BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55101

FOR THE PUBLIC UTILITIES COMMISSION OF THE STATE OF MINNESOTA
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

In the Matter of Xcel Energy's Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges	CAH No. 21-2500-40336 MPUC No. E-002/AA-22-179

REPLY BRIEF OF THE XCEL LARGE INDUSTRIALS

STOEL RIVES LLP
Amber S. Lee
Eden A. Fauré
33 South Sixth Street, Suite 4200
Minneapolis, MN 55402
Tele: (612) 373-8889
Fax: (612) 373-8881

TABLE OF CONTENTS

PAGE

I. INTRODUCTION

The Xcel Large Industrials ("XLI")[1] submit the following reply brief regarding Northern States Power Company d/b/a Xcel Energy's ("Xcel Energy" or "Company") negligent operation of Prairie Island Nuclear Generating Plant ("PINGP") that led to an extended outage and caused the Company to purchase replacement power for 103 days, from October 19, 2023, to March 1, 2024.[2] In this Reply Brief, XLI responds to the Initial Brief submitted by Xcel Energy. Xcel Energy uses a dubious methodology to calculate the cost of replacement power and minimize the refund due to customers, and additionally, Xcel Energy has advanced ill-conceived theories for why that refund should be further reduced. All of the parties to this proceeding support XLI's proposed LMP methodology to calculate the refunds due to customers, and all of the parties reject Xcel Energy's speculative theories to offset the refund due. XLI supports the OAG's request to disallow Xcel Energy's recovery of legal costs associated with this proceeding. The Commission has been explicit in its charge for this proceeding: "to determine the appropriate refund amount due to customers due to Xcel's lack of prudence regarding the October 2023 outage at Prairie Island."[3] Xcel Energy has continually failed to meet its burden to demonstrate that it's method for calculating replacement power costs for this proceeding is appropriate. Further, Xcel has not adequately supported its request for three unprecedented refund offsets, as described below. Therefore, XLI requests the ALJ make appropriate recommendations to the Minnesota Public Utilities Commission ("Commission") on the basis of the arguments below.

---

[1] XLI is an *ad hoc* consortium of C&I Demand class customers served by Xcel Energy, consisting here of Flint Hills Resources Pine Bend, LLC; Marathon Petroleum Corporation; and USG Interiors, Inc.

[2] *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 at 3 (Nov. 15, 2024) (eDocket No. 202411-211999-01) ("PINGP Order").

[3] PINGP Order at 11.

II. ANALYSIS

A. The Company Bears the Burden of Proof in this Proceeding

It is the Company's burden to demonstrate its proposal is reasonable.[4] "Every rate made, demanded, or received by any public utility … shall be just and reasonable…. Any doubt as to reasonableness should be resolved in favor of the consumer."[5] The Minnesota Supreme Court described the Commission's role in determining just and reasonable rates in a rate proceeding by stating:

> [I]n the exercise of the statutorily imposed duty to determine whether the inclusion of the item generating the claimed cost is appropriate, or whether the ratepayers or the shareholders should sustain the burden generated by the claimed cost, the MPUC acts in both a quasi-judicial and a partially legislative capacity. To state it differently, in evaluating the ... case the accent is more on the inferences and conclusions to be drawn from the basic facts (i.e., amount of claimed costs) rather than on the reliability of the facts themselves. Thus, by merely showing that it has incurred, or may hypothetically incur, expenses, the utility does not necessarily meet its burden of demonstrating that it is just and reasonable that the ratepayers bear the costs of those expenses.[6]

Expanding on the Minnesota Supreme Court's language set forth in the *Northern States Power* case and recognizing other Minnesota Supreme Court precedent, the Commission has further clarified that when prosecuting a rate case

> [u]tilities seeking rate changes must … prove not only that the facts they present are accurate, but that the costs they seek to recover are rate-recoverable, that the rate recovery mechanisms they propose are permissible, and that the rate design they advocate is equitable, under the "just and reasonable" standard set by statute.[7]

---

4 Minn. Stat. § 216B.16, subd. 4 ("The burden of proof to show that the rate change is just and reasonable shall be upon the public utility seeking the change.").

5 Minn. Stat. § 216B.03.

6 *In re Petition of N. States Power Co.*, 416 N.W.2d 719, 722–23 (Minn. 1987) (emphasis added).

7 *In the Matter of the Application of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas for Authority to Increase Natural Gas Rates in Minnesota*, PUC Docket No. G-008/GR-15-424, Findings of Fact,

The CenterPoint Order also recognizes that this burden is only met when a utility can demonstrate reasonableness by a preponderance of the evidence.[8] This standard is a high burden that the utility always retains,[9] and one that is different from a civil case. The Minnesota Supreme Court has previously explained this distinction as follows:

> The "weighing" by [a] court in a civil case applying the "fair preponderance" standard involves a determination by the court whether the proponent of the conclusion has produced sufficient credible evidence to sustain that conclusion. In contrast, the task of the MPUC is not so much concerned with the sufficiency and credibility of the evidence, as it is concerned with whether the evidence submitted, even if true, justifies the conclusion sought by the petitioning utility when considered together with the Commission's statutory responsibility to enforce the state's public policy that retail consumers of utility services shall be furnished such services at reasonable rates.[10]

Distilling the authority down to a rule, the Company's burden in this proceeding requires satisfaction of a two-part process. First, the Company must establish the amount of a given cost as a judicial fact.[11] Second, the Company must establish that it is just and reasonable for ratepayers (as opposed to the Company's shareholders) to bear those costs.[12] As is logically appropriate for

---

Conclusions, and Order at 4–5 (June 3, 2016) (the "CenterPoint Order") (emphasis added); *see also St. Paul Area Chamber of Commerce*, 251 N.W.2d 350.

8 *In the Matter of the Application of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas for Authority to Increase Natural Gas Rates in Minnesota*, PUC Docket No. G-008/GR-15-424, Findings of Fact, Conclusions, and Order at 5 (June 3, 2016) (citing *In re Minn. Power & Light Co.*, 435 N.W.2d 550, 554 (Minn. App. 1989)).

9 *In the Matter of a Commission Investigation into Xcel Energy's Monticello Life-Cycle Management/Extended Power Uprate Project and Request for Recovery of Cost Overruns*, PUC Docket No. E-002/CI-13-754, Order Finding Imprudence, Denying Return on Cost Overruns, and Establishing LCM/EPU Allocation for Ratemaking Purposes, at 12–13, 13 n.20 (May 8, 2015) (citing Minn. Stat. § 216B.16, subd. 6).

10 *In re Petition of N. States Power Co.*, 416 N.W.2d 719, 722 (Minn. 1987) (emphasis added).

11 *In re Petition of N. States Power Co.*, 416 N.W.2d at 722 (Minn. 1987).

12 *In re Petition of N. States Power Co.*, 416 N.W.2d at 723 (Minn. 1987) (finding that "by merely showing that it has incurred, or may hypothetically incur, expenses, the utility does not necessarily meet its burden of demonstrating that it is just and reasonable that the ratepayers bear the costs of those expenses").

a regulated monopoly imposing costs on captive ratepayers, the Company's burden in this case is heavy, but not insurmountable.

B. Xcel Should Not Recover Litigation Expenses from Customers

At the outset, XLI agrees with the Department of Commerce and Office of Attorney General that Xcel should not be allowed cost recovery for its expenses incurred in litigating this case. As the Office of the Attorney General notes:

> Xcel's litigation strategy in this case elevates burden-shifting to an art form. At every turn, Xcel asks the ALJ and the Commission to accept unproven assumptions, resolving doubt in its favor, when the law requires exactly the reverse—resolving all doubt in favor of consumers. Xcel's goal is to avoid responsibility for its actions and deprive ratepayers of more than $28 million that they are owed because of its imprudence.[13]

XLI agrees that the claims put forward by Xcel Energy in this proceeding have been inconsistent. For example, Xcel Energy argues for a historical performance adjustment for its exemplary running of PINGP, and yet the Company's own PLEXOS modeling shows PINGP running at only 16% of capacity if it had been operating at the time of the outage. Claims like these only seem designed to deprive ratepayers of the refund they are due, as the Office of Attorney General notes, and ratepayers should not have to pay for the costs Xcel Energy incurred to advance inconsistent claims in this litigation.[14]

C. The Company Fails to Meet its Burden Because its PLEXOS Modeling Is Fatally Flawed

The Company's Initial Brief continues to argue its PLEXOS modeling should be used to calculate replacement power costs, and that the Locational Marginal Pricing ("LMP") calculation method, as described in XLI Witness Andrews and Department Witness Rakow testimonies, is

---

[13] Department Initial Brief p. 24.; OAG Initial Brief p. 12.

[14] OAG Initial Brief p. 13.

flawed. Xcel Energy's arguments are inconsistent, and the PLEXOS modeling should not be used to calculate replacement power costs attributable to the PINGP outage.

1. The Company's PLEXOS Modeling Relies on Conflicting Assumptions

The Company's PLEXOS modeling has two fundamental flaws: first, that the outage impacted the output of Xcel's other generation facilities, and second, that the outage impacted LMP prices.[15] As Witnesses Andrew and Rakow note, these two realities cannot coexist. As explained in Witness Andrews' Direct Testimony, Xcel Energy's relatively small footprint within the MISO system means that "the addition of the PINGP generation to the market" would have little impact on LMPs.[16] And without a major impact on LMPs, Xcel's other generating units would not experience a drastic change in their output. Again, as Witness Andrews describes in his Direct Testimony, generators are typically dispatched "above minimum operating levels when they can make a profit. If there is little to no change to LMPs, there should be little to no change to the output from any of the generators on Xcel's system."[17]

This understanding also informs the need to conduct a simple LMP analysis. If LMPs are relatively unchanged, and Xcel's other generating units would have experienced the same dispatch if PINGP had been available, then replacement power costs can be determined by simply identifying "the hourly generation that would have occurred had the outage not occurred times LMPs, less the fuel and operating cost."[18] As a result, Witness Andrews and Department Witness Rakow reject Xcel's assumption that the loss of PINGP's energy would be replaced by Xcel's own

---

15 Ex. XCEL-9 at 5, 10 (Detmer Rebuttal).

16 Ex. XLI-1 at 6:18-7:4 (Andrews Direct).

17 Ex. XLI-1 at 11:8-10 (Andrews Direct).

18 Ex. XLI-1 at 12:1-2 (Andrews Direct).

generation, as opposed to the MISO market.[19] Xcel Energy's PLEXOS methodology uses unrealistic and inconsistent assumptions and it cannot be used to estimate replacement power costs in this proceeding.

2. Xcel Energy's PLEXOS Base Case and Change Case Are Problematic

Xcel Energy has not established the reasonableness of its base case. The fundamental issue is that the Company's base case is not calibrated to "use or provide the actual MISO purchase costs and sales revenues for the outage period…"[20] XLI's concern is not whether or not the Company used *actual costs,* as the Company seems to believe, which may explain its fervency in describing its use of "actual data" as it ran its PLEXOS model.[21] While Xcel Energy demonstrated it used actual generator output and fuel and operating costs for its base case, this formulation captured only a portion of its actual power costs[22]—its modeling still does not incorporate or provide the actual MISO purchase costs and sales revenues for the outage period.[23]

Further, the Company's change case is also unsound, specifically because Xcel Energy failed to allow for "any reduction of the MISO purchases and only a minimal amount of additional sales," a fatal flaw that precludes Xcel's PLEXOS modeling from isolating the PINGP outage and producing realistic replacement power cost estimates.[24] Where the underlying inputs are flawed, even using actual outputs, the Company's analysis cannot result in a reasonable estimate of replacement power costs. Specifically, if both the base case and change case are flawed, it is

---

19 Ex. DOC-3 at 6 (Rakow Surrebuttal).

20 XLI Initial Brief at 5.

21 Xcel Energy Initial Brief at 25.

22 Ex. XLI-3 at 3:9-15 (Andrews Surrebuttal).

23 XLI Initial Brief at 5.

24 Evidentiary Hearing Transcript Volume (Tr. Vol.) 1 at 107:14-20 (Andrews). XLI has fully explained this argument in its Initial Brief at 6.

impossible to arrive at a reasonable estimation of replacement power costs. Therefore, "Xcel's PLEXOS analysis should not be relied upon in this case."[25]

3. The Prevalence of PLEXOS Modeling Cannot Overcome Flawed Inputs

The Company claims it "and the Commission routinely rely on PLEXOS modeling in fuel clause and other proceedings to estimate replacement costs."[26] However, this argument misses the point. Models such as PLEXOS are sophisticated and sensitive tools that are highly dependent upon complete and reliable inputs for reliable outputs. In the abstract, PLEXOS modeling may be a fine methodology for determining replacement power costs. In fact, Department Witness Rakow acknowledged the "use of a production cost model such as PLEXOS is the best method to address the question in this docket: estimating the incremental cost of the PINGP outage."[27] Nonetheless, no model, including PLEXOS, can overcome the presence of flawed inputs. Without support for its erroneous assumptions, or the correction of those assumptions, Xcel Energy is unable to produce appropriate estimations of the replacement power costs in this proceeding. XLI's Witness Andrews identified serious flaws with the Company's PLEXOS modeling, while the LMP Method he applied resulted in a reasonable estimation of replacement power costs.

D. Xcel Energy Inaccurately Characterizes the LMP Methodology, Which Other Intervenors Support

First, Xcel Energy contends the LMP Method, favored by XLI and the Department, is "overly simplistic" to develop a proxy for replacement power costs.[28] Further, the Company contends that the LMP Method only seeks to "estimate lost revenues and use that figure as a proxy

---

25 Ex. DOC-3 at 14:14 (Rakow Surrebuttal).

26 Xcel Energy Initial Brief at 27.

27 Ex. DOC-3 at 14 (Rakow Surrebuttal).

28 Xcel Energy Initial Brief at 31.

for additional costs…"[29] This characterization is inaccurate and ignores the underlying assumption that little to no change to LMPs would result in little to no change in the output of Xcel Energy's other generators. Understanding this assumption supports a simpler LMP analysis since, as described above, where LMPs are largely unchanged, and Xcel's other generators would have experienced the same dispatch if PINGP had been available, then replacement power costs can be calculated by identifying "the hourly generation that would have occurred had the outage not occurred times LMPs, less the fuel and operating cost."[30]

Additionally, Xcel Energy gives insufficient weight to the fact that the calculation methodology applied in its most recent outage case (i.e., Sherco 3 Forced Outage Proceeding) was the LMP Method. As described in XLI's Initial Brief, "the calculation of replacement power costs in Xcel's Sherco 3 proceeding involved calculating a new set of LMPs, applying two distinct production costs models to identify replacement power costs."[31] The Commission's reliance on this methodology in Xcel's previous forced outage proceeding should give it confidence that the method can be appropriately applied in this proceeding.

In addition to XLI, the Department of Commerce supports use of the LMP Method. In fact, the Department's Initial Brief advocated for the Commission to "use XLI's LMP-derived results as the starting place for calculating the replacement power refund."[32] In supporting XLI's LMP Method, the Department states "XLI's model results are more reliable because they are not afflicted with the same modeling flaws," and result in a "reasonable" estimate of replacement

---

29 Xcel Energy Initial Brief at 18.

30 Ex. XLI-1 at 12:1-2 (Andrews Direct).

31 *See* XLI Initial Brief at 6-8 (citing Ex. XLI-1 at 13:11-16 (Andrews Direct)).

32 Department Initial Brief at 10.

power costs.[33] Xcel Energy bears the burden of demonstrating, by a preponderance of the evidence, that its modeling results are reliable. Both Department Witness Rakow and XLI Witness Andrews have raised serious concerns about the modeling, none of which the Company has meaningfully addressed. Therefore, without having met its burden, the Company cannot expect the Commission and Intervenors to be satisfied with its estimation of replacement power costs to refund customers who experienced real, measurable harm as a result of this outage. The ALJ and Commission should reject Xcel Energy's PLEXOS understated modeling, and instead find the appropriate refund due to customers is $40.6 million, as derived by XLI's LMP methodology.

E. Xcel Energy's Proposed Offsets Are Entirely Speculative and Unsupported

Xcel Energy's Initial Brief does little to ease XLI's concerns about its three proposed offsets (i.e., "pull-forward" or "supplemental" work,[34] "avoided 2029 costs,"[35] and historical performance adjustment[36]). The Company's Initial Brief does not address XLI's primary concern that it cannot and should not be allowed to offset a customer refund based on other "benefits" that are more accurately described as prudent service. XLI reiterates its strong objection to all three of the Company's proposed offsets, and refutes the principle that the Company should somehow be rewarded because it prudently implemented the restoration efforts necessitated by the outage.[37] The outage occurred because of Xcel Energy's imprudence, and the statutory expectation is that the Company would prudently manage the plant's remediation to ratepayers' benefit. Xcel Energy should not receive a reward for achieving these baseline expectations.

---

33 Department Initial Brief at 10.

34 *See* Ex. Xcel-4 at 20:6-19 (Detmer Direct).

35 *See* Ex. Xcel-4 at 17:6-20:2 (Detmer Direct).

36 *See* Ex. Xcel-4 at 20:25-22:4 (Detmer Direct).

37 *See* XLI Initial Brief at 9-10.

Perhaps most concerning, Xcel's Initial Brief reiterates its case for reaping the rewards of PINGP's "historic performance."[38] XLI reiterates that the Company cannot be rewarded a speculative historical performance adjustment for operating its nuclear generating plant properly. Xcel boldly claims that, regarding the "substantial benefits" deriving from PINGP's "history of strong performance," [a]ll of the benefit of the Company's performance redounded to customers."[39] Xcel remains a public utility with captive ratepayers, and a charge to "furnish safe, adequate, efficient, and reasonable service" to its customers at a "just and reasonable" rate.[40] The Company's customers expect it to operate its generation facilities with prudence and in pursuit of its statutory requirement. Meeting that expectation should not be considered a benefit to customers —rather, it represents the floor for what customers should expect from their regulated monopoly utility. Moreover, the Company's customers are already paying for the operation and maintenance of these facilities through base rates, and cannot be charged double where the Company has simply successfully operated its plant. To do so would violate the longstanding prohibition against retroactive ratemaking.[41] To begin rewarding adequate performance of such generation assets would be in violation of this prohibition and set a dangerous precedent that would incentivize utilities to only perform well when there is the possibility of cost recovery or offsetting refunds on the line.

---

38 Xcel Energy Initial Brief at 22.

39 Xcel Energy Initial Brief at 22.

40 Minn. Stat. §§ 216B.03, 216B.04.

41 *Peoples Nat. Gas Co. v. Minn. Pub. Utils. Comm'n*, 369 N.W.2d 530, 533 (Minn. 1985) ("the Public Utility Act expressly prohibits retroactive ratemaking").

Finally, XLI reiterates that the Commission has already declined, in this very docket, to reward the Company's adequate historical performance of its facility.[42] The Commission should not change course on that decision now.

III. CONCLUSION

Xcel has offered no evidence to cure the fundamental flaws in its PLEXOS modeling, which understates the refund due customers as a result of the unplanned PINGP outage, and the Company's estimated refund to customers is unsupported in the record and unreasonable. Through use of the LMP Method, XLI produced a more accurate calculation of replacement power costs during the outage, and this methodology is supported universally by all Intervenors. The ALJ should determine the LMP methodology more appropriately calculates replacement power costs, as opposed to Xcel's PLEXOS modeling, and recommend the Commission order Xcel to refund $40.6 million to customers, plus interest.

Further, XLI reiterates its strong objection to the three offsets proposed by Xcel Energy, and urges they be rejected on the basis that they are speculative and have been explicitly rejected by the Commission. The adequate operation of the Company's generation facilities falls within its statutory charge, and does not negate the significant imprudence the Company displayed in causing a plant outage spanning months. The Company should not be rewarded for complying with the law. Further, the Company's costs to operate and maintain PINGP are paid for by Xcel customers through their base rates. The Company should not be allowed double-recovery, especially when the plant outage resulted directly from its imprudence.

---

42 *See* XLI Initial Brief at 9-10.

Xcel failed to prudently operate and maintain PINGP, and therefore the replacement energy costs associated with the plant's outage, as calculated per the LMP methodology, should be refunded to customers with interest.

Dated: January 8, 2025

Respectfully submitted,

STOEL RIVES LLP

/s/ Amber S. Lee

Amber S. Lee
Eden A. Fauré
33 South Sixth Street, Suite 4200
Minneapolis, MN 55402
Tele: 612-373-8889
Fax: 612-373-8881

ATTORNEYS FOR THE XCEL LARGE INDUSTRIALS

151535258.1 0064590-00021