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**BEFORE THE MINNESOTA COURT OF ADMINISTRATIVE HEARINGS  
600 North Robert Street  
St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
121 7th Place East  
Suite 350  
St. Paul, Minnesota 55101-2147**

**MPUC Docket No. E-002/AA-22-179  
CAH Docket No. 21-2500-40336**

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*In the Matter of Xcel Energy's Petition for Approval  
of Its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges*

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**REPLY BRIEF  
OF THE OFFICE OF THE ATTORNEY GENERAL—  
RESIDENTIAL UTILITIES DIVISION**

**January 8, 2025**

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Xcel Energy’s initial brief frames the overarching question in this case as whether the October 2023 outage at Prairie Island “caused [Xcel’s] customers . . . to pay more for electricity than they would have had the outage not occurred, such that a refund of any excess power costs is appropriate.”<sup>1</sup> All parties to this case, including Xcel, agree that the answer to this question is “yes”: the outage did cause ratepayers to pay more than they otherwise would have, and a refund is appropriate. What is disputed is how large a refund is needed to make ratepayers whole. On the one hand, the Office of the Attorney General – Residential Utilities Division (OAG), the Minnesota Department of Commerce, the Xcel Large Industrials, and the Citizens Utility Board support a refund of \$40.1 to \$40.6 million.<sup>2</sup> Xcel, on the other hand, argues that ratepayers should receive a refund of only \$7.4 million despite conceding that the outage caused at least \$34.3 million in increased costs.<sup>3</sup>

The wide gulf between Xcel and the other parties is attributable to two factors. First, Xcel’s modeling understates the outage’s costs by more than \$6 million<sup>4</sup> because of unreasonable and inconsistent assumptions. Second, Xcel trots out a series of dubious “offsets” that further reduce its proposed refund by more than \$26 million.<sup>5</sup> For the reasons explained below, nothing in Xcel’s initial brief changes the conclusions that (1) Xcel’s production-cost modeling is unreasonable and (2) its “avoided 2029 cost” and “supplemental work” offsets require the Commission to speculate about how future events would have transpired had Xcel not imprudently drilled through Prairie Island’s control cables in October 2023.

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<sup>1</sup> Xcel Br. at 1.

<sup>2</sup> See OAG Br. at 13; Department Br. at 1; XLI Br. at 3; CUB Br. at 1.

<sup>3</sup> Xcel Br. at 44–45 & n.196.

<sup>4</sup> Compare Ex. XLI-2 at 3 (Andrews Direct) (calculating replacement-power costs of \$40.6 million) with Ex. Xcel-5 at 16 (Detmer Direct) (calculating replacement-power costs of \$34.3 million).

<sup>5</sup> \$34.3 million – \$7.4 million = \$26.9 million.

**I. XCEL FAILED TO ESTABLISH THAT ITS PRODUCTION-COST MODELING IS REASONABLE AND THAT THE LMP METHOD IS UNREASONABLE.**

In its initial brief, the OAG demonstrated that the Commission should require Xcel to refund \$40.6 million in replacement-power costs.<sup>6</sup> This figure is based on the “LMP method,” which involves multiplying Prairie Island’s generation by the prevailing locational marginal prices (LMPs) and subtracting operating costs.<sup>7</sup> Xcel counters that its production-cost modeling more accurately estimates replacement-power costs.<sup>8</sup>

Xcel concedes that the LMP method is reasonable to use for outages, at least where “the size of the facility at issue is small enough that other nearby resources would be unaffected by the facility’s unavailability.”<sup>9</sup> Xcel contends, however, that Prairie Island’s outage materially impacted its other generators. Xcel’s only support for this claim is that the actual generation of its fleet was higher while Prairie Island was offline than Xcel had forecasted it to be with the plant online.<sup>10</sup> Xcel argues that this means Prairie Island’s energy was “replaced” by Xcel Energy’s other generators.<sup>11</sup> Xcel has not established this, and its arguments are yet another example of burden-shifting that the Commission should reject.

Even accepting that overall generation was higher during the October 2023 outage than Xcel had forecasted, it does not follow that Xcel’s other plants’ generation was higher *because* Prairie Island was offline. Correlation does not equal causation in this instance. Power plants are dispatched in response to wholesale market prices, or LMPs.<sup>12</sup> If a generator goes offline, other units would only increase their output if the outage caused LMPs to increase to a level equal to or

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<sup>6</sup> See OAG Br. at 13–16.

<sup>7</sup> Ex. XLI-1 at 8 (Andrews Direct); *see also* Ex. DOC-3 at 14–15 (Rakow Surrebuttal).

<sup>8</sup> Xcel Br. at 23–24.

<sup>9</sup> *Id.* at 31.

<sup>10</sup> *Id.* at 32–33 (citing Evid. Hrg. Tr. at 56 (Detmer)).

<sup>11</sup> *Id.* at 28.

<sup>12</sup> Ex. DOC-3 at 5 (Rakow Surrebuttal).

greater than the units' variable cost.<sup>13</sup> Xcel therefore is necessarily assuming that Prairie Island's outage caused LMPs to increase, an assumption that is contrary to both its modeling<sup>14</sup> and real-world data showing a lack of material price differences between Minnesota and other MISO regions.<sup>15</sup>

MISO has a large footprint, and even a generator as large as Prairie Island, by itself, has an extremely small impact on market prices.<sup>16</sup> Xcel's theory appears to be that Prairie Island's outage affected the market price within the MISO North region because it is in a narrowly constrained area.<sup>17</sup> But real-world pricing data does not bear out the existence of significant transmission congestion that would drive elevated market prices in the area.<sup>18</sup> In sum, Xcel has the burden to show that Prairie Island's unavailability materially impacted its other generators. It failed to do so. The ALJ and the Commission should find that Xcel's modeling is unreliable and that the LMP method is a more reasonable method for estimating replacement-power costs in this case.

## **II. XCEL FAILED TO PROVE KEY ASSUMPTIONS UNDERLYING ITS "AVOIDED 2029 COSTS" OFFSET.**

In its initial brief, the OAG demonstrated that the ALJ and Commission should reject Xcel's "avoided 2029 costs" offset for two main reasons. First, the Commission rejected this same type of offset when Xcel raised it in another case.<sup>19</sup> And second, the offset depends upon too many uncertain assumptions to justify using it to reduce the ratepayer refund for the October 2023 outage.<sup>20</sup> Xcel's brief fails to even acknowledge the Commission previously denied this same type

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<sup>13</sup> *Id.* at 5–6.

<sup>14</sup> *See* Ex. Xcel-9 at 5 (Detmer Rebuttal) (stating that "the Company assumed the change in LMPs to be zero").

<sup>15</sup> *See* Ex. DOC-3 at 7–13 (Rakow Surrebuttal).

<sup>16</sup> Ex. XLI-1 at 6–7 (Andrews Direct).

<sup>17</sup> Ex. Xcel-9 at 10 (Detmer Rebuttal); Evid. Hrg. Tr. at 54, 56 (Detmer).

<sup>18</sup> Ex. DOC-3 at 7–13 (Rakow Surrebuttal).

<sup>19</sup> OAG Br. at 21–22.

<sup>20</sup> *Id.* at 22–29.

of avoided-cost offset, much less show that a different result is warranted in this case. Xcel primarily makes two arguments in support of the offset. First, Xcel contends that it is “undisputed” the control cables would have eventually failed. And second, Xcel contends that it “thoroughly discussed” its assumptions about a future cable-replacement outage. Neither of Xcel’s arguments is sufficient to meet its burden of proof.

**A. Xcel Cannot Predict Whether or When the Control Cables Would Have Otherwise Failed.**

Xcel did not establish by a preponderance of the evidence that the control cables would have failed during Prairie Island’s operating life. Xcel argues that “it is uncontested” that the cables would have failed in the future if Xcel had not bored through them in October 2023.<sup>21</sup> This claim is very much contested.<sup>22</sup> Xcel’s assertion that the cables would have failed overstates the evidence, and for the reasons described below, the ALJ and Commission should give the evidence that does support it little weight.

Xcel’s claim rests on the testimony of two engineers, Carl Bible and Allen Hiser, that Xcel hired to testify in this case. Bible’s report, attached to his direct testimony, states that “[t]here was a high probability that cables in the direct buried section would have failed during future plant operation if not discovered during the boring activity.”<sup>23</sup> Likewise, Hiser’s report states that the evidence of degradation found on the severed cables “indicat[ed] that failure was likely to occur within the intended SLR operating period.”<sup>24</sup> These prognostications fall short of establishing that the cables would have failed during Prairie Island’s operating life, particularly considering weaknesses in the witnesses’ testimony that were exposed at the hearing.

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<sup>21</sup> Xcel Br. at 39.

<sup>22</sup> See OAG Br. at 24–25.

<sup>23</sup> Ex. Xcel-10, sched. 2 at 3 (Bible Direct); see also Evid. Hrg. Tr. at 69:3–5 (Bible) (claiming that the cables “were not going to last longer than a couple years in the future, if that”).

<sup>24</sup> Ex. Xcel-13, sched. 2 at 15 (Hiser Direct).

Neither Bible nor Hiser had personal knowledge of the condition of the control cables. Neither claimed to have, for example, visited Prairie Island or personally examined or tested the cables. Instead, their knowledge of the cables' condition depended entirely on the EPRI report.<sup>25</sup> The EPRI report, however, provides no insight into whether or when the cables would have failed from degradation. Instead, it concludes that the combination of excavation damage, cable-jacket degradation, and the soil's likely thermal resistance meant that replacing the cables "represented best industry practice."<sup>26</sup> Put differently, the report does not say that in the absence of excavation damage, the cables would have failed, much less failed in any particular time period. Rather than providing any definitive answers, most of the report's conclusions are heavily caveated because Xcel mishandled the soil and cable samples.<sup>27</sup>

Beyond citing EPRI's findings, neither Bible nor Hiser provided a basis for his opinion that the cables would likely have failed within Prairie Island's extended operating life. Hiser admitted to lacking experience with degraded control cables like those at Prairie Island.<sup>28</sup> He conceded that predicting what would have happened to the cables absent the October 2023 incident involves speculation.<sup>29</sup> And, contrary to the idea that further degradation was inevitable, Hiser testified that a buried cable could last "a thousand years" without degrading.<sup>30</sup> Bible claimed experience with control cable failures but failed to describe that experience.<sup>31</sup> Bible primarily cited his "decades of experience" working with Florida Light & Power's (FPL) nuclear fleet as the

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<sup>25</sup> See Ex. Xcel-10, sched. 2 at 3–4 (Bible Direct); Ex. Xcel-13, sched. 2 at 4–5 (Hiser Direct).

<sup>26</sup> Ex. OAG-5 at 16 of 16 (Xcel Response to DOC IR 38) (emphasis added).

<sup>27</sup> Moreover, to the extent that the EPRI report supports the idea that the control cables would have eventually failed, it also supports the conclusion that Xcel's imprudent installation of the cables contributed to this failure. See OAG Br. at 4–8, 26–28.

<sup>28</sup> Evid. Hrg. Tr. at 95:22–24 (Hiser).

<sup>29</sup> *Id.* at 103:13–16 (Hiser).

<sup>30</sup> *Id.* at 95:15–19 (Hiser).

<sup>31</sup> See Ex. Xcel-10, sched. 2 at 2 (Bible Direct).

basis for his opinions.<sup>32</sup> Yet during Bible's tenure at FPL, which included management roles, FPL's nuclear fleet was plagued by imprudence, forced outages, and "integrity" issues.<sup>33</sup> As a result, the ALJ should find that Bible's testimony lacks credibility and give his predictions little weight.

**B. Xcel Failed to Establish How a Future Cable-Replacement Outage Would Have Transpired.**

Xcel argues that witness Bible provided a "thorough discussion" of how the 2029 cable-replacement outage would have been sequenced, claiming that Bible's testimony establishes that the cable replacement would have been critical path.<sup>34</sup> This "thorough" discussion, however, comprises just one page's worth of text in Bible's rebuttal testimony in which he describes a flowchart containing an illustrative timeline for the 2029 cable replacement.<sup>35</sup> This flowchart was prepared by Xcel, not Bible, and reflects Xcel's assumption that the 2029 refueling would occur "without major work scope other than the cable replacement project."<sup>36</sup> Bible accepts this assumption uncritically, yet there is no discernable basis for it other than to maximize the size of Xcel's offset.

Xcel's arguments assume that it is entitled to a full offset of the 2029 outage's replacement-power costs as long as the cable replacement is critical-path in that outage. But Xcel ignores the potential for overlapping work that is not critical path. And Xcel provides no support for the idea that it may ignore potential concurrent work in calculating the offset simply because the concurrent work may not be critical path.

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<sup>32</sup> *See id.*

<sup>33</sup> *See* Evid. Hrg. Tr. at 75–85 (Bible); Ex. DOC-9 (Fla. Pub. Serv. Comm'n Order No. PSC-09-0024-FOF-EI); Ex. DOC-10 (Fla. Pub. Serv. Comm'n Audit Report).

<sup>34</sup> Xcel Br. 36–37.

<sup>35</sup> *See* Ex. Xcel-11 at 6–7, sched. 1 at 110 (Bible Trade Secret Rebuttal).

<sup>36</sup> Ex. Xcel-5, sched. 2 at 3 (Detmer Direct).

The record shows that Xcel’s assumption that no other major work would occur at the same time as the cable replacement is unrealistic. First, while Xcel assumes 27 days of overlapping refueling work in the 2029 outage, most of Xcel’s planned outages have been longer than 27 days—and many much longer.<sup>37</sup> Second, Xcel maintains a “dual unit forced outage list” of projects that can only be completed when both units are offline.<sup>38</sup> Xcel has failed to explain why no projects from this list would have been scheduled to be completed concurrently with a 2029 cable replacement, as occurred during the October 2023 outage. Finally, a list of planned projects at Xcel’s nuclear facilities shows that Xcel has scheduled millions of dollars of investment in Prairie Island for 2029.<sup>39</sup> Yet Xcel apparently assumes that none of these 2029 projects will occur during a refueling outage planned for the same year.

These facts illustrate that Xcel chose assumptions designed to maximize the size of its offset rather than to represent a realistic 2029 cable-replacement scenario. Importantly, even if Xcel had shown that the cable-replacement project would be the critical-path project (i.e., the longest-duration project) during the 2029 refueling outage, its assumption that no other major work would occur still tends to overstate avoided costs. This is because completing the cable replacement only avoided outage days in 2029 to the extent that a 2029 cable replacement would have exceeded the length of other work occurring during the same outage. In other words, the more supplemental work that was scheduled to overlap with the cable replacement, the less the cable-replacement work would “extend” the outage. And, again, Xcel has provided *no* basis for

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<sup>37</sup> See Ex. OAG-6 at 2–4 tbl.1 (listing planned outages at Prairie Island since January 2005).

<sup>38</sup> Ex. OAG-4 at 4 (Lee Surrebuttal).

<sup>39</sup> See Ex. OAG-4 at 10–11 & n.26 (Lee Surrebuttal) (citing MPUC Docket No. E-002/RP-24-67, Compliance Filing – Planned Investments – Monticello and Prairie Island Nuclear Generating Plants (July 18, 2025)).

its self-serving assumption that control-cable replacement would be the *only* major work to occur during the 2029 refueling outage.

Finally, even if Xcel had carried its burden to show that the control cables would otherwise have been replaced in 2029 and how much this would have increased the outage's length, Xcel's estimate of the avoided 2029 costs relies on many other uncertain assumptions and does not provide a reasonable estimate. Among those assumptions are: (1) that the control-cable degradation was not its fault<sup>40</sup>; (2) that a future outage would not be caused by Xcel imprudently severing the cables<sup>41</sup>; and (3) that Minnesota's sales growth relative to North and South Dakota will yield a 77.30% fuel-cost allocator in 2029.<sup>42</sup> In addition, Xcel had to make dozens of other assumptions to model replacement-power costs in 2029, including hourly LMPs, hourly loads, monthly fuel prices, monthly operation and maintenance costs for every generator, unit heat rates, outage rates, startup costs, and fuel-transportation costs, just for starters.<sup>43</sup> Xcel cannot provide reasonable assurance of the accuracy of any of these assumptions, much less all of them. This degree of speculation underscores the Commission's wisdom in rejecting Xcel's similar avoided-cost offset in the Sherco case,<sup>44</sup> and why it should do so again here.

### **III. XCEL FAILED TO PROVE THAT THE SUPPLEMENTAL WORK AVOIDED FUTURE OUTAGE TIME.**

The OAG's initial brief demonstrated the following with respect to two "supplemental" projects for which Xcel seeks a \$500,000 offset. First, Xcel offered no basis to believe that either

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<sup>40</sup> See OAG Br. at 27–28.

<sup>41</sup> See *id.* at 27.

<sup>42</sup> See *id.* at 30–31.

<sup>43</sup> Ex. XLI-3 at 9 (Andrews Surrebuttal).

<sup>44</sup> See *In re Application of N. States Power Co.*, MPUC Docket Nos. E-002/GR-12-961 et al., ORDER ADOPTING ADMINISTRATIVE LAW JUDGE REPORT AS MODIFIED, REQUIRING REFUND OF CERTAIN DISALLOWED REPLACEMENT POWER COSTS, AND REQUIRING FURTHER ACTION at 36 (Dec. 24, 2024).

of these projects, had Xcel not completed them in 2023, would on their own have caused Xcel to schedule a dual-unit outage—in fact, evidence suggests the contrary.<sup>45</sup> Second, there is no evidence that these projects would be critical-path in any future outage, and we know that they were *not* critical-path in the October 2023 outage.<sup>46</sup> If the need to complete these projects, alone, would not be enough to prompt an outage, or even if the projects did prompt an outage but they were not critical-path, then doing them in 2023 avoided no future replacement-power costs.

Xcel describes as “conjecture” the idea that the supplemental projects could have been scheduled concurrently with other work in a future outage and accuses the OAG of not offering affirmative evidence of this.<sup>47</sup> In so arguing, Xcel engages in burden shifting.

Xcel has the burden to show that every cost it recovers through the Fuel Clause Rider is just and reasonable.<sup>48</sup> Moreover, Xcel has the affirmative burden to prove every fact supporting its offset by a preponderance of the evidence.<sup>49</sup> As noted above and in the OAG’s testimony, Xcel’s supplemental-work offset relies on several assumptions, each of which Xcel has the burden to prove.<sup>50</sup> One of these assumptions is that “pulling forward” the supplemental projects into the October 2023 outage avoided outage days in the future. There are several ways in which Xcel has failed to prove this, including by assuming without evidence that these projects would otherwise have been completed during an outage with no other work scope (making them the critical-path projects driving the outage length).<sup>51</sup>

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<sup>45</sup> OAG Br. at 19.

<sup>46</sup> *Id.* at 20.

<sup>47</sup> Xcel Br. at 41.

<sup>48</sup> See Minn. R. 7825.2390; Minn. Stat. § 216B.16, subd. 4.

<sup>49</sup> See Minn. R. 1400.8608 (providing that if a party “asserts any affirmative defenses, that party shall have the burden of proving the defense by a preponderance of the evidence”).

<sup>50</sup> See Ex. OAG-1 at 8–9 (Lee Direct); Ex. OAG-4 at 3–6 (Lee Surrebuttal).

<sup>51</sup> See OAG Br. at 19–20; Ex. OAG-1 at 8–9 (Lee Direct); Ex. OAG-4 at 3–6 (Lee Surrebuttal).

Xcel argues that it is not required to “definitively” demonstrate that the supplemental projects would be critical-path.<sup>52</sup> Much less than definitive proof, the only evidence Xcel offered for this proposition was witness Bible’s testimony that, since the projects required both generating units to be offline, the projects would drive outage days for the non-refueling unit in a future outage.<sup>53</sup> It is hardly a groundbreaking insight that completing projects that require a dual-unit outage requires both units to be shut down. Xcel entirely fails to address whether the supplemental projects would have been scheduled to occur in tandem with other, longer duration dual-unit projects.<sup>54</sup> Xcel also fails to grapple with the fact that the cooling-water-system pipe replacement project was on the “dual unit forced outage list,” meaning that it would never by itself be the *cause* of a dual-unit outage—rather, Xcel was holding it in reserve for when other factors occasioned a dual-unit outage.<sup>55</sup> For these reasons, and as more fully explained in the OAG’s initial brief, the fact that the supplemental projects required a dual-unit outage does not mean that completing them during the October 2023 outage avoided outage time in the future.<sup>56</sup>

Even if Xcel had established that completing the supplemental work avoided future outage time, the ALJ and Commission would have to accept as true still other assumptions that underlie the calculation of avoided costs. These include many if not most of the assumptions that apply to the “avoided 2029 costs” offset—namely, (1) that the supplemental projects would otherwise have been completed in 2029<sup>57</sup>; (2) that Minnesota’s sales growth relative to North and South Dakota

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<sup>52</sup> Xcel Br. at 41.

<sup>53</sup> Ex. Xcel-12 at 7–8 (Bible Rebuttal).

<sup>54</sup> Ex. OAG-4 at 3 (Lee Surrebuttal).

<sup>55</sup> *Id.* at 4.

<sup>56</sup> See OAG Br. at 18–20.

<sup>57</sup> See Ex. OAG-1 at 7 (Lee Direct) (noting that Xcel recycled the production-cost modeling used for the “avoided 2029 costs” offset to value avoided costs for the supplemental work even though the supplemental projects were not scheduled to occur in 2029).

will yield a 77.30% fuel-cost allocator<sup>58</sup>; and (3) many other assumptions required to model production costs in 2029.<sup>59</sup> For all these reasons, the ALJ and the Commission should reject the “supplemental work” offset as too speculative to yield a just and reasonable refund.

### CONCLUSION

For the foregoing reasons, along with those discussed in the OAG’s initial brief, the ALJ should recommend and the Commission should order that Xcel refund \$40.6 million to ratepayers, with interest at the prime rate compounded monthly until the refund is fully paid.

Dated: January 8, 2026

Respectfully submitted,

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<sup>58</sup> See OAG Br. at 30–31.

<sup>59</sup> Ex. XLI-3 at 9 (Andrews Surrebuttal).