

**BEFORE THE MINNESOTA COURT OF ADMINISTRATIVE HEARINGS  
600 NORTH ROBERT STREET  
ST. PAUL, MINNESOTA 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
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Audrey Partridge	Commissioner
John Tuma	Commissioner

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 the State of Minnesota

CAH File No. 28-2500-40515

MPUC Docket No. E-002/GR-24-320

**REPLY BRIEF OF THE MINNESOTA  
DEPARTMENT OF COMMERCE**

February 25, 2026

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## INTRODUCTION

Xcel Energy's proposed \$473.7 million (12.7%) rate increase will harm customers. It will hurt the 52,000 struggling families who Xcel disconnected in 2024. And it will hamper businesses grappling with rates already 13% above the national average. Rather than admit these hardships, Xcel hides behind the fallacy that the average customer will be unharmed by another rate hike. But no customer is average. And each time Xcel raises its prices, it places a basic necessity further out of reach. The Minnesota Public Utilities Commission should be clear about the stakes: Xcel's current proposal will compound the challenges customers already endure.

The record establishes that Xcel does not need this increase to maintain safe and reliable service. Nor does Xcel need it to maintain financial integrity. Xcel continues to experience growing profits—punctuated by a record stock price last fall. And Xcel's initial brief lays bare that the company's proposal is rife with excess. Xcel persists in seeking a return on equity even higher than competitive businesses can expect, gold-plated executive compensation and benefits, inflated and unsupported expenses, backdoor subsidies for its other operating companies, and a hodgepodge of proposals that the Commission previously rejected.

After more than a decade of rate increases, the Commission should substantially deny Xcel's request consistent with the Minnesota Department of Commerce's recommendation to limit the increase to no more than 5.5% over two years. Xcel's customers cannot afford anymore.

## ARGUMENT

Xcel must produce sufficient evidence to establish that any fact it relies upon is more likely than not true.<sup>1</sup> It also must establish its proposals are consistent with the state policy of ensuring

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<sup>1</sup> *Caprice v. Gomez*, 552 N.W.2d 753, 757 (Minn. Ct. App. 1996); *In re Appeal by Kind Heart Daycare, Inc.*, 905 N.W.2d 1, 6–7 (Minn. 2017); *State by Humphrey v. Alpine Air Prods.*, 500 N.W.2d 788, 792 (Minn. 1993); Minn. R. 1400.7300, subp. 5 (2023).

that electric service is furnished at reasonable rates.<sup>2</sup> Applying these standards, Xcel has not established that its 12.7% rate increase is reasonable. On the contrary, the record shows that many of Xcel’s proposals are speculative or incompatible with reasonable rates. To begin, Xcel’s 10.30% return on equity (“ROE”) proposal is excessive, stemming from unreasonable growth assumptions and flawed methodologies. Beyond its unreasonable ROE request, Xcel clings to inflated operations and maintenance budgets and purported rate base assets that will goose profits without service improvement. It also insists on proposals that the Commission has previously rejected. And to excuse its excessive and unsupported proposals, Xcel claims that its rate proposal is affordable based on dubious metrics. Lastly, Xcel’s rate design proposal would unduly burden the customers least able to bear the increase.<sup>3</sup>

**I. THE COMMISSION SHOULD MAINTAIN XCEL’S 9.25% ROE BASED ON THE WHOLE RECORD.**

The Commission should maintain Xcel’s existing 9.25% ROE, which has been in place since 2023. The Department’s analysis showed that this ROE is considerably higher than Xcel’s cost of equity and is higher than most independent equity estimates. And it has been sufficient for Xcel to maintain financial integrity and attract investors.<sup>4</sup> In its initial brief, Xcel takes issue with the Department’s cost of equity analysis and the agency’s decision to recommend an ROE higher

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<sup>2</sup> *In re Pet. of N. States Power Co. for Auth. to Change Its Schedule of Rates for Elec. Serv. in Minn.*, 416 N.W.2d 719, 722 (Minn. 1987) (holding that a preponderance of the evidence means for purposes of ratemaking “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.”).

<sup>3</sup> For any issue not expressly address here, the Department rests on its initial brief. In taking this limited approach, the Department does not waive any arguments in its initial brief or made in testimony that are not repeated here. Nor does the Department admit any portion of Xcel’s initial brief that has not been expressly responded to is accurate.

<sup>4</sup> DOC Initial Br. at 24–29.

than its discounted cash-flow (“DCF”) analysis would otherwise suggest. None of this criticism holds water.

**A. The Department’s 9.25% ROE Recommendation Is Supported by the Totality of the Record.**

Although DCF modeling showed Xcel’s cost of equity is about 8.82% and independent estimates confirmed the reasonableness of this estimate, the Department recommended maintaining Xcel’s existing 9.25% ROE. In response, Xcel asserted that the Department’s ROE recommendation is unreasonable because it “ignored” the agency’s modeling results.<sup>5</sup>

The Department did not “ignore” its modeling. Nor was the Department required to mechanically apply a particular model or formula.<sup>6</sup> Instead, the Department followed the *Hope* and *Bluefield* decisions by making a “pragmatic adjustment” based on the whole record.<sup>7</sup> The Department reasoned that maintaining Xcel’s existing ROE was reasonable given that:

- A 9.25% ROE would be on the lower end of recent allowed ROEs for other electric utilities, but comfortably above Xcel’s estimated cost of equity, including flotation costs (8.82%).<sup>8</sup>
- A 9.25% ROE was higher than all but 6 of the 27 independent equity estimates reviewed by the Department—making it conservative in Xcel’s favor.<sup>9</sup>
- Neither allowed ROEs nor the average cost of equity of the Department proxy group had shown any meaningful upward trend over the last year, indicating that an increase from the current authorized ROE is not warranted.<sup>10</sup>
- Empirical evidence shows that authorized ROEs set by regulators have exceeded the actual cost of equity for decades.<sup>11</sup>

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<sup>5</sup> Xcel Initial Br. at 38.

<sup>6</sup> *Fed. Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591, 602 (1944); *Fed. Power Comm’n v. Nat. Gas Pipeline Co.*, 315 U.S. 575 (1942); *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm’n of W. Va.*, 262 U.S. 679, 690 (1923).

<sup>7</sup> *Id.*

<sup>8</sup> Ex. DOC-12 at 85 (Addonizio Direct).

<sup>9</sup> *Id.* at 69.

<sup>10</sup> *Id.* at 85.

<sup>11</sup> Ex. DOC-12 at 84–86 (Addonizio Direct).

- Xcel appears to have maintained adequate access to capital given it issued debt at lower interest rates than one of its affiliates and experienced a credit rating upgrade after its last rate case.<sup>12</sup>

Given these various considerations, the Department’s decision to recommend a 9.25% ROE is well-reasoned and supported by the totality of the record.

**B. Xcel’s Criticism of the Department’s Multi-Stage DCF Modeling Is Meritless.**

In addition to panning the Department’s decision to depart from its modeling, Xcel criticized the Department’s modeling too. Xcel criticized the Department’s use of multi-stage DCF analysis because, in Xcel’s view, the Commission has categorically rejected the model.<sup>13</sup> Xcel also claimed multi-stage DCFs are inappropriate for mature companies such as utilities because they use long-term gross domestic product (“GDP”) growth estimates.<sup>14</sup> Last, Xcel asserted that the unreasonableness of the Department’s DCF analysis was evidenced by its reliance on the observation that regulators often set ROEs higher than the cost of equity.<sup>15</sup>

The Commission has never rejected the multi-stage DCF model outright. On the contrary, the Commission has recognized it may be “particularly useful for smoothing out more sharply anticipated variations in growth rates.”<sup>16</sup> In Xcel’s last rate case, the Commission likewise explained that “the two-growth DCF model is not the only useful model.”<sup>17</sup> There, the Commission recognized that “relying too heavily on a single set of results from one model could inadvertently

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<sup>12</sup> *Id.*

<sup>13</sup> Xcel Initial Br. at 39.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 42–43.

<sup>16</sup> *In re Appl. of Otter Tail Power Co. for Auth. to Increase Rates for Elec. Serv. in the State of Minn.*, Docket No. E017/GR-20-719, FINDINGS OF FACT, CONCLUSIONS, & ORDER at 34 (Feb. 1, 2022) (eDocket No. [2022-182349-01](#)).

<sup>17</sup> *In re Appl. of N. States Power Co. for Authority to Increase Its Rates for Elec. Serv. in the State of Minn.*, Docket No. E-002/GR-21-630, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 89 (July 17, 2023) (2021 Rate Case Order) (eDocket No. [20237-197559-01](#)).

narrow the range of reasonable returns considered.” And although the Commission did not expressly rely on a multi-stage DCF analysis to anchor its decision, the Commission still adopted a 9.25% ROE—the figure recommended by the Department based on a multi-stage DCF model.<sup>18</sup>

Xcel’s next claim that multi-stage DCFs are inappropriate for utilities relies on the testimony of its ROE witness Joshua Nowak. But Nowak’s general opposition to the multi-stage DCF is newfound, perhaps reflecting his financial interest in delivering for a favored client.<sup>19</sup> As recently as 2023, Nowak recommended that the New York commission switch from the two-stage to the multi-stage DCF model.<sup>20</sup> Nowak asserted that the multi-stage DCF “offer[s] improvements” over the two-stage version because it avoided the abrupt shift from the initial period to the perpetual growth period.<sup>21</sup> Contrary to his testimony here, Nowak also has endorsed GDP growth estimates. In the same 2023 case, Nowak explained that “[l]ong-term estimates of GDP growth are commonly used in regulatory proceedings as a proxy for the long-term growth rate in the multi-stage DCF analysis.”<sup>22</sup> Nowak reasoned that GDP growth is an appropriate proxy because “over the long-run, all companies in the economy will tend to grow at the same constant rate.”<sup>23</sup>

Consistent with Nowak’s prior testimony, the Department’s expert used GDP forecasts in his DCF modeling as a proxy for long-term growth because no company can grow faster than the economy forever. If a company could grow faster than the economy forever, it would eventually

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<sup>18</sup> *Id.*

<sup>19</sup> DOC Initial Br. at 31–32.

<sup>20</sup> Ex. DOC-33 at 54 (Nowak 2023 Central Hudson Direct); *see also* Ex. DOC-31 at 61 (Nowak 2020 National Grid Direct) (making the same recommendation).

<sup>21</sup> Ex. DOC-33 at 45 (Nowak 2023 Central Hudson Direct); *see also* Ex. DOC-31 at 62 (Nowak 2020 National Grid Direct) (same).

<sup>22</sup> Ex. DOC-33 at 52 (Nowak 2023 Central Hudson Direct); *see also* Ex. DOC-31 at 69 (Nowak 2020 National Grid Direct).

<sup>23</sup> *Id.*

grow larger than the whole economy.<sup>24</sup> Using GDP as a proxy for long-term growth is also consistent with relevant market data showing that GDP, earnings, and dividends have all grown at comparable rates for the last 60 years.<sup>25</sup> Likewise Dr. Roger Morin, who Nowak praised as “a recognized expert,” has explained that “all company growth rates, especially utility services growth rates, converge to a level consistent with the growth of the aggregate economy.”<sup>26</sup> Other respected economists have reached similar conclusions that all companies reach a mature state where growth exceeding overall GDP growth is unlikely to occur for extended time periods.<sup>27</sup> There is no basis to suggest that Xcel, a company founded nearly 120 years ago in 1909, will experience the extraordinary growth of a start-up in perpetuity.<sup>28</sup> In short, Xcel’s criticism of the multi-stage DCF model is not credible. It misstates prior Commission decisions, conflicts with its own witness’s prior testimony, and established financial theory.

Finally, Xcel suggests that the Department relies on a rogue witness’s observation that regulators set ROE above the cost of equity.<sup>29</sup> But regulators in at least three other states have noted and accounted for the same problem. For example, in 2025, the Utah commission concluded “that utility-authorized ROEs between 1980 and 2022 consistently overstated the actual cost of equity capital.”<sup>30</sup> In a pair of 2023 decisions, the Connecticut commission attributed this discrepancy to regulators not reflecting declining interest rates in authorized ROEs between 1990

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<sup>24</sup> Ex. DOC-12 at 49 (Addonizio Direct).

<sup>25</sup> *Id.*

<sup>26</sup> Ex. DOC-13 at 11–12 (Addonizio Surrebuttal).

<sup>27</sup> *Id.* at 12–13.

<sup>28</sup> *Id.* at 13–14; Ex. DOC-26 at 5 (Xcel 2024 Form 10-K).

<sup>29</sup> Xcel Initial Br. at 42–43.

<sup>30</sup> *In re Appl. of Rocky Mountain Power for Auth. to Increase its Retail Elec. Util. Serv. Rates in Utah*, No. 23-035-40, 2025 WL 1309681, at \*20 (UT Pub. Serv. Comm’n Apr. 25, 2025).

and 2020.<sup>31</sup> In 2021, the New Mexico commission likewise noted “that over the past 30 years, interest rates and cost of capital have declined at a faster rate than regulators’ willingness to decrease awarded ROEs.”<sup>32</sup> And as a result, the New Mexico commission concluded that authorized ROEs have been higher than actual utility costs of equity.<sup>33</sup>

The Department’s decision to account for this discrepancy in its ROE recommendation was no anomaly; it simply recognized a well-known issue. While Xcel disputes this, it does not seriously challenge this conclusion. Instead, Xcel speculates about why market-to-book ratios for utilities might exceed 1.0.<sup>34</sup> But the explanations offered by Xcel wrongly conflates utilities with competitive businesses that might have legitimate, accounting-based reasons for understated book equity.<sup>35</sup>

In sum, the Commission should rely on the Department’s multi-stage DCF results. The model is analytically sound, offers improvements over the two-stage DCF model, and uses reasonable long-term growth assumptions. Indeed, even Nowak praised the multi-stage DCF model until abandoning it for Xcel. Relying on the Department’s multi-stage DCF results and the whole record, the Commission should adopt the Department’s 9.25% ROE recommendation.

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<sup>31</sup> *In re Appl. of the United Illuminating Co. to Amend Its Rate Sch.*, No. 22-08-08, 2023 WL 7409235, at \*90 (Ct. Pub. Util. Reg. Auth. Aug. 25, 2023); *In re Appl. of Aquarion Water Co. of Conn. to Amend Its Rate Sch.*, No. 22-07-01, 2023 WL 2583552, at \*42 (Ct. Pub. Util. Reg. Auth. Mar. 15, 2023) (noting that “authorized ROEs have not declined in line with capital costs over the past several decades and past ROEs have overstated the actual cost of equity.”).

<sup>32</sup> *In re Appl. of El Paso Elec. Co. for Revision of Its Retail Elec. Rates Pursuant to Advice Notice No. 267*, No. 20-00104-UT, 2021 WL 1550586, at \*1 (N.M. Pub. Reg. Comm’n Apr. 6, 2021)

<sup>33</sup> *Id.*

<sup>34</sup> Ex. Xcel-25 at 47–48 (Nowak Rebuttal).

<sup>35</sup> Ex. DOC-13 at 34–36 (Addonizio Surrebuttal).

## **II. XCEL'S INFLATED AND UNJUSTIFIED REVENUE REQUIREMENT PROPOSALS WILL FINANCIALLY HARM RATEPAYERS WITH LITTLE SERVICE BENEFIT.**

Beyond its unreasonable ROE request, Xcel persists in seeking operating revenue and expense budgets and rate-base adjustments that it failed to prove it needs. Xcel trots out stale arguments that the Commission has previously rejected or that conflict with well-accepted regulatory principles. And to imbue its proposals with a veneer of affordability, Xcel relies on flawed metrics.

### **A. Xcel Failed to Establish its Proposals Are Necessary to Provide Service.**

Among other proposals, Xcel continues to assert that it is entitled to a return on the full value of the prepaid pension asset. The company also argues that the Commission should approve its distribution vegetation management budget despite acknowledging that the proposed amount may not be accurate. Finally, Xcel argues that the Commission should approve its significant and unsupported base pay request.

#### **1. Xcel Overstates the Value of its Prepaid Pension Asset Interest.**

Xcel continues to claim that it is entitled to a return on the prepaid pension asset at the weighted average cost of capital, but that it would settle for a return at the long-term cost of debt rate.<sup>36</sup> But no party, including the Department,<sup>36</sup> has accepted either Xcel's original or alternative positions, and for good reason. It is undisputed that Xcel is fully compensated for its current pension expenses. Nor can Xcel seriously dispute that it retains only a contingent reversionary interest in the prepaid pension funds held in trust. Because Xcel's contingent reversionary interest has nominal or no value, the Commission should permit Xcel to earn no more than a de minimis

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<sup>36</sup> Xcel Initial Br. at 143. Xcel caveats its alternative position as "solely for purposes of this individual proceeding, and not as precedent or agreeing to any underlying principle." *Id.* But unilaterally abandoning a position set forth in testimony does not make it a settlement that could include such a caveat.

return upon it.<sup>37</sup> Beyond offering up an alternative proposal through its brief, Xcel also makes several irrelevant policy arguments.

Xcel first suggests that earning a return on the prepaid pension asset helps the company manage an orderly transition of employees into retirement.<sup>38</sup> But the value of Xcel's interest in the prepaid pension asset and the rate of return applied to it have no bearing on the benefits provided to retirees. Xcel's obligations to beneficiaries are set forth in the pension plan documents and pension trust agreement.<sup>39</sup> Xcel's obligations are, moreover, governed by the Employee Retirement Income Security Act and federal tax law. If Xcel continues to offer defined benefit retirement benefits, then it must comply with these laws no matter how the prepaid pension asset is treated.

Xcel also declares that the prepaid pension asset consists solely of shareholder supplied funds.<sup>40</sup> But it is not that simple. Typically, Xcel contributes to the pension trust in the ordinary course of business using the company's available cash. The impact on shareholders is, therefore, indirect. Xcel Energy, Inc.'s shareholders are residual claimants. They receive what is left after the corporation pays its fixed claimants in order of priority. And they only receive such payments when the board chooses to make a distribution to them.<sup>41</sup> Thus, pension trust contributions are not funded by issuing new debt or equity, but amount to a possibly foregone shareholder distribution. Even if it were as simple as Xcel suggests, the practical result is unchanged. Shareholders are not entitled to a return on an asset exceeding the value of Xcel's interest in that asset.

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<sup>37</sup> DOC Initial Br. at 61–65.

<sup>38</sup> Xcel Initial Br. at 136.

<sup>39</sup> Ex. DOC-11, SDH-S-5 at 1 (Hunt Surrebuttal).

<sup>40</sup> Xcel Initial Br. at 140.

<sup>41</sup> Minn. Stat. § 302A.551, subd. 4; *see also* *McRitchie v. Zuckerberg*, 315 A.3d 518, 547 (Del. Ch. 2024).

Finally, Xcel frames the Department’s position as a “perplexing” concern that the company may be incentivized to overfund the pension fund.<sup>42</sup> To be clear, the problem is that Xcel is attempting to earn a return on an asset that it mostly does not own. The prepaid pension asset is undisputedly the contributions to pension trust that exceed the test-year pension expense recovered through rates. As the Department established, Xcel retains only a contingent remainder interest in pension trust contributions. Xcel’s interest has at most nominal value.<sup>43</sup> Applying a rate of return to an interest with no or nominal value should result in either no return or a de minimis one.<sup>44</sup>

The Commission should not permit Xcel to earn a return on trust property that it does not own. And if the Commission chooses to permit Xcel to earn any return, the total recovery should be no more than \$5.7 million in 2025 and \$5.4 million in 2026 as discussed in the Department’s initial brief.<sup>45</sup>

## **2. Xcel Concedes its Vegetation Management Budget Forecast is Unreliable.**

It is undisputed that Xcel has significantly underspent its distribution vegetation management expense every year between 2022 and 2024, and was on pace to underspend again in 2025.<sup>46</sup> Given Xcel’s inflated budgeting, the Commission should only approve 3% inflationary increases over 2024 actual spending for 2025 and 2026.<sup>47</sup> To justify its proposed test-year expense, Xcel asserts that its overall distribution operations and maintenance (“O&M”) budget balances out in totality.<sup>48</sup> But that argument suggests that Xcel has failed to meet its burden to establish the

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<sup>42</sup> Xcel Initial Br. at 141.

<sup>43</sup> DOC Initial Br. at 61–63.

<sup>44</sup> *Id.* at 63–65.

<sup>45</sup> *Id.*

<sup>46</sup> DOC Initial Br. at 67–68.

<sup>47</sup> *Id.* at 68.

<sup>48</sup> Xcel Initial Br. at 73.

reasonableness of either its proposed distribution vegetation management expense budget or the overall distribution O&M budget.

Xcel does not attempt to meet its burden of proof on this point. Instead, Xcel's position appears to be that although the distribution vegetation management might be inflated, the rest of its distribution O&M budget might be inaccurate too, and collectively they even out. But two wrongs do not make for a known and measurable expense appropriate for inclusion in Xcel's revenue requirement. Nor would it be appropriate for the Commission to accept Xcel's distribution vegetation management budget as an accounting "plug" number to reconcile discrepancies plaguing the overall distribution O&M budget.<sup>49</sup>

Although Xcel has not established the reasonableness of its distribution vegetation management budget, the Department has not recommended fully denying the proposal. Instead, the Commission should make an appropriate adjustment to bring Xcel's budget in line with its actual behavior.<sup>50</sup> Here, the Commission should set Xcel's distribution vegetation management budgets at \$31.6 million in 2025 and \$32.6 million in 2026.<sup>51</sup>

### **3. Xcel Has Not Carried Its Burden for its Inflated Base-Pay Request.**

Xcel has not adequately justified its base pay expenses because it has failed to provide full-time equivalent data, or to calculate such data, and has not sufficiently addressed discrepancies between approved and actual base pay expenses. Xcel also opposes the Department's

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<sup>49</sup> *In Appl. of Interstate Power Co.*, 500 N.W.2d 501, 504 (Minn. Ct. App. 1993) (“[I]f the petitioner's evidence is inaccurate, the utility has failed to meet its burden of proof, and the MPUC will either deny the rate increase or make “appropriate adjustment” to the utility's proposal.”)

<sup>50</sup> *Id.*; *In re Pet. of Continental Tel. Co.*, 389 N.W.2d 910, 914–15 (Minn. 1986).

<sup>51</sup> DOC Initial Br. at 68.

recommended base-pay and alternative calculations.<sup>52</sup> To avoid future disputes the Commission should require Xcel to include FTE counts in future cases.<sup>53</sup>

First, Xcel's refusal to provide FTE counts, or to even do the calculation is a sufficient reason to conclude that Xcel has not carried its burden. Xcel criticized the Department's request for and reliance on Xcel's refusal to calculate relevant FTE counts in making the Department's recommendation.<sup>54</sup> Xcel presents several reasons as to why it does not have FTE counts to provide in this context.<sup>55</sup> But the relevant question is not whether Xcel has FTE counts, but whether they should have FTE counts. The fact that Xcel has not done the FTE calculation is not a basis to conclude that the FTE calculation is irrelevant.

Second, FTE counts are a common labor figure, and to the extent that Xcel has any difficulty or discrepancy in calculating its FTEs it could explain those discrepancies either in this matter or in future compliance filings.<sup>56</sup> Xcel argues that providing FTE counts would be difficult or impossible.<sup>57</sup> Xcel argues that because labor costs are allocated from enterprise-wide work, it cannot tie this work to an FTE count.<sup>58</sup> Xcel also asserts that because an employee's work may be allocated to either O&M or capital and then allocated to a specific operating company and then a specific utility making it difficult to allocate FTEs.<sup>59</sup>

Xcel also mischaracterizes the Department's alternative base-pay calculation. Xcel suggests that the calculation uses actual base pay averages from 2022 to 2024 and applies a 3%

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<sup>52</sup> Xcel Initial Br. at 87–94.

<sup>53</sup> *Id.* at 95.

<sup>54</sup> *Id.* at 87–88.

<sup>55</sup> *Id.*

<sup>56</sup> Ex. DOC-4 at 9–10 (Kehrwald Surrebuttal).

<sup>57</sup> Xcel Initial Br. at 88–90.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

annual increase.<sup>60</sup> It does not. Instead, the Department’s alternative uses 2022 to 2024 averages, applying the company’s proposed increases of 3.8% in 2025 and 0.8% in 2026.<sup>61</sup>

Because Xcel has not adequately supported its base pay recovery request, the Commission should not accept these inflated numbers. The Commission should instead use the Department’s calculation which is based on Xcel’s 2024 approved base-pay and apply a 3% increase in 2025 and 2026.<sup>62</sup> Alternatively, the Commission could use Xcel’s average actual base pay from 2022 to 2024 and apply Xcel’s proposed increases of 3.8% in 2025 and 0.8% in 2026.<sup>63</sup>

Xcel also objects to the Department’s request that the Commission require Xcel to provide FTE counts in future rate cases.<sup>64</sup> Xcel argues that the data is not available because Xcel does not use FTE counts and they would provide “limited insight” in future rate cases.<sup>65</sup> But as noted above, the fact that Xcel does not have FTE counts is precisely why it should have to do the calculations and provide FTE counts in future cases. And furthermore, Xcel is not positioned to determine what information would provide intervenors the necessary “insights.” The Commission should require this common labor calculation in future rate cases and eliminate the need to litigate this issue in each future rate case.

**B. The Commission Should Reject Proposals Contrary to its Past Decisions and Basic Ratemaking Principles.**

In response to intervenor concerns, Xcel makes a variety of arguments to justify various revenue requirement adjustments. But Xcel fails to adequately address basic ratemaking principles

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<sup>60</sup> Xcel Initial Br. at 87.

<sup>61</sup> Ex. DOC-4 at 25–26 (Kehrwald Surrebuttal).

<sup>62</sup> *Id.* at 22–23.

<sup>63</sup> *Id.* at 23.

<sup>64</sup> Xcel Initial Br. at 95.

<sup>65</sup> *Id.*

that caused the Commission to reject similar, and sometimes identical, proposals in prior rate cases. The Commission should not begin accepting Xcel's stale arguments now.

**1. The Commission Should Continue to Deny Recovery for Long-Term Incentive Compensation.**

Xcel, once again, is requesting long-term incentive ("LTI") compensation recovery from ratepayers, despite the Commission consistently rejecting this request. Xcel has not provided any argument or evidence that should cause the Commission to depart from its longstanding practice of denying LTI compensation recovery. Xcel instead reiterates arguments that have been made before, while ignoring the Commission's prior decisions. The Commission should continue to deny LTI because such a denial is consistent with past decisions, is in the interest of ratepayers, and Xcel has not carried its burden.

Xcel notes that it is not seeking recovery of its Total Shareholder Return LTI compensation, which makes up 60% of its overall LTI.<sup>66</sup> This is no different from the last rate case in which Xcel was only seeking environmental and time-based LTI recovery, which the Commission rejected.<sup>67</sup> And to justify recovering the remaining 40% of LTI in the form of environmental and time-based compensation, Xcel continues to argue that it must offer LTI compensation to remain "competitive in the marketplace."<sup>68</sup> This does nothing to address why ratepayers should be paying for Xcel's LTI compensation. Additionally, LTI is still paid through a stock award, which Xcel's witness admitted incentivizes increasing share value.<sup>69</sup> Xcel's argument does not address the Commission's concerns with LTI. Instead, the Commission should continue to look at both the requirements for and the method of payment of LTI and reject Xcel's requests.

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<sup>66</sup> Xcel Initial Br. at 103.

<sup>67</sup> 2021 RATE CASE ORDER at 15.

<sup>68</sup> Xcel Initial Br. at 105.

<sup>69</sup> Evid. Hrg. Tr. (Vol. 1) at 159–60 (Ly)

Xcel also tries to justify its environmental LTI recovery by making the same arguments it has before. In its last rate case, the Commission agreed that Xcel’s environmental LTI should not be recovered because it is no more ambitious than what is already required by Minnesota law.<sup>70</sup> Xcel’s argument here amounts to saying that without incentivizing employees through additional compensation, it will be “difficult” and require “concentrated effort” to comply with the carbon free by 2040 mandate.<sup>71</sup> Even if this were accurate, the fact that compliance with the law is “difficult” does not change the analysis. Xcel is already required to meet certain environmental goals and ratepayers should not have to incentivize Xcel’s employees to comply with the law.

Xcel provides even less justification for its time-based LTI, other than that it is needed to remain “market competitive” and to retain qualified employees.<sup>72</sup> This is the same argument Xcel made in its last rate case.<sup>73</sup> Xcel is reiterating the same arguments it has made before. The Commission should not change its position when Xcel has not changed its program or its request for recovery. The Commission should deny recovery of all LTI compensation.

**2. The Commission Should Maintain Current AIP Recovery Levels Because Xcel Has Not Changed Anything About Its Program.**

In another attempt to change long-standing Commission decisions, Xcel requests that the Commission allow it to recover an additional 5% of its annual-incentive program (“AIP”) compensation and calculate the new 20% cap on an aggregate basis so that it is more likely Xcel will not have to refund ratepayers. This is the same request the Commission rejected in Xcel’s last rate case. Xcel admits that it has not made any modifications to its AIP program, but wants the

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<sup>70</sup> 2021 RATE CASE ORDER at 14–15 (adopting the ALJ’s reasoning).

<sup>71</sup> Xcel Initial Br. at 106.

<sup>72</sup> Xcel Initial Br. at 103–104.

<sup>73</sup> 2021 RATE CASE ORDER at 14.

Commission to change its decision anyway. The Commission should reject this request and maintain the current recovery levels.

Xcel argues that a 20% cap on AIP recovery would bring Xcel's recovery in line with what the Commission has approved for other utilities.<sup>74</sup> Xcel also cites the ALJ's recommendation for a 20% cap in its last rate case.<sup>75</sup> These arguments ignore the Commission's reasoning in rejecting Xcel's request in the last rate case. The Commission acknowledged the ALJ's reasoning that compensation trends have changed over time to involve more incentive compensation.<sup>76</sup> This is the same argument Xcel presents here. The Commission kept the cap at 15% because it "was not persuaded" that changing market trends outweighed the Commission's other concerns with AIP compensation.<sup>77</sup> The Commission noted that this was because of the incentives and risks associated with Xcel's "earnings-per-share based AIP."<sup>78</sup>

Xcel also ignores that the Commission expressly addressed why Minnesota Power recovered 20% of their AIP program while Xcel was capped at 15%.<sup>79</sup> The Commission's concern was that Xcel's use of earnings-per-share as a threshold for AIP payouts incentivizes employees to work in shareholder rather than ratepayer, interests.<sup>80</sup> Xcel's witness admitted that she was not familiar with Minnesota Power's AIP program and did not know whether Xcel had even explored using any of the affordability triggers that Minnesota Power uses as an alternative to earnings-per-share.<sup>81</sup>

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<sup>74</sup> Xcel Initial Br. at 99–100.

<sup>75</sup> *Id.*

<sup>76</sup> 2021 RATE CASE ORDER at 18.

<sup>77</sup> *Id.* at 19.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> Evid. Hrg. Tr. (Vol.) 1 at 171–73 (Ly).

Xcel attempts to justify its request by pointing to its “Corporate Scorecard” that outlines the goals that are used to determine AIP payouts.<sup>82</sup> Xcel argues that concerns over its use of earnings-per-share as a threshold and modifier for AIP payouts “completely ignores” these ostensibly customer-focused performance metrics.<sup>83</sup> Concerns over AIP, however, do not ignore these performance metrics. The Department, and in the last rate case the Commission, believe that those metrics are simply outweighed by the fact that earnings-per-share is the most important factor in AIP payouts because if Xcel does not meet its earnings-per-share threshold there are no AIP payouts whatsoever. Because those concerns are well-founded, Xcel’s AIP recovery should continue to be capped at 15%.

Xcel also renews its prior request to have the AIP payout cap calculated on an aggregate, rather than an individual basis.<sup>84</sup> Xcel attempts to support this request by arguing that concerns over concentration of AIP payouts among a few highly-compensated employees are misplaced because that is not something Xcel would do, that it needs greater flexibility to allocate AIP amounts.<sup>85</sup> These arguments are not well-founded. If Xcel has no intention of concentrating AIP payouts among a few employees at the expense of others, calculating the cap on an individual basis should have little impact. If, however, Xcel uses this “greater flexibility” to retain the recovery amounts while certain employees are not achieving a 15% AIP payout, ratepayers are injured. As Xcel has admitted, calculating the cap on an aggregate basis decreases the likelihood that ratepayers would get a refund of unpaid AIP.<sup>86</sup> This is because it is likely that if an employee only earns an AIP payment of 10% of their base salary, that additional 5% that would go to ratepayers

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<sup>82</sup> Xcel Initial Br. at 102.

<sup>83</sup> *Id.*

<sup>84</sup> Ex. Xcel-62 at 18–19 (Ly Direct)

<sup>85</sup> Xcel Initial Br. at 103.

<sup>86</sup> Evid. Hrg. Tr. (Vol. 1) at 175–76 (Ly).

if the cap is administered on an individual basis, would instead be kept by Xcel if the cap were calculated on an aggregate basis. The Commission should not change its longstanding approach and continue to calculate the AIP cap on an individual basis to protect ratepayers.

**3. Xcel’s General and Interchange Allocator Positions Are Inconsistent with Past Commission Decisions.**

Despite numerous contrary Commission orders, Xcel persists in seeking to use disfavored allocator methodologies. For its general cost allocator, Xcel continues to make the same argument that the Commission has rejected since 2011.<sup>87</sup> Similarly, Xcel continues to argue that older interchange agreement allocator data should be used, even though the Commission rejected the same argument in Xcel’s last rate case.<sup>88</sup>

Xcel’s general allocator is used to assign costs incurred by Xcel Energy Services, Inc. (“XES”) employees that cannot be directly attributed to a particular operating company. The allocator has three equal components based on operating company: assets, revenues, and labor. Since 2011, the Commission has required Xcel to calculate the labor component using full-time equivalent (“FTE”) hours as opposed to Xcel’s preferred number of employees methodology.<sup>89</sup> In support of its preferred methodology, Xcel again argues that indirect XES costs are incurred to meet the needs of each operating company (e.g., human resource costs) rather than the work performed by the operating company’s employees. But Xcel’s argument leads to unreasonable results. For example, if a Northern States Power Minnesota (“NSPM”) employee devotes 50% of her time to performing work for Northern States Power Wisconsin (“NSPW”), NSPM customers would still be fully responsible for the indirect XEI costs rather than splitting them with NSPW

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<sup>87</sup> Xcel Initial Br. at 144–45.

<sup>88</sup> *Id.* at 151.

<sup>89</sup> *In re N. States Power Co.’s Cost Allocation Procedures and General Allocator*, Docket No. E,G-002/AI-10-690, ORDER REQUIRING CHANGE IN GENERAL ALLOCATOR AND REQUIRING FILINGS (Mar. 15, 2011) (eDocket No. [20113-60362-01](#)).

customers. This problem is particularly acute, as the Commission has previously recognized, with XEI's smallest subsidiaries. These subsidiaries may have no employees at all, relying instead on the part-time services of employees of other subsidiaries.<sup>90</sup> In contrast, the FTE methodology resolves the Commission's concern that the number of employees methodology over allocates costs to the operating company where the worker is employed and under-allocates to the operating company that is the beneficiary of the employees' work.<sup>91</sup> The Commission should continue requiring Xcel to use the FTE hours methodology to calculate the labor component of the general allocator.

Xcel's interchange agreement allocator position similarly ignores the Commission's prior decisions. The interchange allocator is used to assign costs between NSPM and NSPW, which share generation and transmission assets.<sup>92</sup> In May 2025, FERC approved Xcel's proposed interchange demand agreement for 2025.<sup>93</sup> Although this is the most up-to-date allocator agreement, Xcel opposes using it for purposes of setting 2025 and 2026 rates.<sup>94</sup>

Xcel argues that using 2025 interchange demand allocator for 2026 is inappropriate.<sup>95</sup> Xcel asserted that using only forecasted data for 2026 is more reliable than using the allocator approved by FERC, which relies on more recent actual and forecasted data. But Xcel's position is inconsistent with the Commission's preference for using the most recent FERC approved interchange agreement allocator, which includes the use of the most recent actual data. Using the most recent FERC approved interchange agreement allocator – as opposed to older data or

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<sup>90</sup> *Id.* at 1.

<sup>91</sup> 2021 RATE CASE ORDER at 108.

<sup>92</sup> DOC Initial Br. at 79–80.

<sup>93</sup> *Id.*

<sup>94</sup> Xcel Initial Br. at 155.

<sup>95</sup> *Id.*

speculative forecasts – is likely to reflect recent trends, representative customer behavior, and relevant economic conditions.<sup>96</sup> Applying that reasoning here, the Commission should require Xcel to use an allocator derived from the most recently approved FERC interchange agreement allocator, which includes the most recent years of data.

Xcel also asserts that the Department’s adjustment is misguided because the allocator is just one component of the Interchange Agreement billings with NSPW.<sup>97</sup> But the Commission expressly rejected Xcel’s arguments about updating one component but not others in the company’s last rate case. There, the Commission explained that although Xcel had an opportunity to update other components of the allocator, the company did not offer any offsetting adjustments. The Commission explained, “The Department cannot be faulted for acting on the basis of the record before it.”<sup>98</sup> Here, Xcel again had an opportunity to provide other updates but did not offer any.<sup>99</sup> Given Xcel’s failure to offer other updates, the result should be the same as Xcel’s last rate case – updating the interchange allocator to the most recent data available.

In sum, the Commission should continue to use its long-standing general allocator methodology and require Xcel to update its interchange agreement allocator to reflect the most recently approved FERC interchange agreement allocator which includes the most recent demand allocation data.

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<sup>96</sup> See, e.g., *In re Appl. by Minn. Power for Auth. to Increase Rates for Elec. Serv.*, Docket No. E-015/GR-21-335, FINDINGS OF FACT, CONCLUSIONS, & ORDER at 17 (Feb. 28, 2023) (eDocket no. [20232-193486-01](#)) (MP 2021 RATE CASE ORDER) (adopting *In re Appl. by Minn. Power for Auth. to Increase Rates for Elec. Serv.*, Docket No. E-015/GR-21-335, FINDINGS OF FACT, CONCLUSIONS OF LAW, & RECOMMENDATIONS at 73 (Sept. 1, 2022) (eDocket no. [20229-188786-01](#))).

<sup>97</sup> Xcel Initial Br. at 158.

<sup>98</sup> 2021 RATE CASE ORDER at 109.

<sup>99</sup> Ex. DOC-2 at 6 (Johnson Surrebuttal).

#### 4. Xcel’s Out-of-Service Riverside Generating Unit Is Not “Used and Useful.”

Because it is undisputed that Xcel’s Riverside Generating Unit will not be in-service due to a plant outage for portions of the 2025 and 2026 test years, the Commission should remove it from rate base and remove the related operating and maintenance expenses on a pro-rata basis.<sup>100</sup> This treatment is consistent with the “used and useful” standard and the Commission’s treatment of the Sherburne County Generating Plant (“Sherco”) Unit 3 following a similar outage.<sup>101</sup> The Commission also should initiate a contested case to facilitate engineering analysis into whether Xcel’s imprudence caused the Riverside outage.<sup>102</sup> Xcel objects to this approach because it leaves issues related to capacity revenues unresolved.<sup>103</sup>

Xcel’s concerns about capacity revenues are irrelevant to whether Riverside will be “used and useful” during the test years. The “used and useful” standard requires that utility property be both “in service” and “reasonably necessary to the efficient and reliable provision of utility service.”<sup>104</sup> Here, the capacity revenues accrued when Riverside was still in service. The revenues are therefore appropriate to include in the test year. The “used and useful” standard, moreover, does not consider whether utility property might have accrued capacity revenues before the property left service. And even though capacity revenues are included in Xcel’s test years, those figures are just placeholders. Xcel has a capacity revenue tracker that should be reconciled after completing a contested case where Xcel’s responsibility for the outage can be assessed.<sup>105</sup> If Xcel

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<sup>100</sup> DOC Initial Br. at 60–61.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> Xcel Initial Br. at 165–66.

<sup>104</sup> *Senior Citizens Coal. of N. Minn. v. Minn. Pub. Utils. Comm’n*, 355 N.W.2d 295 (Minn. 1984).

<sup>105</sup> 2021 RATE CASE ORDER at 155 (adopting the ALJ report except as otherwise noted); *In re Appl. of N. States Power Co. for Authority to Increase Its Rates for Elec. Serv. in the State of Minn.*, E-002/GR-21-630, FINDINGS OF FACT, CONCLUSIONS OF LAW, & RECOMMENDATIONS ¶¶ 150–152 (Mar. 31, 2023) (eDocket no. [20233-194394-01](#)) (recommending adoption of a capacity revenues

is found to be imprudent, then ratepayers will be entitled to the capacity revenues as part of holding them harmless from the outage. If Xcel can demonstrate that its imprudence did not contribute to the outage, the Commission will need decide whether to credit Xcel with the capacity revenues or a regulatory asset for the period where Riverside was not in rate base. Because no evaluation has occurred yet, any decision about the ultimate treatment of the capacity revenues is premature.

Right now, the Commission should take the only action dictated by the “used and useful” standard and its Sherco 3 decision. The Commission should remove Riverside from rate base and remove the related operating and maintenance expenses for the portions of the 2025 and 2026 test years when it will not be in-service but permit recovery of property taxes and depreciation expense.<sup>106</sup>

**5. Xcel’s Attempt to Avoid Outside Services Employed Expense Scrutiny is Contrary to Commission Rules and Precedent.**

Xcel seeks substantial increases to its outside services spending in FERC Account 923. Professional services such as consultants, engineers, accountants, and attorneys are all included in this category. Xcel advances two primary arguments in support of its request. First, a different utility’s proposed FERC Account 923 expense was approved in a 2021 rate case over the Department’s objections. Second, that FERC Account 923 “is a catch-call account” that “serves no purpose other than to arbitrarily limit the Company’s overall recovery.”<sup>107</sup> Neither is availing.

Xcel argues that the Department’s proposal “is inconsistent with prior Commission determinations.”<sup>108</sup> That is wrong. The Commission’s order in no way suggests that the

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tracker) (2021 ALJ Rate Case Report); *see also, e.g., In re Xcel Energy’s Pet. for Approval of its 2024 Sales & Related Revenue Calculations*, Docket No. E-022/M-25-56, ORDER at 1 (July 1, 2025) (eDocket no. [20257-220520-01](#)).

<sup>106</sup> DOC Initial Br. at 61.

<sup>107</sup> Xcel Initial Br. at 121, 124.

<sup>108</sup> *Id.* at 122 (citing MP 2021 RATE CASE ORDER). Although Xcel’s brief refers “Commission determinations,” it cites only a single example.

Department “inappropriately focus[ed] on FERC Account 923.”<sup>109</sup> Minnesota Power advanced the same position Xcel does here that it is “not appropriate” to consider the different expenses that go into FERC Account 923 in isolation. The Commission’s order, however, found that “[t]he expenses allocated to each of these [FERC] accounts are reasonable for the purpose of rate setting.”<sup>110</sup> It follows that if expenses allocated to these accounts can be found reasonable, they can also be found unreasonable, unsupported, or excessive.<sup>111</sup> There, the Commission found the utility’s approach to forecasting FERC Account 923 expenses for the test year more persuasive than the Department’s based on case-specific factors, such as the impact of the COVID-19 pandemic on 2020 expenses.<sup>112</sup>

While Xcel may not find value in analyzing the expenses included in FERC Account 923 as a group, the Commission’s rules require utilities to conform to FERC’s uniform system of accounts.<sup>113</sup> Xcel makes no attempt to reconcile this requirement with its argument that it is inappropriate to use FERC accounts in setting rates.

Lastly, Xcel argues that using FERC Account 923 to set rate case expense arbitrarily limits its recovery. But this argument contradicts its argument that “not every budgeted dollar is spent in exactly the same way that it was forecast to be spent.”<sup>114</sup> Grouping different expenses in FERC Account 923 would be expected to smooth out random fluctuations in expenses, decreasing the gap between the forecasted expense and actual spending. Xcel did not accurately forecast its FERC Account 923 expense while experiencing variation from forecast to actual expense in individual

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<sup>109</sup> *Id.*

<sup>110</sup> 2021 MP RATE CASE ORDER at 25.

<sup>111</sup> Ex. DOC-6 at 18 (Golden Surrebuttal).

<sup>112</sup> *See* 2021 MP RATE CASE ORDER at 23–25.

<sup>113</sup> Minn. R. 7825.0300, subp. 2 (referring to the FPC (Federal Power Commission), FERC’s predecessor); Ex. DOC-6 at 16 (Golden Surrebuttal).

<sup>114</sup> Xcel Initial Br. at 123.

categories; it was inaccurate in the aggregate, always in its own favor.<sup>115</sup> The Commission should reject Xcel’s attempt to continue over-recovering its outside service employed expense, and approve an outside services employed expense of \$22.5 million for the 2025 test year and \$24.2 million for the 2026 plan year.<sup>116</sup>

**6. Xcel’s Proposed Property Tax Baseline Suffers from the Same Deficiencies That Caused it to be Rejected in the Prior Rate Case.**

Xcel argues that despite its robust record of significantly overestimating property tax expenses, the Commission should rely on its 2025 and 2026 forecasts.<sup>117</sup> The company acknowledges the arguments being made regarding the baseline property tax expense in this case “are quite similar” to those made in the last rate case.<sup>118</sup> In that case, the ALJ found that Xcel’s methodology “appears to favor over-recovery.”<sup>119</sup> The Commission adopted the ALJ’s finding.<sup>120</sup> The property tax expenses incurred since then have affirmed that the Department’s approach, while still resulting in some degree of over-collection, is far more accurate than Xcel’s.<sup>121</sup>

To deflect from its long-standing pattern of substantially over-estimating property tax expenses, Xcel points to a single year of under-recovery in the company’s gas jurisdiction.<sup>122</sup> But an isolated, one-time under-recovery of \$2.9 million dollars in the gas jurisdiction is not comparable to the eight straight years of over-recovery in the electric jurisdiction totaling \$102.5 million.<sup>123</sup>

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<sup>115</sup> Ex. DOC-5, ARG-D-4 at 3 (Golden Direct).

<sup>116</sup> Ex. DOC-6 at 19 (Golden Surrebuttal).

<sup>117</sup> Xcel Initial Br. at 195.

<sup>118</sup> *Id.*

<sup>119</sup> 2021 ALJ Rate Case Report at 64.

<sup>120</sup> *See* 2021 RATE CASE ORDER at Order Point 85.

<sup>121</sup> *See* Ex. DOC-23, HDJ-D-3 (Jones Direct) (showing substantial ratepayer refunds each year from 2022 through 2024 despite the significant reduction in baseline expense ordered in the 2021 rate case).

<sup>122</sup> Xcel Initial Br. at 195.

<sup>123</sup> *See* Ex. DOC-23 at 13, HDJ-D-3 (Jones Direct).

Xcel argues that the Department’s position should be rejected because “there is no basis for its two percent cap” and falsely asserts that the Department “assumes . . . property tax expenses increase in a linear manner.”<sup>124</sup> The Department’s proposed 2% increase in property tax expense “was chosen as a reasonable midpoint” among recent year-over-year changes specifically because of the unpredictable nature of recent year-over-year changes in Xcel’s electrical jurisdictional property tax expense, even when net plant increases are taken into account.<sup>125</sup> Even if Xcel’s predictions that inputs such as effective local tax rates and the Cap Rate will start to trend in the opposite direction, the Department’s proposed 2% increase is more than four times greater than the average actual year-over-year increase over the last five years.<sup>126</sup>

The Commission correctly found that Xcel’s property tax baseline expense forecast was inaccurate and prone to over-recovery from ratepayers. The Commission should adopt the Department’s proposal, which assumes that property tax expense increases will be significantly greater than the average from the recent past, but still within the range of historical figures.

**7. Matching Depreciation Expense to Approved Operating Lives for the Sherco 3 and King Coal Plants is Consistent with the Commission’s Order on Early-Retiring Generating Facilities.**

The Department recommends that the depreciation lives in rates match the operating lives approved for the nuclear generating plants and coal generating plants in Xcel’s last integrated resource plan (“IRP”). This approach offers significant benefits to ratepayers and is consistent with the Commission’s prior approach and recent order on early-retiring generating facilities. While Xcel and other intervenors all present different options for addressing depreciation for these coal plants, these approaches all contain serious drawbacks and should be rejected.

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<sup>124</sup> Xcel Initial Br. at 196.

<sup>125</sup> Ex. DOC-23 at 8–11 (Jones Direct).

<sup>126</sup> Ex. DOC-24 at 10 (Jones Surrebuttal).

Xcel's preferred option is to maintain the depreciation lives of Sherco 3 and King in this case, and to create a regulatory asset at the time of retirement that would receive the same rate of return as rate base.<sup>127</sup> Xcel's briefing and testimony on this topic conspicuously avoid acknowledging that this approach maximizes shareholder profit.<sup>128</sup> Instead, Xcel repeatedly refers to earning a full profit on assets that are no longer "used and useful" for years after their retirement as a "balanced solution" that allows it "to recover prudently incurred costs related to these plants."<sup>129</sup> But this approach "balances" nothing. It simply ensures that shareholders feel no impact for complying with state policy while all of the costs are borne by the ratepayers. Nor is it limited to recovering "prudently incurred costs," but extends to providing a full return on equity for shareholders. A return on equity is set based on the premise that shareholders are accepting a risk of loss when they invest their capital in the utility. Xcel has not explained why ratepayers should fully absorb a risk for which shareholders have already been compensated for decades. Xcel's proposal should be denied.

Other intervenors argue that the Department's recommendation to match the depreciable lives of the Sherco 3 and King coal plants is inconsistent with the Commission's order on early-retiring generating facilities.<sup>130</sup> These intervenors instead suggest that the Commission should push the decision out to yet another docket. This approach has serious analytical and practical

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<sup>127</sup> Xcel Initial Br. at 159, 163.

<sup>128</sup> *See id.* at 159–163; Ex. Xcel-17 at 76 (Halama Direct); Ex. Xcel-16 at 24–26 (Liberkowski Rebuttal); Ex. Xcel-19 at 49–54 (Halama Rebuttal); Ex. Xcel-86 at 4 (Moeller Rebuttal).

<sup>129</sup> Ex. Xcel-19 at 49 (Halama Rebuttal). Xcel also argues that the Department's proposal could prevent the company from fully recovering approved costs because accelerated depreciation is not included in interim rates. But as noted in the Department's initial brief, when the net impact of depreciation on rates is considered, final rates will be lower than interim rates. DOC Initial Br. at 59.

<sup>130</sup> OAG Initial Br. at 5–14; XLI Initial Br. at 27–31.

drawbacks, and should be rejected in favor of uniformly matching depreciable lives to plants' approved operating lives in this case.

In the early retiring generating facilities docket, the Commission instructed that “any changes to the ratemaking treatment of early-retiring generating facilities be handled in rate cases.”<sup>131</sup> That time is now. The Commission’s next opportunity to address the plants’ early retirement in a rate case will not come for several years. Given the scheduled retirements of King in 2028 and Sherco 3 in 2030, and undisputed extension of the depreciation lives for Prairie Island and Monticello in this case, accelerated depreciation will be functionally removed as an option if the Commission does not address it now.

Moving the remaining balances of the Sherco 3 and King plants into a regulatory asset as Xcel proposes would cause intergenerational inequities, and could contribute to rate shock in future cases. The Commission has emphasized the need to balance policy considerations such as rate shock mitigation, rate stability, and intergenerational equity. To support that balance, “depreciation policies are designed to cause the customers who benefit from a plant to bear their proportionate share of the plant’s cost - no more, no less.”<sup>132</sup> But the other intervenors’ argument that the post-retirement ratepayers will receive benefits from the early retirement of the coal plants, and should therefore contribute to those costs, is at odds with how ratepayer benefits have been conceptualized to date.<sup>133</sup> This analysis ignores the costs that future ratepayers will continue to bear for the enduring impacts of climate change caused by previous generations of ratepayers. It

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<sup>131</sup> *In re Comm’n Inquiry into the Ratemaking Treatment for Early Retiring Generating Facilities Owned by Regul. Elec. Util.*, MPUC Docket No. E002, E015, E017/CI-23-375, ORDER ESTABLISHING FOUR-TIERED APPROACH FOR RATEMAKING TREATMENT OF EARLY-RETIRING GENERATING FACILITIES at Order Point 3 (May 14, 2025) (FOUR-TIERED RATEMAKING ORDER).

<sup>132</sup> *In re Appl. Of N. States Power Co. for Auth. to Increase Rates for Elec. Serv. in the State of Minn.*, Docket No. 12-961, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 27 (Sept. 3, 2013).

<sup>133</sup> OAG Initial Br. at 12; XLI Initial Br. at 29.

also opens the door to increasingly creative justifications for asserting that future ratepayers should share in today's expenses on top of those incurred for providing service at the time they receive it. This broad new expansion of intergenerational equity should be rejected.

Creating a regulatory asset could also lead to rate shock. The other intervenors argue that the Commission should not consider the overall impact to rates of changes in depreciation but consider depreciation for each plant on its own. Such an analysis, however, would be looking at *expense* shock rather than *rate* shock. A utility "rate" refers to the cumulative compensation obtained by the utility in return for the cumulative services rendered.<sup>134</sup> The net impact of updating depreciable lives to match approved operating lives in this case will result in an overall rate reduction.<sup>135</sup> When the Sherco 3 and King coal generating plants are retired, the generation those plants provided will need to be replaced, either through market purchases or adding plant to the system. If ratepayers are paying off a regulatory asset for plant that is no longer used and useful at the same time they are paying for new resources to be added to the system, the revenue requirements could easily cause rate shock. The Department's "pay as you go" recommendation matching depreciable lives to the plants' approved operating lives avoids this outcome, and should be adopted.

### **C. Continued Rate Increases Will Harm Xcel's Customers.**

Xcel claims that its service is affordable and will remain affordable after this rate case. But Xcel cannot hide from the facts. Xcel's rates have risen dramatically in the past decade. Xcel's rates have increased at least 98% since 2005, nearly double the inflation rate over the same period.<sup>136</sup> Xcel's rates are now nearly 11% higher than the average rate charged by Minnesota

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<sup>134</sup> Minn. Stat. § 216B.02, subd. 5 (2024); *Hoffman v. N. States Power Co.*, 764 N.W.2d 34, 44 (Minn. 2009); *see also Am. Tel. & Tel. Co. v. Cent. Off. Tel.*, 524 U.S. 214, 223 (1998).

<sup>135</sup> DOC Initial Br. at 57.

<sup>136</sup> Ex. DOC-1 at 22 (Johnson Direct).

utilities.<sup>137</sup> And Xcel's rates are now irrefutably higher than all but a handful of peer utilities nationally.<sup>138</sup> Rather than address the hardship it is causing customers, Xcel instead claims that declining usage per customer and average monthly bills demonstrate its service is affordable. But the Commission should not rely on these deeply flawed metrics.

Xcel's claim that energy conservation efforts are driving down average use per customer by about 2% a year and, therefore, slowing monthly bill growth is ill-considered.<sup>139</sup> Xcel's average usage-per-customer metric is an aggregate of all customers across all classes.<sup>140</sup> Xcel concedes that the declining usage-per-customer metric only means that some customers have reduced their usage enough to drop the aggregate figure by about 2%.<sup>141</sup> And Xcel further acknowledges that some customers have already made all conservation improvements they reasonably can to reduce usage.<sup>142</sup> Still other customers, such as those on fixed incomes or those with growing families, either cannot afford to make such improvements or cannot reasonably curtail their usage.<sup>143</sup> It makes little financial difference to these customers that energy usage across Xcel's system declined.

Xcel's focus on average monthly bills is also misguided.<sup>144</sup> By definition, an average is a measure of central tendency calculated by taking a set of values, adding them together, and then

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<sup>137</sup> Ex. DOC-1, MAJ-D-3 at 1 (Johnson Direct).

<sup>138</sup> Ex. DOC-1 at 22 (Johnson Direct).

<sup>139</sup> Xcel Initial Br. at 8–9; Ex. Xcel-16 at 12 (Liberkowski Rebuttal).

<sup>140</sup> Evid. Hrg. Tr. (Vol. 1) at 32 (Liberkowski).

<sup>141</sup> *Id.* at 32–33.

<sup>142</sup> *Id.* at 34 (“Q. So a customer who replaced an air conditioning unit from 1980, they are likely to see some sort of incremental improvement in that year, but they then can't replace that air conditioning next year and get the same incremental savings again, right? A. No, they would look to [other] options, I would imagine. Q. And over time, the low-hanging fruit is going to disappear as they make those improvements, right? A. I would imagine so.”) (Liberkowski).

<sup>143</sup> Ex. DOC-2 at 4 (Johnson Surrebuttal).

<sup>144</sup> Xcel Initial Br. at 8.

dividing by the number of values.<sup>145</sup> The representativeness of an average, however, depends on the distribution of the values.<sup>146</sup> And the record shows that Xcel's customers are too variable for an average to mean much.

Xcel's different classes pay substantially different monthly bills. The average industrial customers' monthly bill, for example, was more than 1,100 times greater than the average residential customers' bill in 2024.<sup>147</sup> Xcel's focus on average bills, moreover, ignores that there can be significant intra-class variability. Small general service customers may be required to transition to the general service class under some, but not all circumstances when they use more than 3,500 kWh of electricity monthly. But even if there were a hard cut-off at 3,500 kWh, that would amount to an approximately \$350 monthly bill difference, based on usage, between customers in the same class.<sup>148</sup> And near infinite variability is possible for residential and general service customers because there is no usage level that requires a transition to another class.<sup>149</sup>

In sum, Xcel's averages only a small subset of customers who happen to fall near the middle of the distribution. But most customers are not average. Many are struggling. Record numbers of customers are experiencing service disconnections and high energy burdens. Put differently, it is possible to drown wading across a lake that is on average three-feet deep if it has a thirty-foot drop-off in the middle.<sup>150</sup>

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<sup>145</sup> *Central Tendencies: Averages, Means and Medians*, ENV. SCI. DESKBOOK § 1:14 (2025).

<sup>146</sup> Michael J. Saks et al, ANN. REFERENCE MANUAL ON SCI. EVID. 83 (2d ed.), 2004 WL 48151, at \*26

<sup>147</sup> Ex. Xcel-16, AAL-R-1 at E (Liberkowski Rebuttal).

<sup>148</sup> See N. States Power Co., Minn. Elec. Rate Book § 5-21 (Rate Code A09).

<sup>149</sup> *Id.* § 5-1 (Rate Code A00), 5-29 (Rate Code A15).

<sup>150</sup> Sam L. Savage, THE FLAW OF AVERAGES: WHY WE UNDERESTIMATE RISK IN THE FACE OF UNCERTAINTY 38 (2009).

### **III. THE COMMISSION SHOULD ADOPT THE DEPARTMENT'S RATE-DESIGN RECOMMENDATIONS.**

The Department continues to recommend that the Commission adopt its proposed revenue apportionment and rate design adjustments. The Commission should not be persuaded by Xcel's revenue apportionment and rate design arguments.

#### **A. The Commission Should Adopt the Department's Recommended Revenue Apportionment.**

The Department used reasonable class cost of service studies ("CCOSS") studies to inform its analysis. Relying on this cost analysis and other non-cost factors, the Department produced a balanced and fair proposed revenue apportionment. As noted in Xcel's initial brief, the Department agreed that a 20% movement towards cost in 2025 is reasonable. The company, however, insists that an additional 20% movement in 2026 is justified by the material changes to the C&I Demand class.<sup>151</sup> But Xcel did not meet its burden to establish that this forecasted revenue increase and the corresponding apportionment is reasonable.<sup>152</sup> The Department continues to recommend the Commission approve Xcel's updated proposed 2025 test year revenue apportionment to remain in effect until Xcel's next rate case.<sup>153</sup>

#### **B. The Commission Should Adopt the Department's Rate Design Recommendations.**

Xcel asserts that its CCOSS results and several other factors support its proposal to uniformly increase the residential and small commercial customer charge from \$6.00 to \$11.00 per month. The company also claims that the Department's recommended customer charge is derived from a flawed over-reliance on the Basic Customer Method.<sup>154</sup> Xcel errs in both assertions.

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<sup>151</sup> Xcel Initial Br. at 269.

<sup>152</sup> Ex. DOC-20 at 7 (Bahn Surrebuttal).

<sup>153</sup> Ex. DOC-20 at 11 (Bahn Surrebuttal).

<sup>154</sup> Xcel Initial Br. at 276.

To support its proposed customer charge, Xcel relies in part on customer-related costs identified by the company's CCOSS studies, customer charges of other Minnesota utilities, and Xcel's low national percentile ranking of customer charges compared to other electric service providers.<sup>155</sup> Xcel's approach should be rejected for several reasons. First, Xcel's approach muddles the distinction between customer-related costs and customer-specific costs. It is important to classify these costs precisely in the interest of fairness. As a result, costs that are shared among customers (customer-related) should be recovered based on energy usage.<sup>156</sup> Nor Xcel address the potential rate shock or detrimental effect on energy conservation that may occur with its proposed customer charge increase. Second, Xcel's comparison to other Minnesota utilities is flawed because those providers are not peers. Xcel operates as a distinct electric entity with a vastly different customer count and profile.<sup>157</sup> Finally, Xcel's other justifications do not offset the rate shock reverberations the proposed increase would have on Xcel's customers during an economic period marked with general affordability concerns.<sup>158</sup>

Xcel also claims that the Department's recommended customer charges are overly reliant on Basic Customer method-derived CCOSS results. This is untrue. The Department's expert considered a variety of rate design principles and acknowledged the historical preference of the Commission in considering multiple CCOSS studies.<sup>159</sup> To that end, the Department's expert noted the benefits of considering the Company's hybrid CCOSS (Xcel's minimum system and zero-intercept results) next to the Basic Customer method.<sup>160</sup> The benefit of the Basic Customer

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<sup>155</sup> *Id.* at 273–276.

<sup>156</sup> Ex. DOC-19 at 31 (Bahn Direct).

<sup>157</sup> Xcel Initial Br. at 275.

<sup>158</sup> *Id.* at 274-275.

<sup>159</sup> Ex. DOC-19 at 19 (Bahn Direct).

<sup>160</sup> Ex. DOC-19 at 37 (Bahn Direct).

method is its identification of customer-specific distribution equipment, helping inform customer charge decisions.<sup>161</sup> The Department's expert had concerns with the Company's reliance on the Company's hybrid CCOSS for its estimate of customer-related costs as justification for the proposed increase in customer charge when the Commission's previous order determined alignment with the Basic Customer method was particularly important in setting the customer charge.<sup>162</sup> In the current proceeding, the Department's expert noted the Company's inclusion of customer-related costs for service drops in the basic customer CCOSS whereas these costs were not included in the previous MYRP.<sup>163</sup>

In sum, the Department continues to recommend that the Commission adopt its proposed revenue apportionment and rate design adjustments.

### **CONCLUSION**

Xcel has not shown that a nearly \$500 million rate hike is needed for safe, reliable service or to maintain financial integrity. The company is thriving under its current rates, built on years of increases. To balance ratepayer and investor interests, the Commission should adopt the Department's recommendation to cap Xcel's increase at 5.5% over two years, cutting Xcel's rate hike by about \$267 million. These steps are essential to mitigate the worst excesses of Xcel's proposal.

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<sup>161</sup> *Id.*

<sup>162</sup> Ex. DOC-19 at 36, 40 (Bahn Direct).

<sup>163</sup> *Id.* at 40 (Bahn Direct).

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