination, confirming these challenges).
[71] OAG Initial Brief at 68-69.
[72] Exh. 310 at 13-14 (Brockway Direct); AARP Initial Brief at 8.
[73] Exh. 290 at 4 (Cavanagh Direct); *see also* Exh. 291 (Cavanagh Direct, Exh. A)..
[74] Exh. 109 at 5-6 and Schedule 2 (Hansen Direct) (list of decoupling mechanisms derived from Graceful Systems Study); Hansen Rebuttal at 21-22 (comparing Resources of the Future findings with those of the Graceful Systems Study).
[75] Exh. 291 (Cavanagh Direct, Exh. A).
[76] Exh. 290 at 11:1-10 (Cavanagh Direct).

In sum, the parties' objections to the RDM remain unsubstantiated. The Commission has before it robust evidence that decoupling would meet Minnesota's policy objectives of aligning the utility business model with energy efficiency, while also avoiding adverse impacts to customers. Clean Energy Intervenors recommend that the Commission adopt the RDM.

4. The record contains no evidence that the RDM would reduce Xcel's business risk, and thus a downward adjustment of the utility's ROE is unnecessary.

The issue of whether to adjust Xcel's ROE in the event the RDM is adopted has been largely resolved in this case. While the Department recommends a downward adjustment, it does so in response to other factors in Xcel's revenue request, specifically stating that decoupling does not have an effect on the ROE.[77]

AARP remains the sole party still advocating for a decoupling-related adjustment on Xcel's ROE.[78] But it offers no substantive evidence that such an adjustment is necessary, other than the blanket statement that "Xcel would be a less risky utility if its RDM is adopted."[79] Otherwise, AARP reasons, it is "hard to explain why the utility would even care enough to make such a proposal."[80] But it does not follow that Xcel's business risk will be reduced in the event decoupling is approved, and thus cannot be a basis for such a reduction.

AARP also takes aim at a study by the Brattle Group cited by Clean Energy Intervenors, which found no presumed link between decoupling and reduced business risk.[81] But AARP's focus on a few minor elements of the study's methodology[82] serves only to obscure the Brattle Group's fundamental finding – that revenue decoupling has had no statistically significant effect

[77] Department Initial Brief at 10-11, 34-35.
[78] AARP Initial Brief at 14-16. Note that the Commercial Group identifies revenue decoupling as a "risk mitigation factor," but does not specifically analyze the impact of the RDM itself on the ROE. *See* Commercial Group Initial Brief at 9; *see also* ICI Group Initial Brief at 12-15 (recommending downward adjustment of ROE for reasons other than decoupling).
[79] *Id*. at 14.
[80] *Id*. at 14-15.
[81] Exh. 292 (Cavanagh Direct, Exh. B).
[82] AARP Initial Brief at 15-16.

on electric utilities' cost of capital, based on a comprehensive empirical review. AARP has introduced no evidence to the contrary, aside from conjecture. Accordingly, Clean Energy Intervenors recommend no prospective adjustment in the utility's authorized ROE in the event decoupling is adopted in this proceeding.

V. CONCLUSION

The Commission's decision in Xcel's first multi-year rate case includes important rate design issues that have significant impacts on conservation. The Legislature mandated that the Commission design rates to encourage conservation "to the maximum reasonable extent." To fulfill that obligation in this case, the Commission should adopt the IBR Stipulation, reject any increase in the customer charge, and order Xcel to implement decoupling.

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Respectfully submitted,

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