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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

MPUC Docket No. E-002/GR-24-320  
CAH File No. 28-2500-40515

**MINNESOTA DEPARTMENT OF COMMERCE'S  
ARGUMENT AND EXCEPTIONS**

May 15, 2026

## TABLE OF CONTENTS

INTRODUCTION .....	1
ARGUMENT .....	1
I. XCEL’S UNNECESSARY AND UNSUSTAINABLE RATE GROWTH .....	2
II. EXPENSE OR RATE BASE RELATED ISSUES .....	6
A. Sherco Unit 3 and Allen S. King Coal Plants Remaining Lives (Findings ¶¶ 324–40, pages 53–56) .....	7
B. Prepaid Pension and Accrued Liabilities (Findings ¶¶ 341–66, pages 56–59) .....	11
C. Indirect Wildfire Allocations (Findings ¶¶ 529–45, pages 83–86).....	21
D. Base Pay (Findings ¶¶ 546–65, pages 83–89) .....	22
E. Non-Qualified Expenses (Findings ¶¶ 640–51, pages 101–03).....	28
F. Insurance (Findings ¶¶ 752–67, pages 119–22).....	30
G. Residential Arrears Management Program (Findings ¶¶ 847–68, 1130–42; pages 134–37, 183–85).....	36
III. COST OF CAPITAL – RATE OF RETURN (FINDINGS ¶¶ 883–994, PAGES 139–59).....	38
A. The Department’s Recommended ROE Is Analytically Sound and Well-Supported by the Record.....	39
B. The ALJ’s Finding That the Department’s Multi-Stage DCF Overcorrects the Two-Stage DCF’s Flaws is Unsupported.....	41
C. The ALJ’s Findings Establish That the Recommended ROE Is Not Commensurate with Xcel’s Investment Risk.....	43
D. The Commission Should Adopt the Department’s Cost-of-Capital Report Modifications. ....	45
IV. XCEL’S FINANCIAL SCHEDULES COMPLIANCE FILING AND ANNUAL NUCLEAR REFUELING OUTAGE REPORTING.....	49
CONCLUSION.....	50

## INTRODUCTION

In this case, the Administrative Law Judge (ALJ) recommended granting Xcel a two-year revenue increase totaling about \$117.0 million (3.19%) in 2025 and \$130.6 million (3.46%) in 2026. In arriving at this recommendation, the ALJ found that the Commission should adopt some Department-supported adjustments reducing the Company's proposed revenue requirement. The ALJ also recommended approving many Xcel proposals. But some of these recommendations lack record support or conflict with long-standing rate-making principles or generally applicable law. Given these deficiencies, the Commission should reject the ALJ's recommendation in several key areas involving cost recovery and rate base returns where the ALJ accepted Xcel's positions despite insufficient evidence or legal support. The Commission should modify the ALJ's recommendations in these areas because adopting the report without these corrections will not result in just and reasonable rates.

## ARGUMENT

Although rate cases, including this one, are often litigated as a collection of various discrete financial, revenue apportionment, and rate design issues, this is a matter of convenience, not legal necessity. The Commission's sole obligation is setting a rate with a non-confiscatory net effect.<sup>1</sup> A rate is confiscatory only when its "total effect" jeopardizes the utility's financial integrity, either by leaving it with insufficient operating capital or by impeding its ability to raise future capital.<sup>2</sup> As a result, the Commission need only consider whether the rate's net effect enables the utility to operate successfully, maintain its financial integrity, attract capital, and compensate investors for

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<sup>1</sup> *Fed. Power Comm'n v. Nat. Gas Pipeline Co. of Am.*, 315 U.S. 575, 585 (1942).

<sup>2</sup> *In re Request for Serv. in Qwest's Tofte Exch.*, 666 N.W.2d 391, 398 (Minn. Ct. App. 2003) (citing *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989)).

the business risk assumed.<sup>3</sup> This standard reflects the reality that ratemaking requires pragmatic adjustments to reach a final result that is just and reasonable for both the utility and its customers.<sup>4</sup>

Applying this standard, the Commission should be skeptical of both Xcel's request to increase rates by nearly a half billion dollars and the ALJ's more modest \$247.6 million recommendation. Contrary to ALJ's findings on several issues, Xcel has neither demonstrated that its accelerating rate growth is necessary or sustainable, nor has it justified the elevated costs and expanded revenue requirements embedded in its proposal. Xcel has likewise failed to establish that any increase to its authorized return on equity is warranted given its continued financial success and access to capital. Instead, the Commission should adopt the Department's recommended modifications to ensure that Xcel's customers pay no more than necessary to avoid a confiscatory rate. Doing so will align the final order with long-standing ratemaking principles and protect customers and Minnesota's economy from needless financial burden.

#### **I. XCEL'S UNNECESSARY AND UNSUSTAINABLE RATE GROWTH.**

Contrary to Xcel's claim it needs a rate increase, the record establishes that Xcel is thriving under its current rates while those rates are straining its captive customers. Indisputable data establishes that Xcel's rates have transformed the utility from a low- to high-cost energy provider since the early 2000s. Data likewise shows that these rate increases have harmed family budgets and business growth. And finally, Xcel's own financial reporting demonstrates that these increases are unnecessary as the Company continues to report growing profits and favorable access to capital. Taken together, these trends demonstrate that Xcel's request for additional revenue is not supported by current conditions.

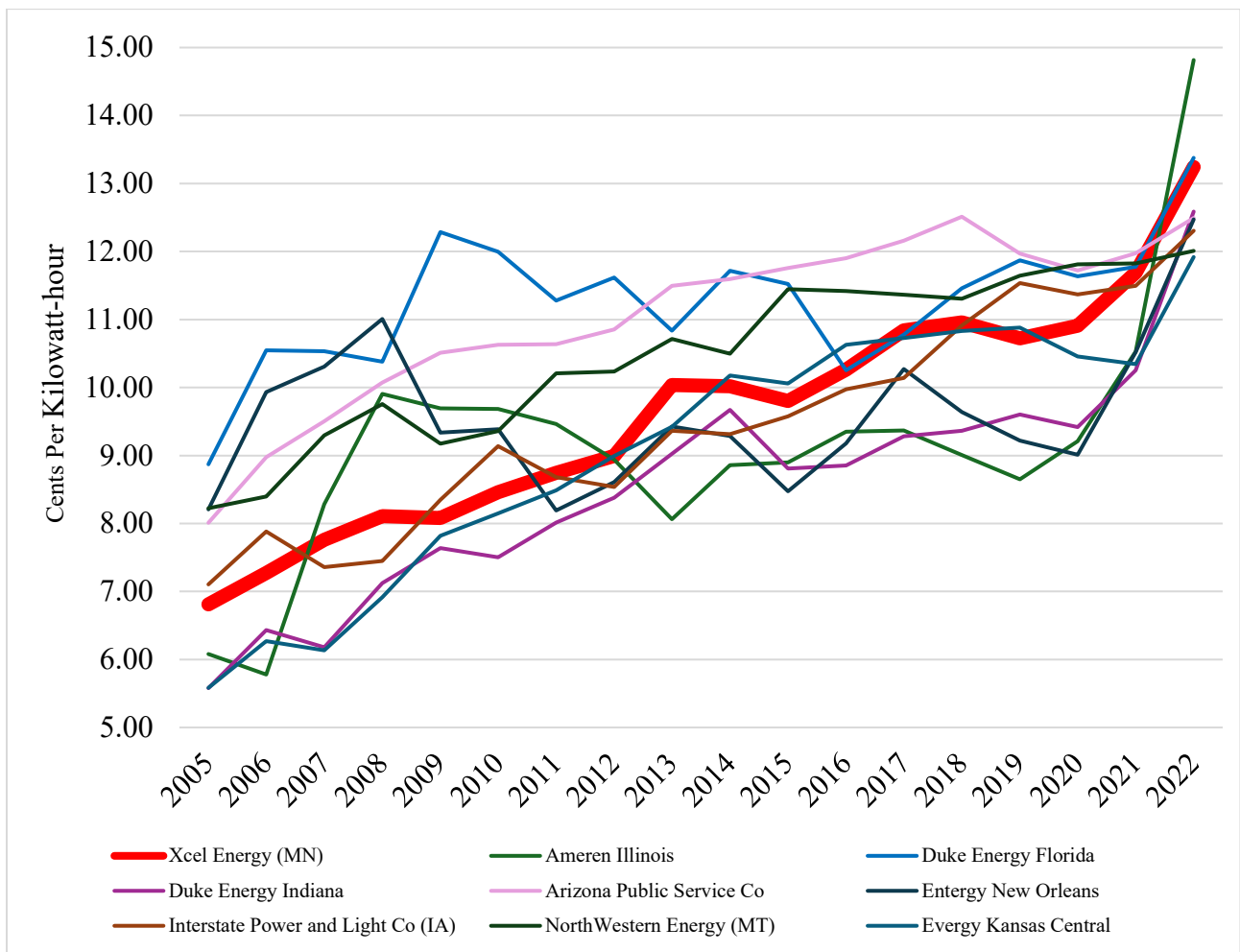
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<sup>3</sup> *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 605 (1944).

<sup>4</sup> *Fed. Power Comm'n*, 315 U.S. at 585; *Minnegasco v. Minn. Pub. Utils. Comm'n*, 549 N.W.2d 904, 908 (Minn. 1996).

Any new rate increase must account for Xcel’s unsustainable rate growth over the last two decades. Since 2005, Xcel’s rates have increased at least 98%, nearly double the inflation rate.<sup>5</sup> By 2023 (the most recent data at the time of direct testimony), Xcel’s rates were nearly 3.5 cents and 5.5 cents higher than Minnesota Power’s and Otter Tail Power’s rates respectively.<sup>6</sup> And as reflected in the figure below, Xcel’s rates also have grown faster than its self-identified out-of-state peers—and are now among the highest.<sup>7</sup>

**Xcel’s Electric Rates Relative to Peer Utilities<sup>8</sup>**



<sup>5</sup> Ex. DOC-1 at 22 (Johnson Direct).

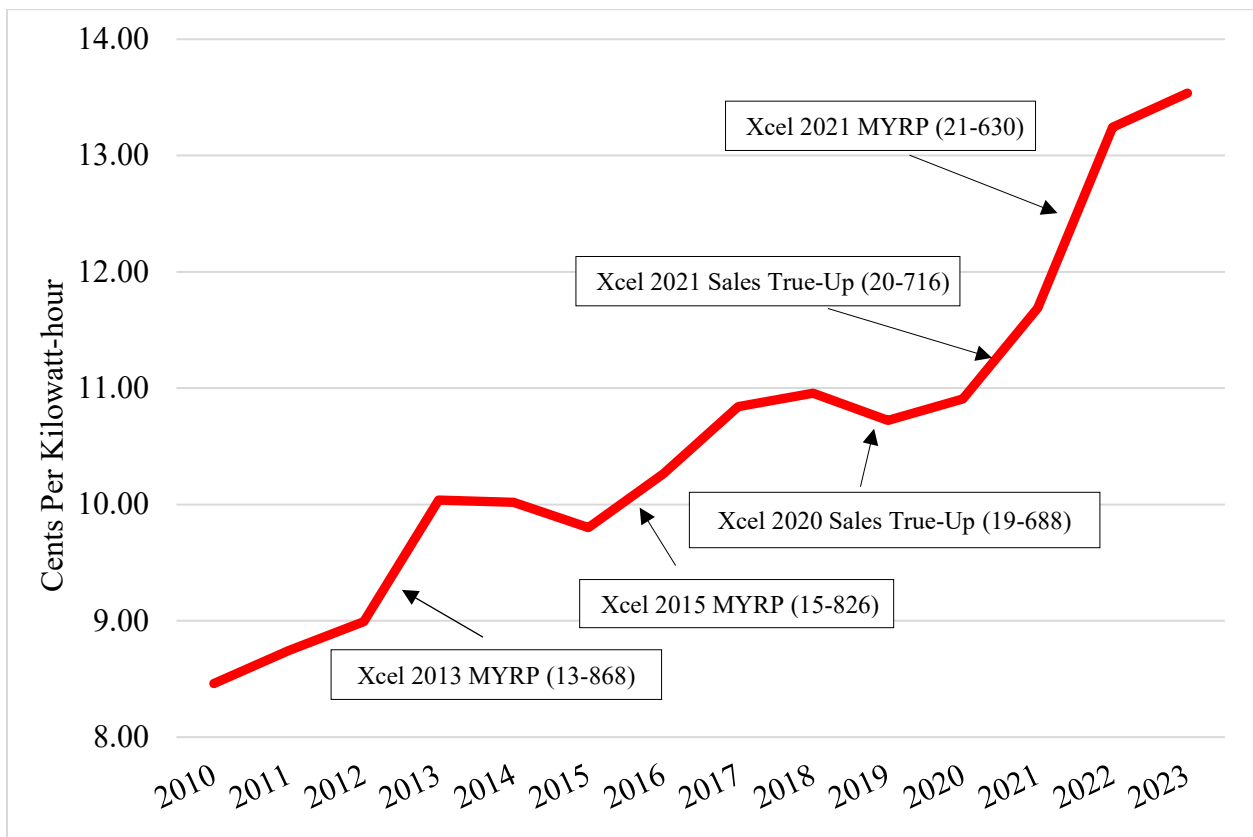
<sup>6</sup> Ex. DOC-1, MAJ-D-3 at 1 (Johnson Direct).

<sup>7</sup> Ex. DOC-1 at 22 (Johnson Direct).

<sup>8</sup> Ex. DOC-1, MAJ-D-3 at 4 (Johnson Direct).

A key driver of Xcel’s rising rates has been aggressive rate-increase requests. Since it started filing multi-year rates plans (MYRPs) in the early 2010s, Xcel’s rate increases have escalated while the pace of its rate-case filings remained largely unchanged: the 2013 MYRP resulted in a 5.9% increase, the 2015 MYRP resulted in an 8.1% increase, while the 2021 MYRP resulted in a 9.6% increase. By contrast, the largest rate increase in Xcel’s four prior traditional rate cases was 5.5%.<sup>9</sup>

**Xcel’s Minnesota Electric Rates: 2010 to 2023<sup>10</sup>**



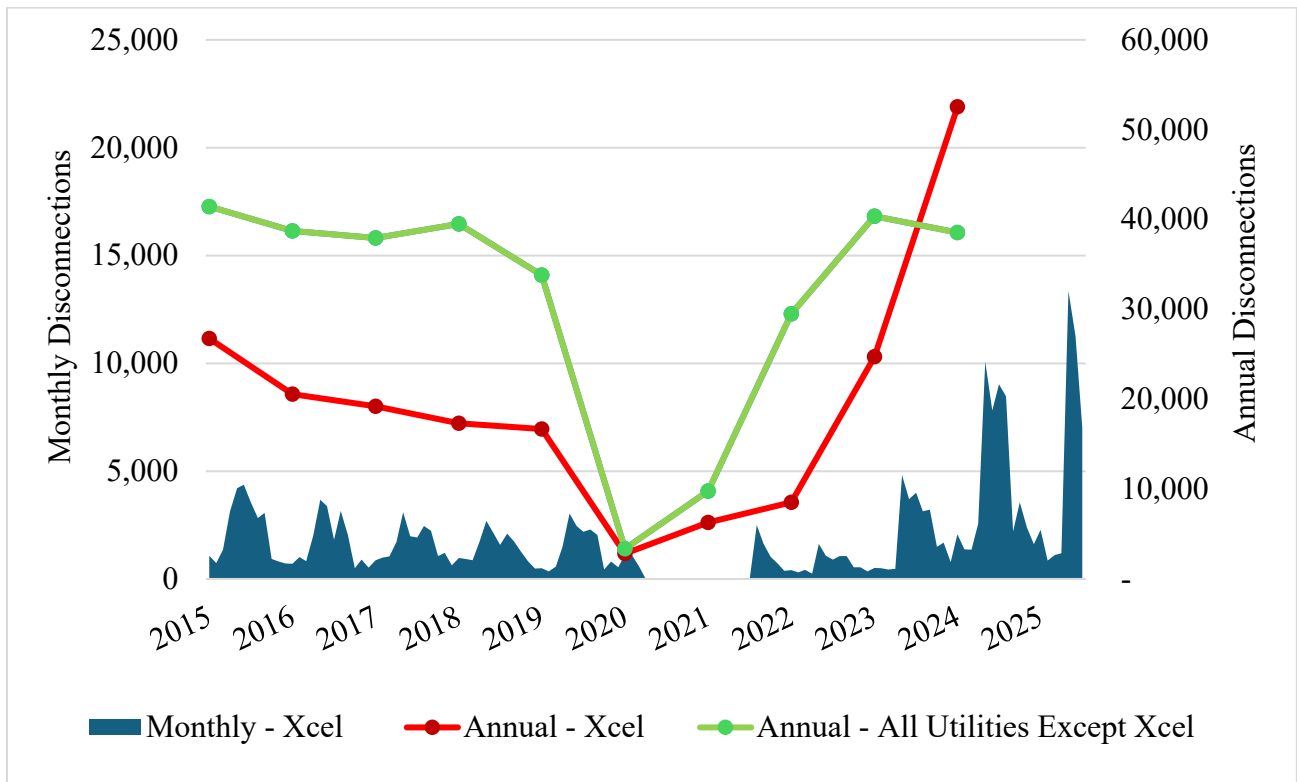
Xcel’s rising rates have created unprecedented energy burdens and record disconnections for households and businesses. Xcel’s rates for industrial customers are now 13% above the

<sup>9</sup> Ex. DOC-1 at 24 (Johnson Direct).

<sup>10</sup> Ex. DOC-1, MAJ-D-3 at 4 (Johnson Direct).

national average.<sup>11</sup> Similarly, about 13% of Xcel’s residential customers now spend more than 6% of their income—the standard for measuring an excessive energy burden—on energy.<sup>12</sup> These rising burdens have spiked utility disconnections. As shown in the figure below, Xcel disconnected more than 52,000 residential customers in 2024, which was more than double the year before, and roughly double the number of disconnections conducted in—the previous record year—2015.<sup>13</sup>

**Xcel’s Customer Disconnections**



Ultimately, the Commission must weigh Xcel’s request not in isolation, but against the real-world consequences borne by the customers who fund the utility’s success. Xcel is thriving financially under existing rates. Xcel has consistently issued new debt and equity at favorable rates

<sup>11</sup> Ex. XLI-3 at 32 (Ly Direct).

<sup>12</sup> Ex. JIN-2 at 31 (Chan Direct).

<sup>13</sup> Ex. CUB-3 at 10–11 (Levenson-Falk Direct).

since its last rate case, while its credit ratings have remained stable or improved through 2025.<sup>14</sup> Despite claiming financial risk, Xcel's profitability has grown significantly, including rising earnings, higher net income, and a record stock price in 2025.<sup>15</sup> Approving significant additional increases under these conditions would exacerbate those harms without any demonstrated need. The Commission should therefore reject Xcel's request and adopt the Department's recommendations.

## **II. EXPENSE OR RATE BASE RELATED ISSUES**

While the ALJ's report adequately resolves some issues, the Commission should not simply adopt it.<sup>16</sup> The Commission should modify the report by shortening the depreciation lives of Xcel's Sherco Unit 3 and King coal plants to match their expected operating lives. It also should limit Xcel to earning a return on its real-world pension interest and require Xcel to allocate indirect wildfire costs in a cost-causative manner. In addition, the Commission should cap Xcel's base-pay increase to an amount supported by the record and prohibit Xcel from charging customers for taxable fringe benefits offered to executives. The Commission should further deny Xcel an insurance true-up mechanism that would disincentivize prudent cost management and limit cost recovery for a customer-assistance program to match the expected implementation date.

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<sup>14</sup> Ex. Xcel-20 at 18 (Wehner Direct); Ex. Xcel-21 at 6 (Wehner Rebuttal); Evid. Hrg. Tr. Vol. 1 at 43–44 (Wehner).

<sup>15</sup> Ex. DOC-1 at 25 (Johnson Direct); Ex. DOC-26 at 49 (Xcel Energy, Inc.'s 2024 Form 10-K showing that Xcel's net income was \$1.9 billion in 2024 compared with \$1.7 billion in 2023).

<sup>16</sup> The Department accepts the ALJ's recommendations for miscellaneous benefit, life, LTD expenses, Findings ¶¶ 631–40; and liquidated damage revenues, *id.* ¶¶ 740–51. These concessions are limited to this proceeding. The Department does not concede the validity of any contrary arguments, accuracy of any evidence, or strength of any positions and may take the same or similar positions in other cases.

**A. Sherco Unit 3 and Allen S. King Coal Plants Remaining Lives (Findings ¶¶ 324–40, pages 53–56)**

In Xcel’s most recent integrated resource plan, the Commission approved shortening the operating lives of the Sherco Unit 3 and Allen S. King coal generating plants.<sup>17</sup> The Commission also approved extending the operating lives of the Monticello and Prairie Island Nuclear Generating Plants. Here, all parties agreed, and the ALJ recommended, that the Commission should update the nuclear plants’ depreciation lives to reflect their approved operating lives.<sup>18</sup> The Department further recommended that the Commission also follow its usual practice of updating the depreciation lives to match approved operating lives for the Sherco 3 and King coal plants.

The ALJ disagreed with the Department’s position and instead recommended that the Commission make no adjustment to the Sherco 3 and King coal plant depreciation lives for now.<sup>19</sup> The Commission should reject this finding because the ALJ relied on an unsupported finding that matching the coal plants’ depreciation lives to their approved operating lives would result in rate shock and create intergenerational inequity.<sup>20</sup> Depreciation lives should be considered for the rate case as a whole, rather than on a plant-by-plant basis, for purposes of determining rate shock. Deferring a decision on what to do with the plants’ depreciable lives would likely saddle ratepayers with more than \$63 million in otherwise avoidable costs for shareholder profit,<sup>21</sup> or leave the utility with stranded assets. The Commission should resolve the issue now in a way that fairly balances competing interests.

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<sup>17</sup> *In re Xcel Energy’s 2024-2040 Upper Midwest Integrated Resource Plan*, MPUC Docket No. 24-67, ORDER APPROVING SETTLEMENT WITH MODIFICATIONS at 10 (Apr. 21, 2025) (eDocket No. [20254-217941-01](#)).

<sup>18</sup> Findings ¶¶ 157–58.

<sup>19</sup> *Id.* ¶ 339.

<sup>20</sup> *Id.* ¶ 336.

<sup>21</sup> Ex. DOC-24 at HDJ-S-3 (Jones Surrebuttal).

**1. The Commission Should Adjust the Sherco 3 and King Coal Plant Depreciation Lives to Match Their Approved Operating Lives.**

The Commission's Four-Tiered Ratemaking Order provides a framework for ratemaking treatment of early retiring electric generating facilities.<sup>22</sup> The Commission requires consideration of rate shock, but directs that the analysis should occur in a rate case—at the same time that other impacts to rates are being considered and addressed.<sup>23</sup> Despite the ALJ's conclusion that it is inappropriate to consider the net impact of depreciation changes made in a rate case, the Four-Tiered Ratemaking Order implies that the rate-shock analysis should be done on the level of overall changes to rates.<sup>24</sup> Adjusting the depreciable lives for plants to match the changes made in Xcel's most recent resource plan does not result in rate shock because it results in a net decrease to rates.

Changing the depreciable lives for the Sherco 3 and King coal plants now, when the depreciable lives of the Monticello and Prairie Island nuclear plants are being extended, presents a unique opportunity. This rate case may be the Commission's only opportunity to allow Xcel to recover its investment in these assets without causing a sharp future increase in rates or forcing ratepayers to pay shareholder profits on assets long after retirement.<sup>25</sup> All parties agree that rate shock is an important consideration. When combined with the recommended adjustments to the nuclear plants, there is a net negative impact to the revenue requirement, with reductions of about \$10.9 million for 2025 and \$13.6 million for 2026.<sup>26</sup> In contrast, Xcel's proposal to create a

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<sup>22</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 (May 14, 2025) (Four-Tiered Ratemaking Order) (eDocket No. [20255-218956-01](#)).

<sup>23</sup> Four-Tiered Ratemaking Order at Order Point 3.

<sup>24</sup> *See generally id.*

<sup>25</sup> Ex. DOC-24 at 19 (Jones Surrebuttal).

<sup>26</sup> *Id.*

regulatory asset for the uncaptured depreciation would result in charging ratepayers an additional \$63 million in shareholder profits alone.<sup>27</sup>

The ALJ asserts that matching depreciable lives would lead to intergenerational inequities by making today's ratepayers absorb the cost of accelerating the depreciation while allowing future ratepayers to enjoy the environmental benefits of the plants' closure.<sup>28</sup> This analysis is overly simplistic and ignores the reality that the previously unrecovered depreciation that would have been owed had the current operational life been in effect all along must come from somewhere. Moreover, while future ratepayers will enjoy the environmental benefits of the plants' early retirement, they will also be bearing the enduring impacts of climate change caused by previous generations of ratepayers, and the costs of new generation that will be needed to replace the retired coal plants. They should not be forced to do so while also paying off a regulatory asset for early retired plants.

The Department's recommendation, which results in a net decrease to depreciation expense and therefore rates, leverages circumstances are unlikely to arise again before a decision needs to be made on the accelerated depreciation for the retiring coal plants. If this opportunity is not taken now, the remaining options leave fewer opportunities for the Commission to balance ratepayers' interests against those of the utility.

## **2. The Commission Should Adopt the Following Coal Plant Remaining Lives Edits.**

To implement the Department's exceptions, the Commission should delete paragraphs 335–40 and replace them with two new findings as shown below:

~~335.—The Department's proposal would result in rate shock by increasing rates by \$58.8 million in 2025 and \$55.4 million in 2026. The proposed extension of the depreciation lives, and resulting revenue requirement reduction, of Xcel's nuclear facilities~~

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<sup>27</sup> *Id.* at 19–20.

<sup>28</sup> Finding ¶ 336.

~~is not an appropriate comparison point from which to suggest otherwise. The ultimate result of accepting the recommendations in this Report would be a substantial rate increase; and that increase would be nearly \$60 million per year higher if the Sherco 3 and King depreciation lives are shortened.~~

~~336.—The Department’s proposal would also result in intergenerational inequity. Customers in 2025 and 2026 would absorb the rate shock of paying for the sudden increase in rates, while environmental benefits of the accelerated closure of the two coal plants would be enjoyed by customers no longer paying for those generation assets.~~

~~337.—It is immaterial whether matching depreciation lives to operating lives was previously a standard Commission practice. The Commission explicitly recognized the complexities when deciding ratemaking treatment for large coal assets retired early to achieve carbon reduction goals, and developed a new practice for addressing those situations in the Early Retirement Docket. In that proceeding, the Commission contemplated that rate treatment of such assets would be subject to the four-tiered framework previously describe.~~

~~338.—Creating a regulatory asset at this time would also be inconsistent with the framework established in the Early Retirement Docket. Tier 3 of that framework applies to “assets that remain used and useful *at the time of their earlier retirements.*”<sup>351</sup> It is axiomatic that used and usefulness at the time of the plants’ retirement cannot be assessed until the time of their retirements.~~

~~339.—The Commission should adopt Xcel’s recommendation, supported by the OAG and XLI, to not adjust the remaining lives for the Sherco 3 and King plants.~~

~~340.—The Commission should reject the Company’s proposal to create a regulatory asset for the Sherco 3 and King plants, as recommended by the OAG and XLI.~~

335. Utilities recover capital costs for assets that are “used and useful” in providing service by depreciating those costs over a number of years.<sup>29</sup> The costs of an asset generally must be amortized over its “probable service life,” which is defined as the “time extending from the date of its installation to the forecasted date when it will probably be retired from service.”<sup>30</sup>

336. The depreciable lives of the Sherco 3 and King plants should be updated to match their approved operating lives. This decision reflects the Commission’s usual practice.<sup>31</sup> Moreover, matching the depreciable lives to the plants’ approved operating lives now will avoid rate shock by resulting in a net decrease to depreciation expense in this case, Matching depreciation lives with operating lives avoids intergenerational subsidies

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<sup>29</sup> See, e.g., Minn. Stat. § 216B.16, subd. 6.

<sup>30</sup> Minn. R. 7825.0500, subps. 2, 10 (2025).

<sup>31</sup> Ex. DOC-23 at 14 (Jones Direct).

(i.e., future ratepayers paying for benefits received by current ratepayers).<sup>32</sup> Here, there is an opportunity to pair the accelerated depreciation for the early-retiring coal plants with the nuclear plants' extended deprecation lives, resulting in a net reduction to revenue requirements when taken together.<sup>33</sup> Adjustments to depreciation lives should take place in rate cases, which means that it will be several years before the Commission's next opportunity to adjust depreciation lives.<sup>34</sup> Additionally customers pay their bills as a whole and not by plant, so the net reduction for depreciation changes does not result in rate shock for customers. Finally, if Xcel's proposal to create a regulatory asset earning the same rate of return as rate base is granted, ratepayers will end up paying \$63 million more in rates than they would if the depreciation were matched to the plants' operating lives.<sup>35</sup>

## **B. Prepaid Pension and Accrued Liabilities (Findings ¶¶ 341–66, pages 56–59)**

The ALJ recommended that the Commission allow Xcel to earn a return on the prepaid pension asset at the long-term cost of debt rate.<sup>36</sup> While an improvement over Xcel's request to earn a weighted average cost of capital ("WACC") return, the ALJ did not address the central issue: the nature and extent of Xcel's interest in the prepaid pension asset.<sup>37</sup> Instead, the ALJ appears to have concluded, without explanation, that Xcel has a regulatory asset equal to utility's cumulative contributions to a qualified pension plan in excess of cumulative pension expense.<sup>38</sup> The Commission should not accept this conclusion. First, Xcel has only a contingent reversionary interest in the prepaid pension asset with only nominal value as a matter of law. Second, even if the prepaid pension asset could be a regulatory asset, the Commission did not give Xcel pre-approval to create a regulatory asset. And if the Commission chooses to create a regulatory asset now, it should restrict the asset's dimensions to Xcel's real-world property interest in the pension trust. Finally, the Commission should not accept any crabbed reading that Xcel may offer regarding the court of appeals' holdings in two recent decisions.

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<sup>32</sup> *Id.* at 19.

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

<sup>34</sup> Four-Tiered Ratemaking Order at Order Point 3.

<sup>35</sup> Ex. DOC-23 at 19 (Jones Direct).

<sup>36</sup> Findings ¶¶ 361, 364.

<sup>37</sup> *Id.* ¶ 361.

<sup>38</sup> *Id.* ¶ 342.

## 1. Xcel Has a Speculative, Future Prepaid Pension Asset Interest.

Xcel lacks legal title to the prepaid pension asset held in the pension trust. Instead, Xcel has a right to leftover pension trust assets following the trust's termination and the satisfaction of all remaining liabilities. Xcel should only earn a return on this future interest.

Xcel does not own the prepaid pension asset. Instead, Xcel has a “contingent reversionary interest” in the prepaid pension asset. A transferor creates a contingent reversionary interest when it conveys property to another, but retains a future possessory interest not guaranteed to take effect.<sup>39</sup> Xcel's relationship to the prepaid pension asset has all the hallmarks of a contingent reversionary interest. First, Xcel conveys pension contributions to the “Xcel Energy Inc. Master Pension Trust.”<sup>40</sup> This trust is distinct from Xcel Energy, Inc. and its subsidiaries and affiliates.<sup>41</sup> Second, Xcel lacks a present interest in trust assets. Consistent with Employee Retirement Income Security Act (“ERISA”) and trust law principles, trust funds are instead held “separate and apart” from Xcel's assets.<sup>42</sup> The pension plan agreements, moreover, prohibit trust funds from being used for “purposes other than for the exclusive benefit of [b]eneficiaries.”<sup>43</sup> Third, Xcel is neither a beneficiary with equitable title nor a trustee with legal title to trust property.<sup>44</sup> Last, Xcel has only

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<sup>39</sup> Restatement (Third) of Property § 25.2 (2011) (“A future interest is either a reversion or a remainder. A future interest is a reversion if it was retained by the transferor. A future interest is a remainder if it was created in a transferee.”); *id.* § 25.3 (“A future interest is either contingent or vested. A future interest is contingent if it might not take effect in possession or enjoyment. A future interest is vested if it is certain to take effect in possession or enjoyment.”).

<sup>40</sup> Ex. DOC-11, SDH-S-5 at 372 (Hunt Surrebuttal) (DOC IR No. 2173, Attach. C - Page 3 of 30).

<sup>41</sup> Ex. DOC-11, SDH-S-4 at 2 (Hunt Surrebuttal); Evid. Hrg. Tr. Vol. 1 at 204 (Schrubbe) (“Q. You agree that Xcel is not a plan participant, right? A. That's correct. Q. Nor otherwise a beneficiary of the trust? A. No, . . . we're a fiduciary responsible. Q. And Xcel's not the trustee either? A. No. Q. That's . . . Principal Financial Services? A. That's correct.”).

<sup>42</sup> 29 U.S.C. § 1103(c)(1); Ex. DOC-11, SDH-S-5 at 92, 266 (Hunt Surrebuttal) (DOC IR No. 2173, Attach. A - Page 90 of 167; Attach. B – Page 97 of 200).

<sup>43</sup> *Id.*

<sup>44</sup> Ex. DOC-11, SDH-S-4 at 2 (Hunt Surrebuttal); *Sec. Bank & Tr. Co. v. Larkin, Hoffman, Daly & Lindgren, Ltd.*, 916 N.W.2d 491, 501 (Minn. 2018).

a future property interest. Under ERISA and the plan documents, Xcel is entitled only to residual assets following plan termination after all liabilities to plan beneficiaries are satisfied.<sup>45</sup>

In sum, Xcel does not own the pension trust or the assets contained within it. Nor is Xcel ever guaranteed to benefit from trust assets. Only if the trust is terminated and all the obligations to beneficiaries are fulfilled and something is left will Xcel receive residual trust assets. Xcel cannot credibly claim ownership of pension trust property. Xcel's interest is far less. It has a right only to leftover assets when the trust terminates.

**2. Xcel's Prepaid Pension Asset Interest Has Nominal or No Ascertainable Value and Therefore Should Earn a Negligible Return.**

Contrary to the ALJ's findings, the Commission should only permit Xcel to earn on its present interest in the prepaid pension asset. Xcel presently has a contingent reversionary interest in the asset, not a fee simple one. And contingent reversionary interests, such as Xcel's prepaid pension asset interest, almost always have nominal or no ascertainable value. And as a practical matter, Xcel appears to agree that its interest lacks value.

Xcel is not entitled to earn a return on property above-and-beyond its actual interest. Minnesota and many other states apply the same rule: you cannot earn on more than you own. For example, the Minnesota Court of Appeals upheld a Commission decision excluding contributions that a natural-gas distribution company made to an interstate transmission provider for pipeline construction. Because the pipelines were not the company's "utility property" under Minn. Stat. § 216B.16, subd. 6, the company was not entitled to a return on its contributions.<sup>46</sup> In Pennsylvania, an appeals court upheld a determination that parent company property could not be

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<sup>45</sup> Ex. DOC-11, SDH-S-5 at 78, 253 (Hunt Surrebuttal) (DOC IR No. 2173, Attach. A - Page 76 of 167; Attach. B – Page 84 of 200) (stating that “[a]ny funds held by the Trustee after making the allocations described in [29 U.S.C. § 1344] shall revert to and be paid to the Employer.”).

<sup>46</sup> *In re Appl. of Peoples Nat. Gas Co. for Auth. to Increase Rates for Gas Serv. in Minn.*, 413 N.W.2d 607, 615 (Minn. Ct. App. 1987).

included in rate base because the utility itself did not own it.<sup>47</sup> In another case, the Rhode Island Supreme Court affirmed a decision to only permit the portion of shared facilities owned by a utility to be included in rate base.<sup>48</sup> These cases establish that unless the utility owns the property—even property connected to utility service—no return on it is required. The Commission should apply the same principle here.

The Commission should only permit Xcel to earn a return on its reversionary interest's value. Such interests, however, have no “ascertainable value” unless they will be realized soon.<sup>49</sup> For example, a federal district court dismissed a 2020 property dispute, concluding that a reversionary interest—in a property with a possible \$12.3 million market value—was worth less than the \$75,000 amount necessary to confer subject-matter jurisdiction.<sup>50</sup> The court explained that no caselaw established an “ascertainable and non-nominal value” for the property interest.<sup>51</sup> This rule is mostly unchanged in other contexts. For example, even in eminent domain cases extinguishing a future interest, the typical rule remains that an owner is not entitled to compensation because the “interest is too remote and contingent.”<sup>52</sup> And even courts that have

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<sup>47</sup> *Popowsky v. Pa. Pub. Util. Comm'n*, 674 A.2d 1149, 1155–56 (Pa. Commw. Ct. 1996).

<sup>48</sup> *S. Cnty. Gas Co. v. Burke*, 486 A.2d 606, 608 (R.I. 1985).

<sup>49</sup> 28 Am. Jur. 2d *Estates* § 189 (2020) (“Generally, a possibility of reverter has no ascertainable value when the event upon which the possessory estate in fee simple defeasible will end is not likely to occur in the near future.”); Restatement (First) of Property § 53 (1936) (treating the owner of an estate in fee simple defeasible as identical with that of an owner of a estate in fee simple absolute for purposes of eminent domain).

<sup>50</sup> *6810 S. Hazel St. LLC v. Jefferson Hosp. Ass'n*, No. 5:19-CV-00322-LPR, 2020 WL 7028704, at \*4 (E.D. Ark. Nov. 30, 2020).

<sup>51</sup> *Id.*

<sup>52</sup> *State by Mondale v. Indep. Sch. Dist. No. 31*, 123 N.W.2d 121, 127 (Minn. 1963) (quoting *Chandler v. Jam. Pond Aqueduct Corp.*, 125 Mass. 544, 547 (1878)); see also *United States v. Certain Land in Cook Cnty., State of Minn.*, 248 F. Supp. 681, 682–83 (D. Minn. 1965) (explaining that the owner of reversionary interest is entitled to “nominal compensation” when that interest is extinguished).

adopted more forgiving standards still only mandate “nominal” compensation unless the owner can establish their post-reversion property usage constitutes the highest and best use.<sup>53</sup>

The “no ascertainable value” rule applies to Xcel’s prepaid pension asset interest. Xcel concedes it will not realize this interest soon—or likely ever. Xcel expects the trust to operate in perpetuity. And even if Xcel did intend to terminate the trust, it would be impossible to calculate the value of its interest now.<sup>54</sup> As a result, Xcel’s prepaid pension interest has little value today. Applying a rate of return to an asset with nominal or no ascertainable value produces a negligible revenue requirement adjustment. For example, if the Commission determined that Xcel’s interest had a nominal value, the return would be Xcel’s approved weighted average cost of capital (about 6.84% to 6.95%) multiplied against an “insignificantly small” value.<sup>55</sup> The result would be like multiplying any value with zero: close to zero. Given this mathematical fact, the Commission should grant Xcel a return on \$1,000 of rate base. This amount both reflects the minimum practical rate adjustment (anything less would round to \$0.00) and acknowledges that Xcel has some future possessory interest.<sup>56</sup>

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<sup>53</sup> *State by Mondale*, 123 N.W.2d at 129–30.

<sup>54</sup> Evid. Hrg. Tr. Vol. 1 at 204 (Schrubbe) (“Q. [I]t’s not possible to reliably calculate the value of what might be left over in the pension trust at [should Xcel terminate the trust in future] today? A. That’s correct.”).

<sup>55</sup> *In re N. States Power Co. ’s Appl. for Auth. to Increase Elec. Serv. Rates in Minn.*, Docket No. E-002/GR-21-630, FINDINGS OF FACT, CONCLUSIONS, & ORDER at 92–93 (July 17, 2023) (2021 Rate Case Order) (eDocket No. [20237-197559-01](#)); *Nominal*, American Heritage Dictionary (5th ed. 2022).

<sup>56</sup> *Cf. Dean v. City of Winona*, 868 N.W.2d 1, 8 (Minn. 2015) (involving a claim for “nominal damages of \$1.00” for constitutional violations); *Newcomb v. Meiss*, 116 N.W.2d 593, 595 (Minn. 1962) (involving a jury instruction restricting damages to a nominal amount, such as \$1.00).

**3. Even if the Commission Were to Create Prepaid Pension Regulatory Asset, Its Dimensions Should Follow Xcel’s Real-World Property Interest.**

The ALJ appears to have concluded that Xcel is entitled to a return on the cumulative difference between pension contributions and pension expense.<sup>57</sup> The ALJ, however, does not explain why Xcel has a legal interest in the cumulative difference. Because most of these expenses are incurred outside the test year, the ALJ may have concluded Xcel has a regulatory asset. But that conclusion misses the point. Even if true, the Commission—not Xcel—determines a regulatory asset’s dimensions. Those dimensions should follow Xcel’s actual, real-world property interest. And any claim that the prepaid pension asset is distinct from the pension trust ignores the undisputed fact that the funds comprising the asset are held in a trust that Xcel does not own.

Property rights arise—not from the Constitution—but from independent sources such as state law or existing rules.<sup>58</sup> That means regulatory assets stem from regulatory agency decisions taking into consideration relevant state laws, past decisions, and accounting rules.<sup>59</sup> In Minnesota, the Commission’s deferred accounting policies and Financial Accounting Standard 71 (“FAS 71”) often inform a regulatory asset’s contours. The Commission may permit a utility to book a regulatory asset when the company incurs an expense that is unforeseeable, unusual, and large

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<sup>57</sup> Finding ¶ 342.

<sup>58</sup> *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 538 (1985); *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972); *Hale v. Viking Trucking Co.*, 654 N.W.2d 119, 124–25 (Minn. 2002); see also *Batra v. Bd. of Regents of the Univ. of Neb.*, 79 F.3d 717, 720 (8th Cir. 1996) (holding for a property interest to arise, a plaintiff must have more than a “mere subjective expectancy.”).

<sup>59</sup> See, e.g., *City of Corpus Christi v. Pub. Util. Comm’n of Tex.*, 51 S.W.3d 231, 238 (Tex. 2001) (“Regulatory assets are essentially bookkeeping entries that reflect a charge to be included in a utility’s future rates.”); *Tex. Agencies & Insts. of Higher Learning v. Pub. Util. Comm’n of Tex.*, 450 S.W.3d 615, 646 (Tex. App. 2014) (“[T]he creation of regulatory assets is a function of the Commission’s discretion but is limited by its statutory authority.”); *Off. of Consumer Couns. v. Dep’t of Pub. Util. Control*, 905 A.2d 1, 11 (Conn. 2006) (“[T]he creation of a regulatory asset . . . is governed by Statement No. 71, while the recovery of a regulatory asset in a rate proceeding is a matter within the department’s broad discretion[.]”).

enough to transform the utility’s financial condition, or when necessary to meet important public policy mandates.<sup>60</sup> Under FAS 71, a regulator may also permit a utility to recover a past cost from customers in future rates.<sup>61</sup> But a regulator may adjust or even eliminate a claimed regulatory asset’s value.<sup>62</sup> And other regulators, such as the Federal Energy Regulatory Commission, also reject attempts to categorically treat prepaid pension as an asset for ratemaking.<sup>63</sup> These independent sources establish that the Commission exercises considerable discretion in “creat[ing]” and setting the “dimensions” of a utility’s regulatory property interest.<sup>64</sup>

The Commission should reject any claim that Xcel might make that it has a regulatory asset equal to the cumulative difference between all pension trust contributions and pension expense. As a factual matter, Xcel has not obtained Commission approval to record such an asset. And even if Xcel seeks approval, the Commission should exercise its discretion and expertise in determining the dimensions of any such asset.<sup>65</sup> A regulatory asset should track a utility’s real-world property interests. That mirrors the “you cannot earn on more than you own” rule. It also comports with long-standing notions of ownership. Future estate holders have no present right to income or profits

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<sup>60</sup> *In re Pet. for Approval of Deferred Acct. Treatment of Costs Related to the 2016 Storm Response & Recovery*, Docket No. E-015/M-16-648, ORDER DENYING PETITION FOR DEFERRED ACCOUNTING TREATMENT at 5 (Jan. 10, 2017) (eDocket No. [20171-127956-01](#)).

<sup>61</sup> *Off. of Consumer Couns. v. Dep’t of Pub. Util. Control*, 905 A.2d 1, 595–96 n.5 (Conn. 2006) (explaining that the creation of a regulatory asset is governed by Statement No. 71, while the recovery of a regulatory asset in a rate proceeding is a matter within the regulatory agency’s broad discretion).

<sup>62</sup> *Id.*; see also *Bus. & Pro. People for Pub. Int. v. Ill. Com. Comm’n*, 585 N.E.2d 1032, 1062–63 (Ill. 1991) (explaining that Illinois commission was under no obligation to approve recovery of the “full amount recorded” for a deferred charge).

<sup>63</sup> Ex. DOC-11 at 5–6, SDH-S-2 at 166 (Hunt Surrebuttal).

<sup>64</sup> *Cleveland Bd. of Educ.*, 470 U.S. at 538.

<sup>65</sup> Minn. Stat. § 216A.03.

generated by the property.<sup>66</sup> Given that Xcel’s property interest is weaker than many future estate holders enjoy, there is even less basis for the Commission to deviate from those principles here. The Commission should not permit Xcel to claim a regulatory asset based on property it does not own, and from which it may never benefit.

#### **4. The Court of Appeals’ Decisions Do Not Require the Commission to Award a WACC Return.**

In response, Xcel may claim it is entitled to a WACC return on the entire prepaid pension balance as a result of recent appellate decisions.<sup>67</sup> But Xcel would be wrong.

In both *Minnesota Power* and *Xcel*, the court of appeals addressed whether the Commission could categorically exclude prepaid pension from rate base on the grounds that prepaid pension lacks rate base asset characteristics. In both cases, the court concluded that the Commission could not.<sup>68</sup> After making this determination in Xcel’s appeal, the court remanded the matter to the Commission to determine whether any prepaid pension asset should be included in Xcel’s rate base.<sup>69</sup> Put another way, the court instructed the Commission to accept that prepaid pension can be a capital asset under Minn. Stat. § 216B.16, subd. 6. The asset’s exact dimensions and Xcel’s interest in the asset, however, still require “due consideration” by the Commission.

Applying the court’s direction, the Commission must determine (1) the nature and scope of any prepaid pension interest and (2) the appropriate return on that interest. For the reasons

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<sup>66</sup> *In re Perkins’ Est.*, 182 N.W.2d 881, 886 (Minn. 1970); *Ashbaugh v. Wright*, 188 N.W. 157, 158 (Minn. 1922); *Cf. Weber v. Eisentrager*, 498 N.W.2d 460, 464 (Minn. 1993) (observing “one can only convey what one has.”).

<sup>67</sup> *See, e.g., In re N. States Power Co.’s Appl. for Auth. to Increase Elec. Serv. Rates in Minn.*, Docket No. E-002/GR-21-630, Xcel Initial Cmts. at 2–3, 7–8 (Mar. 10, 2026) (eDocket No. [20263-229114-01](#)).

<sup>68</sup> *In re Appl. by Minn. Power for Auth. to Increase Rates for Elec. Serv.*, 12 N.W.3d 477, 493 (Minn. Ct. App. 2024); *In re Appl. by N. States Power Co.*, No. A23-1672, 2025 WL 249995, at \*10 (Minn. Ct. App. Jan. 21, 2025).

<sup>69</sup> *In re Appl. by N. States Power Co.*, 2025 WL 249995, at \*10.

discussed above, the Commission should determine that Xcel has only a contingent reversionary interest in the prepaid pension asset with only nominal value as a matter of law.

## 5. The Commission Should Modify the ALJ's Prepaid Pension Findings.

To implement the Department's exceptions, the Commission should revise paragraphs 347, 350, 357, and 361; delete paragraphs 348, 358, and 362–66; and adopt new paragraphs 357–59 as shown below:

347. The Xcel claims that the prepaid pension asset provides benefit to customers by enhancing the Company's ability to attract and retain employees. The value of the prepaid pension asset has no bearing on the benefits provided to beneficiaries. Xcel's obligations to beneficiaries are set forth in the pension plan documents and pension trust agreement.<sup>70</sup> The Employee Retirement Income Security Act ("ERISA") and federal tax law govern Xcel's obligations. Thus, if Xcel offers defined benefit retirement benefits, then it must comply with these requirements regardless of the prepaid pension asset's size or ratemaking treatment.

~~348. — The prepaid pension asset also helps the Company transition employees into retirement to manage its workforce, knowledge transfer, training, and succession planning.~~

349. Except under a few limited circumstances, pension contributions are legally irrevocable once placed in the pension trust, meaning they can only be used to fund the retirement benefits to employees who serve customers. If not for funding the pension trust, these funds could be retained by investors, invested elsewhere, or allocated to other assets that earn a return.

357. In support of this argument, the Department characterizes Xcel's interest in the prepaid pension asset as a contingent reversionary interest that Xcel has, at most, a nominal monetary present interest in value. The Department cites a variety of cases and secondary sources addressing property law to advance this argument.

~~358. — It is not necessary to characterize Xcel's proprietary interest in any residual funds from pension trust property or to quantify that interest in order to resolve this dispute. The question before the Commission is not what right Xcel shareholders have to the funds in the pension trust or in what amount. Rather, the question is whether the Company is entitled to earn a return on the trust to compensate it for the cumulative investor contributions necessary to fund the prepaid pension asset.~~

357. In giving "due consideration," the Commission must consider the nature and value of Xcel's property interest. The following reasons establish that Xcel has only a contingent reversionary interest:

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<sup>70</sup> Ex. DOC-11, SDH-S-5 at 1 (Hunt Surrebuttal).

- Reflecting ERISA requirements, both of Xcel’s pension trust agreements require that pension trust funds be held “separate and apart” from employer assets and prohibit their use for “purposes other than for the exclusive benefit of Beneficiaries.”<sup>71</sup>
- Xcel may only access residual pension trust funds after satisfying liabilities to plan beneficiaries.<sup>72</sup> Given these limitations, Xcel is not a beneficiary.<sup>73</sup> Because Xcel is not a beneficiary, the Department asserts, Xcel holds no equitable title in the trust property.<sup>74</sup>
- Xcel does not hold legal title to the trust property because it is not a trustee.<sup>75</sup>

358. Xcel is only entitled to a return commensurate with its property interest. As a matter of law, reversionary interests have only have nominal and often no ascertainable value, even when extinguished, unless the interest will be realized soon.<sup>76</sup> Xcel, however, is unlikely to realize this interest soon.<sup>77</sup>

359. Applying a rate of return to an asset with nominal or no ascertainable value produces a negligible revenue requirement adjustment. Given this mathematical fact, the Commission should grant Xcel a return on \$1,000 of rate base. This amount both reflects the minimum practical rate adjustment (anything less would round to \$0.00) and acknowledges that Xcel has some future possessory interest.<sup>78</sup>

<sup>71</sup> Ex. DOC-11, SDH-S-5 at 92, 266 (Hunt Surrebuttal).

<sup>72</sup> Id. at 78, 252.

<sup>73</sup> Ex. DOC-11, SDH-S-4 at 2 (Hunt Surrebuttal).

<sup>74</sup> Sec. Bank & Tr. Co., 916 N.W.2d at 501.

<sup>75</sup> Sec. Bank & Tr. Co., 916 N.W.2d at 501; Ex. DOC-11, SDH-S-4 at 2 (Hunt Surrebuttal); Evid. Hrg. Tr. Vol. 1 at 204 (Schrubbe).

<sup>76</sup> 28 Am. Jur. 2d Estates § 189 (2020) (“Generally, a possibility of reverter has no ascertainable value when the event upon which the possessory estate in fee simple defeasible will end is not likely to occur in the near future.”); Restatement (First) of Property § 53 (1936) (treating the owner of an estate in fee simple defeasible as identical with that of an owner of a estate in fee simple absolute for purposes of eminent domain); see also *United States v. Certain Land in Cook Cnty., State of Minn.*, 248 F. Supp. 681, 682–83 (D. Minn. 1965); *State by Mondale v. Indep. Sch. Dist. No. 31*, 123 N.W.2d 121, 129–30 (Minn. 1963); *Leeco Gas & Oil Co. v. Nueces Cnty.*, 736 S.W.2d 629, 630–31 (Tex. 1987); *6810 S. Hazel St. LLC v. Jefferson Hosp. Ass’n Inc.*, No. 5:19-CV-00322-LPR, 2020 WL 7028704, at \*2 (E.D. Ark. Nov. 30, 2020).

<sup>77</sup> Evid. Hrg. Tr. Vol. 1 at 208–09 (Schrubbe).

<sup>78</sup> Cf. *Dean v. City of Winona*, 868 N.W.2d 1, 8 (Minn. 2015) (involving a claim for “nominal damages of \$1.00” for constitutional violations); *Newcomb v. Meiss*, 116 N.W.2d 593, 595 (Minn. 1962) (involving a jury instruction restricting damages to a nominal amount, such as \$1.00).

### C. Indirect Wildfire Allocations (Findings ¶¶ 529–45, pages 83–86)

Xcel incurs indirect costs to mitigate wildfire risks. The ALJ recommended assigning these costs to operating companies using the total plant ratio methodology.<sup>79</sup> The total-plant ratio methodology essentially allocates costs based on the relative sizes of Xcel’s various operating companies instead of relative wildfire risks. That methodology, however, is inappropriate given that Xcel’s operating companies face disparate wildfire risks.

Xcel’s preferred total-plant ratio methodology wrongly assumes that its jurisdictions have equivalent wildfire risks. Wildfire risk in Xcel’s Colorado and Texas jurisdictions is 2.4 to 7.6 times higher than in Minnesota.<sup>80</sup> To better reflect cost causation principles, indirect wildfire costs should be allocated using the same allocations that Xcel used for costs that could be directly assigned and allocated from the service company to the operating companies. For example, if NSPM is responsible for only 10% of XES’s direct wildfire costs, then it would only be allocated 10% of the indirect wildfire costs. This approach ensures that wildfire-related costs are assigned in proportion to the actual risks each jurisdiction creates.

And the Commission has followed this approach recently in another Xcel docket. The Commission directed Xcel to allocate wildfire mitigation indirect costs based on wildfire mitigation direct costs rather than use the Total Plant Ratio of electric transmission and distribution plants.<sup>81</sup> The Commission’s reasoning applies equally here. Applying this methodology reduces Xcel’s revenue requirement by \$753,265 in 2025 and \$596,907 in 2026.<sup>82</sup> To implement the

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<sup>79</sup> Finding ¶ 545.

<sup>80</sup> Ex. DOC-9 at 14 (Borden Direct).

<sup>81</sup> *In re Xcel Energy’s Pet. for Approval of Its 2025 Annual Admin. Serv. Agreement*, Docket No. E-002/AI-25-245, ORDER APPROVING MODIFICATION OF AGREEMENT & REQUIRING COMPLIANCE FILING at 4 (Apr. 1, 2026) (eDocket No. [20264-229906-01](#)).

<sup>82</sup> *In re Xcel Energy’s Pet. for Approval of Its 2025 Annual Admin. Serv. Agreement*, Docket No. E-002/AI-25-245, Xcel Energy’s Wildfire Mitigation Compliance Filing, Attach. A at 1 (Apr. 14, 2026) (eDocket No. [20264-230375-01](#)).

Department's exceptions, the Commission should delete paragraph 554 and revise paragraph 545 as shown below:

~~544. While both allocation proposals have shortcomings, it is worth emphasizing that the Company's proposal, when netting out the impact to the 2025 Test Year and 2026 Plan Year revenue requirements, positively benefits Minnesota ratepayers. Giving due consideration to resolving doubt as to reasonableness in the customer's favor, as well as the Company's support for the methodology that, in this proceeding, benefits Minnesota ratepayers, the Company's proposal is the most reasonable in the record.~~

545. Consistent with its decision in Docket No. E-002/AI-25-245 and the record establishing that Xcel's operating companies face disparate wildfire risks, the Commission should approve recovery of indirect wildfire costs based on direct wildfire mitigation costs as allocated by total plant ratio.

**D. Base Pay (Findings ¶¶ 546–65, pages 83–89)**

Xcel has not adequately justified its requested base pay recovery of \$367.29 million in 2025 and \$370.33 million in 2026. Full-time equivalent (“FTE”) calculations for the test and plan years are critical to properly evaluating Xcel's base-pay calculations. Xcel insists that it cannot produce either FTEs or headcounts on a jurisdictional basis for the test years despite acknowledging that it uses those figures as a component of its budgeting process at the company level. Rather than calculating FTE counts, Xcel calculated base pay in 2025 and 2026 based on 2024 actual headcount, incorporated planned additions or reductions, applied a 3% merit increase, and included forecasted overtime and paid time off.<sup>83</sup> The ALJ agreed with Xcel and recommended that the Commission approve Xcel's base pay request, without modification.<sup>84</sup> The ALJ reasoned that Xcel had provided sufficient justification for its request, despite failing to provide FTE counts that the Department requested. The Department recommends the Commission limit Xcel's proposed base pay increase for 2025 and 2026 to 2024 test-year base pay, with a 3% annual increase for 2025 and 2026.

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<sup>83</sup> Ex. Xcel-28 at 26 (Robinson Rebuttal).

<sup>84</sup> Finding ¶ 562–64.

To justify its 2025 and 2026 test year requests, Xcel claims that it calculated its base-pay using “current salary and headcount data.”<sup>85</sup> The company, however, failed to provide FTE counts for 2025 and 2026 that could be used to meaningfully analyze the reasonableness of Xcel’s proposed base-pay figures on a per employee basis.<sup>86</sup> FTE counts are a common figure in labor calculations and would allow intervenors to meaningfully assess Xcel’s base-pay calculations.<sup>87</sup> Xcel provided actual FTE counts at the XES and NSPM level for certain years but refused to for 2025 and 2026 and did not provide any staffing figures on the Minnesota electric jurisdictional basis.<sup>88</sup>

The ALJ found that, despite not providing FTE counts, Xcel sufficiently justified its request.<sup>89</sup> The ALJ correctly noted that no law requires a specific form of evidence to support Xcel’s request. FTE counts, however, are a common labor figure and the Commission should determine that Xcel’s request is not properly supported without such evidence, in this case. The ALJ instead accepted Xcel’s calculation based on its 2024 actual headcount. This is even though Xcel’s 2024 actual base pay exceeded its approved test-year base pay by \$15.8 million, without sufficient explanation.<sup>90</sup> Xcel assumes its 2024 actual base pay is reasonable, but this assertion is impossible to properly test without FTE counts.<sup>91</sup> And Xcel did not remove from the calculations what is acknowledges are one-time costs in 2023.<sup>92</sup>

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<sup>85</sup> Ex. Xcel-28 at 26 (Robinson Rebuttal).

<sup>86</sup> Ex. DOC-4 at 10 (Kehrwald Surrebuttal).

<sup>87</sup> *Id.* at 9.

<sup>88</sup> Ex. Xcel-28 at 28 (Robinson Rebuttal).

<sup>89</sup> *Id.*

<sup>90</sup> Ex. DOC-4 at 20–21 (Kehrwald Surrebuttal).

<sup>91</sup> *Id.* at 20–22.

<sup>92</sup> *Id.*

Because it was impossible to establish the reasonableness of Xcel's base-pay calculations within the context of staffing expectations, the Department was left with two options recommending full denial or an appropriate adjustment.<sup>93</sup> Here, the Department recommends base pay amounts of \$348.16 million in 2025 and \$358.61 million in 2026.<sup>94</sup> This calculation accepts Xcel's proposed 3% increase in each year, but starts from the 2024 approved test year amount.<sup>95</sup> This is a reasonable approach because Xcel has failed to carry its burden that its 2024 actual base-pay was reasonable, as compared with the 2024 test year amount. Xcel has acknowledged significant one-time costs in 2023 and then failed to explain why the 2024 actual base-pay exceeded the 2024 approved amount by \$15.8 million.<sup>96</sup> Given these significant one-time expenses that can impact salary trends, and Xcel's failure to provide FTE counts to enable meaningful analysis, the Commission should use the 2024 approved base-pay figures, and apply the agreed 3% salary increase each year.

The ALJ also found that Xcel had sufficiently explained its 14.3% salary increase from 2022 to 2023.<sup>97</sup> Xcel's explanations, however, included one-time costs: high overtime costs due to one more nuclear outage in 2023 than 2022, and costs associated with Xcel's voluntary retirement program. These anomalous one-time costs, however, illustrate the need for additional information and documentation from Xcel, in the form of FTE counts. FTE counts would allow the intervenors to properly analyze these expenses in context. In particular, these FTE counts would permit a better analysis of Xcel's base pay on a jurisdictional basis and with the context of

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<sup>93</sup> *In Appl. of Interstate Power Co.*, 500 N.W.2d 501, 504 (Minn. Ct. App. 1993); *In re Pet. of Continental Tel. Co.*, 389 N.W.2d 910, 914–15 (Minn. 1986).

<sup>94</sup> Ex. DOC-4 at 22 (Kehrwald Surrebuttal).

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

<sup>96</sup> *Id.* at 19–20.

<sup>97</sup> Finding ¶ 559.

the workload for the year. This is why the Department recommended requiring FTE counts in future rate cases on a jurisdictional basis.<sup>98</sup>

The Department had argued that Xcel's 2024 actual pay, from which it calculated its base-pay, was \$15.8 million over the base-pay amount approved by the Commission in Xcel's last rate case raises questions about Xcel's calculations and renders actual 2024 pay an inappropriate starting point for recovery. The ALJ found that the salary increases noted above in 2023 provided sufficient explanation for the increased base-pay amounts.<sup>99</sup> But those increased costs are precisely what the Department wants to evaluate and can only contextualize projections for 2025 and 2026 if Xcel provides proper jurisdictional FTE counts for the years in questions.

Accepting Xcel's base-pay calculation, which is based on their 2024 actual base pay without sufficient explanation or FTE counts sets a dangerous precedent. Allowing recovery based on actual base pay in 2024 would permit Xcel to set the baseline for recovery of base pay, not by justifying the expense, but simply by paying it in a preceding year. The fact that Xcel's overall proposed increase from 2025 to 2026 is below the 3% salary increase implies that there are some workforce projections impacting that analysis.<sup>100</sup> Xcel has not provided sufficient data or calculations to justify their base pay numbers. Therefore, the only reasonable approach is to use 2024 test-year base pay, increasing by 3% annually, which both sides agree is a reasonable annual salary adjustment. Accounting for this calculation, the Commission should reduce Xcel's revenue requirement by about \$19.1 million in 2025 and \$11.7 million in 2026.<sup>101</sup>

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<sup>98</sup> Ex. DOC-3 at 14 (Kehrwald Direct).

<sup>99</sup> Finding ¶ 560.

<sup>100</sup> Ex. DOC-4 at 24 (Kehrwald Surrebuttal).

<sup>101</sup> *Id.* at 22 (note that these amounts include the Department's transmission O&M adjustment to avoid publicly disclosing a trade secret amount).

Moreover, the Commission should require Xcel to report FTE counts in future rate cases. The ALJ agreed with Xcel and recommended the Commission not require FTE counts in future rate cases.<sup>102</sup> This recommendation, however, appears to have been based on the ALJ's conclusion above that Xcel's evidence in this case is sufficient to support its recovery request, and that there is no legal authority specifically requiring FTE counts.<sup>103</sup> Requiring Xcel to report FTE counts would avoid the uncertainty in Xcel's calculations and would eliminate the need for the Commission to make decisions on inferior evidence. Clear guidance from the Commission is necessary for future rate cases.

While the ALJ is correct that there is no law or rule specifically referencing FTE counts, Xcel is required to properly support its recovery requests. Requiring jurisdictional FTE counts would provide much needed clarity to the parties and ALJs in future cases about what the Commission expects. Xcel's explanations for why it is difficult to calculate FTE counts are disingenuous when the Commission has already required such a calculation for use in Xcel's general allocator.<sup>104</sup> The fact that Xcel already calculates FTEs for its general allocator should significantly reduce the difficulty in forecasting FTEs for test and plan years.<sup>105</sup> FTE counts are a common labor figure and are important for the parties, ALJs, and Commission in future rate cases to be able to evaluate Xcel's recovery requests. The Commission should reject the ALJ's recommendation and require Xcel to report FTE counts in future rate cases where it seeks to recover base pay expenses.

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<sup>102</sup> Finding ¶ 562.

<sup>103</sup> *Id.*

<sup>104</sup> Ex. DOC-4 at 13 (Kehrwald Surrebuttal).

<sup>105</sup> *Id.*

To implement the Department's recommendations, the Commission should adopt the following revisions to the report:

561. The Department raised important questions regarding fluctuations in Xcel's base pay expenses. The Company ~~provided substantial evidence explaining~~ attempted to explain these trends, ~~including by relying on~~ market data, information about union contracts, the impact of significant outages on overtime levels, past pay increases, and the VRP and IVRP.

562. The Department's primary argument is effectively that, due to the lack of FTE data, it was unable to verify the reasonableness of Xcel's request. To be sure, the Company bears the burden of establishing the reasonableness of its request. ~~The Department, however, points to no legal authority to require that this support comes in the specific form it desires. The information provided by the Company provided sufficient evidence to support its request. FTE counts are a common figure used in labor force budgeting. While the Company attempts to explain its refusal to provide FTE counts, none of those reasons are compelling. Moreover, the Company's explanation does not sufficiently support the jurisdictional allocation of its compensation expenses, without a complete disclosure of FTE counts, for the relevant years, on a jurisdictional basis.~~

563. ~~The reasonableness of the Company's request is further supported by the fact that the 3.8 percent and 0.8 percent increases proposed for 2025 and 2026, respectively, are well within the ranges of market data provided by the Company.~~

564. ~~Accordingly, the Commission should approve the Company's request for base pay in the 2025 Test Year and 2026 Plan Year.~~

563. Accordingly, the Commission adopts the Department recommended adjustment to reduce the Company's revenue requirement by \$17,630,725 for 2025 and \$9,723,404 for 2026.<sup>106</sup>

~~565-564.~~ As the information provided by the Company was not sufficient to evaluate reasonableness of Xcel's proposal, the record ~~does not support~~ requires requiring additional FTE information in future rate cases. ~~Accordingly, the Commission should take no action on the Department's request for such a requirement. In future rate cases, the Company must provide jurisdictional FTE counts for test and plan years, similar in format to what it produced for 2022-2024 in response to DOC IR No. 122 in this case.~~

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<sup>106</sup> These amounts include the Department's transmission O&M adjustment to avoid publicly disclosing a trade secret figure.

**E. Non-Qualified Expenses (Findings ¶¶ 640–51, pages 101–03)**

Xcel seeks recovery of non-qualified expenses. These expenses are paid to highly compensated individuals who exceed the Internal Revenue Service’s compensation limit for 401(k) savings matching.<sup>107</sup> Xcel should not be allowed to recover non-qualified benefit plan expenses from ratepayers.<sup>108</sup> The Commission has a history of disallowing these excessive benefits, and it should disallow them here.<sup>109</sup> Although Xcel opposed this adjustment, it did not address these expenses in testimony or otherwise justify them.<sup>110</sup>

While acknowledging the Commission has denied these expenses in the past, the report determined that Xcel sufficiently supported its request by focusing on data that shows its compensation is comparable to its peers and identifies the ratepayer benefit as attracting and retaining employees.<sup>111</sup> It is this type of generalized sentiment that is insufficient, particularly when offering additional benefits to Xcel’s most highly paid employees. The ALJ acknowledged that the Commission most recently noted an “absence of any measurable ratepayer benefit” in Xcel’s non-qualified benefit plan expenses.<sup>112</sup> The ALJ believed, however, that Xcel should not have to provide more support given the relatively small amount of adjustment at issue, less than \$50,000 in each year.<sup>113</sup> The ALJ noted that it would not make sense to engage in complex modeling because the cost of doing so would eclipse the amount in controversy.<sup>114</sup> While the ALJ is correct that the amount in controversy is small, the burden remains on Xcel to justify its request. And to the extent that the cost of justifying the request exceeds the value of the adjustment, Xcel

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<sup>107</sup> Ex. DOC-3 at 45 (Kehrwald Direct).

<sup>108</sup> *Id.* at 48.

<sup>109</sup> *Id.* at 47.

<sup>110</sup> Ex. DOC-4 at 5 (Kehrwald Surrebuttal).

<sup>111</sup> Findings ¶ 649.

<sup>112</sup> *Id.* ¶ 647.

<sup>113</sup> *Id.* ¶ 650.

<sup>114</sup> *Id.*

should stop requesting recovery on issues that the Commission has consistently rejected over past rate cases.

Ratepayers should not pay for excess benefits that are not properly supported by Xcel. The Commission should not adopt the ALJ's recommendation but should reduce Xcel's revenue requirement by \$44,662 in 2025 and \$48,394 in 2026.<sup>115</sup>

To implement the Department's recommendations, the Commission should adopt the following revisions to the report:

643. The Company also emphasized that it is important that Xcel's compensation and benefits remain aligned with market standards so that the Company can attract, retain, and motivate employees needed to provide safe, reliable service to customers. The Company's witness, however, admitted that its compensation study speaks only to what is reasonable in the market, not what is reasonable to recover from ratepayers.

644. The Department ~~did not raise specific concerns about the amount of the non-qualified expenses or the effect they have on retaining talent questioned the necessity for these expenses considering that nonqualified benefits are only available to employees that are already highly compensated.~~

647. The most recent Commission order cited by the Department did indeed disallow recovery of nonqualified deferred compensation plans. In that proceeding, ~~however,~~ the Commission noted an "absence of any measurable ratepayer benefit" in reaching that determination. The Company has done nothing to change that analysis, and there remains no evidence of any measurable ratepayer benefit in the Company's nonqualified expenses.

648. ~~It is, therefore, a bridge too far to draw from past Commission decisions a determination that non-qualified expenses are categorically inappropriate for ratepayer recovery.~~

649/648. The Company focuses on data to quantify the comparability of its compensation practices to peers. It then offers more generalized statements about the benefit to customers of attracting and retaining employees. This evidence is not sufficient to show that these benefits produce a measurable ratepayer benefit.

650. ~~It is difficult to see what else Xcel could do to justify this request. There is no obvious way for the Company to isolate, quantify, and explain the specific impact on retention of one small component of its compensation package on the customer benefits of retention. And, for a rate case dispute on an issue worth less than \$50,000, investing in~~

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<sup>115</sup> Ex. DOC-4 at 6 (Kehrwald Surrebuttal).

~~complex modeling to attempt to do so would quickly result in the ratemaking expense of the endeavor approaching, if not eclipsing, the amount in controversy.~~

651649. On this record, the Company has not demonstrated the reasonableness of its non-qualified expenses and ~~the Commission should approve recovery of those expenses they are disallowed.~~

**F. Insurance (Findings ¶¶ 752–67, pages 119–22)**

The ALJ recommended establishing a symmetrical true-up for insurance costs using Xcel’s forecasted insurance premium costs as a baseline.<sup>116</sup> The Commission should reject this conclusion. While insurance premium expenses are “subject to substantial variation in costs,” the Department disagrees that these costs should be subject to a true-up rather than set based on historical averages.<sup>117</sup> More significantly, Xcel has not met its burden to show that its forecasted premiums are accurate and reasonably allocated. Instead, the Department’s recommendation to set expenses based on 2024 actual costs, adjusted to reflect the historical increases, should be adopted.

**1. Commission Precedent Supports Using a Historical Average to Set Rates for Insurance Premium Expenses.**

The Commission has regularly used historical costs to set test year expenses in rate cases. As the Commission has explained, “in situations where costs vary from year to year, test-year costs are [often] set based on historical averages rather than attempting to choose one specific year to represent likely future costs.”<sup>118</sup> The Commission also found historical averages were preferable to using third-party projections that had resulted in over collections.<sup>119</sup> Historical averages have been used for rate case expenses including generation O&M supervision, engineering, meter-

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<sup>116</sup> Findings ¶¶ 765–66.

<sup>117</sup> *Id.* ¶ 766.

<sup>118</sup> *In re Appl. of Otter Tail Power for Authority to Increase Rates for Elec. Serv. in Minn.*, MPUC Docket No. E-017/GR-20-719, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 13 (Feb. 1, 2022) (eDocket No. [20222-182349-01](#)).

<sup>119</sup> *Id.*

reading, employee benefit expenses, and employee expenses,<sup>120</sup> bad debt expense,<sup>121</sup> and insurance premium expense.<sup>122</sup>

In contrast, the Commission has previously cautioned that true-ups may “substantially erode[ ]” a utility’s incentive to control costs.<sup>123</sup> In addition to reducing a utility’s incentive to manage costs, ratepayer protections are further eroded because moving expenses to a true-up basis “effectively takes them ‘off the table’ in a rate case review,” and “constricts the Commission’s rate-making authority.”<sup>124</sup> Xcel’s insurance premium expense is particularly ill-suited to be charged to ratepayers without the Commission’s review given Xcel’s purchase of insurance coverage at the parent company level. While there are legitimate reasons for purchasing insurance coverage this way, it requires high amounts of expensive excess liability insurance to be purchased to provide appropriate protection for subsidiaries with higher risk profiles. Without the Commission’s scrutiny, Minnesota ratepayers could be forced to pay for more than their fair share of insurance coverage. The Commission should reject Xcel’s attempt to circumvent future review of its insurance premium expense.

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<sup>120</sup> *In re Appl. of Minn. Power for Auth. to Increase Rates for Elec. Serv. in Minn.*, MPUC Docket No. E-015/GR-16-664, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 19, 37, and 39 (Mar. 12, 2018) (eDocket No. [20183-140963-01](#)).

<sup>121</sup> *In re Appl. of Minn. Power for Auth. to Increase Rates for Elec. Serv. in Minn.*, MPUC Docket No. E-015/GR-21-335, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 10 (Feb. 28, 2023) (eDocket No. [20232-193486-01](#)).

<sup>122</sup> *In re N. States Power Co.’s Appl. for Auth. to Increase Elec. Serv. Rates in Minn.*, MPUC Docket No. E-002/GR-21-630, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 37 (Jul. 17, 2023) (eDocket No. [20237-197559-01](#)).

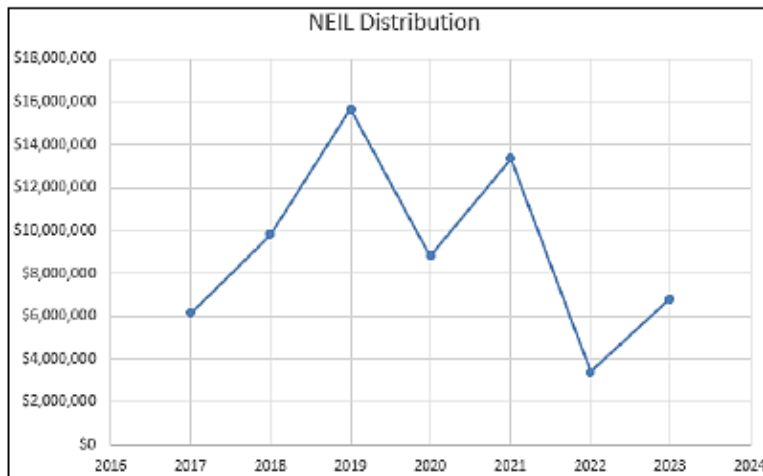
<sup>123</sup> *Minn. Pub. Utils. Comm’n*, REPORT TO THE LEGISLATURE: UTILITY RATES STUDY at 7 (Jun. 2010) [https://mn.gov/puc/assets/012854\\_tcm14-5188.pdf](https://mn.gov/puc/assets/012854_tcm14-5188.pdf) (PUC Rates Study Report).

<sup>124</sup> *Id.* at 8.

## 2. Xcel’s Insurance Premium Forecast Is Inadequately Supported.

Xcel’s proposed expense relies on an unreasonably truncated two-year lookback period as the foundation for its forecast.<sup>125</sup> The insurance premium forecast includes expected distributions, which are credited against expenses.<sup>126</sup> These distributions are significant in size compared to the overall insurance premium expense, and, as the Commission and Xcel have recognized, have “varied greatly year to year.”<sup>127</sup> Figure 1 below illustrates the size and variation of one of the company’s larger expected annual distributions.<sup>128</sup>

**Figure 1**  
**NEIL Distribution**



Given the significant size of credits relative to the overall insurance premium expense, and their significant year-over-year variation, the overall year-over-year changes in insurance premium

<sup>125</sup> See Ex. Xcel-53 at 20 (Miller Direct).

<sup>126</sup> *Id.* at 20.

<sup>127</sup> *Id.* at 20; 2021 Rate Case Order at 68–69.

<sup>128</sup> Ex. Xcel-53 at 20–21 (Miller Direct); 2021 Rate Case Order at 68–69 (“[T]hese distribution amounts fluctuate significantly and unpredictably. . . . [V]arying distributions from mutual insurance pools appear to be a continuing issue equally likely to affect future years in unanticipated ways as they have in past years.”).

expenses also vary widely. For example, since 2021, annual changes have fluctuated from as little as -22.13% to as much as 122.67%.<sup>129</sup> Xcel's two-year lookback is inadequate to capture fluctuations of this magnitude. Due to the volatile nature of this expense and the difficulty of accurately forecasting the total expense, the Department recommended looking at expenses from 2020 through 2024 to develop a more accurate insurance premium expense estimate.<sup>130</sup>

Xcel criticized this approach, arguing that changes in the insurance market make older data unrepresentative of current costs.<sup>131</sup> Yet when the Department asked Xcel to explain the proposed insurance premium expenses, the company could not support the significant increases in general liability and excess liability premiums, respectively.<sup>132</sup> As one example, Xcel has not justified its allocation of the increase in expenses due to wildfire exposure and liabilities in other states.<sup>133</sup>

Xcel's forecast also ignores potential and estimated credits, potentially leading to over-forecasted insurance expense.<sup>134</sup> The accuracy of Xcel's forecasts is called even further into question by Xcel omitting surplus and captive distribution credits in the 2025 test year and 2026 plan year.<sup>135</sup> Xcel acknowledged the importance of including distribution credits in its forecast, and claimed that its proposed insurance premium expense included distributions.<sup>136</sup> Yet it omitted a number of estimated and potential credits distributions from the forecast that alter the total insurance premium expense.<sup>137</sup> Particularly given the Commission's order to fully develop the

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<sup>129</sup> Ex. DOC-24 at 24 (Jones Surrebuttal).

<sup>130</sup> Ex. DOC-23 at 25 (Jones Direct).

<sup>131</sup> Ex. Xcel-56 at 14–15 (Miller Direct).

<sup>132</sup> Ex. DOC-23 at 24 (Jones Direct).

<sup>133</sup> *Id.*

<sup>134</sup> Ex. DOC-24 at 24–25 (Jones Surrebuttal).

<sup>135</sup> *Id.* at 25.

<sup>136</sup> Ex. Xcel-55 at 20 (Miller Direct).

<sup>137</sup> Ex. DOC-24 at 24–25 (Jones Surrebuttal).

record on this issue, Xcel has not established that its proposal results in just and reasonable rates for Minnesota ratepayers.

Xcel’s forecast is further deficient because it removes only those costs directly attributable to its liability and claims for the Marshall Wildfire in Colorado and the 2024 Smokehouse Creek Fire Complex in Texas, despite acknowledging that those wildfires changed the insurance market and caused premiums to rise.<sup>138</sup> For example, Xcel recently settled litigation related to the Marshall Wildfire for \$640 million, with insurance covering slightly more than half of that cost.<sup>139</sup> Wildfire-related costs are a main driver of the increase in the company’s excess liability insurance, jumping by an expected 230% in 2025 and a further 113% in 2026.<sup>140</sup>

Xcel argues that Minnesota customers are unaffected because it is not passing along any of the insurance premium increases *directly* attributable to those wildfires.<sup>141</sup> But the company openly acknowledges that “these wildfires . . . have changed the insurance market and raised costs for [excess liability insurance] coverage overall,” and it seeks to make Minnesota ratepayers pay for the overall increase in insurance costs.<sup>142</sup> Using the Department’s proposed increases to the insurance premium expense for 2025 and 2026 shields Minnesota ratepayers from unfairly shouldering the burden of risks incurred in other jurisdictions.

The ALJ’s conclusion that Xcel’s updated forecast provided in rebuttal testimony corroborates the accuracy of the initial forecast and demonstrates an appropriate allocation of loss

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<sup>138</sup> The Marshall Wildfire occurred in Public Service Company of Colorado’s territory in 2021, and the Smokehouse Creek fire occurred in Southwestern Public Service Company’s territory in 2024. Ex. Xcel-56 at 8–9, 14 (Miller Rebuttal).

<sup>139</sup> Evid. Hrg. Tr. Vol. 1 at 253–54 (Miller). It is “too early to tell” what financial liabilities Xcel and its insurers may face for the 2024 Smokehouse Creek Fire Complex. *Id.* at 257–58.

<sup>140</sup> Ex. Xcel-55 at 30 (Miller Direct).

<sup>141</sup> Ex. Xcel-56 at 8–9, 14 (Miller Rebuttal).

<sup>142</sup> *Id.* at 9; Evid. Hrg. Tr. Vol. 1 at 252–57 (Miller).

and wildfire loading is wrong.<sup>143</sup> The decreased allocation of Excess Liability Premium to Minnesota does not establish the accuracy of the updated allocation. Instead, it only demonstrates the validity of the Department's concerns that Xcel has not fairly allocated its insurance premium expense and has provided insufficient information to allow other parties to independently analyze its claims.

### **3. The Commission Should Modify the Report's Insurance Section Consistent with the Department's Recommendations.**

To implement the Department's exceptions, the Commission should revise paragraphs 763 and 765; delete paragraphs 766 and 767; and adopt new paragraphs 766–69 as shown below:

763. The Company updated its Excess Liability Insurance Premium information in Rebuttal Testimony, providing a July 2025 forecast that was based on six months of actual premium experience. The change in Excess Liability premium costs for the Minnesota electrical jurisdiction were not substantial, and the Company did not update its requested recovery of premium costs.

765. This evidence ~~both corroborates the accuracy of the Company's initial forecast and~~ demonstrates the validity of the Department's concerns that loss and wildfire loading by Xcel's brokers ~~is~~ was not appropriately allocating risk among Xcel Energy, Inc.'s various jurisdictions.

~~766. The Commission should also establish a symmetrical true-up for insurance costs to ensure that the Company neither over-recovers nor under-recovers its insurance costs.<sup>831</sup> While true-ups should not be relied on excessively as a substitute for accurate expense forecasting, these costs are particularly well suited for such a mechanism. The type and nature of Xcel's coverage is not disputed by any party, is a reasonable and necessary cost of providing utility service, and is subject to substantial variation in cost. A true-up would reasonably protect ratepayers from over-paying, while also allow Xcel to recovery a necessary cost.~~

~~767. The Company has met its burden to establish that its forecasted Excess Liability Premium costs are reasonable and should be approved by the Commission as the baseline for this true-up mechanism.~~

766. Xcel has not met its burden to show that its proposed insurance premium expense is reasonable. The forecasted insurance premium expense includes significant increases in the company's excess liability premiums driven by the cost of wildfires.

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<sup>143</sup> Finding ¶ 765.

767. Although Xcel asserted that none of the direct insurance premium expenses attributable to the Marshall Wildfire in Colorado and the 2024 Smokehouse Creek Fire Complex in Texas were assigned to the Minnesota jurisdiction, it acknowledged that “these wildfires...have changed the insurance market and raised costs for ELI coverage overall.” The company added that its excess liability premiums are drive by “the Company’s inherent risk profile, its claims history, [and] industry wide loss experience.” Xcel has not shown that its allocation of excess liability premiums across its different jurisdictions would result in fair and just rates for Minnesota ratepayers.

768. No party has demonstrated an ability to accurately forecast Xcel’s overall insurance premium expense or its refunds and credits. The insurance premium expense authorized in the last rate case resulted in under-recovery of the company’s insurance premium expense from 2022 through 2024. But the company’s forecast for those years was also inaccurate. Looking back at forecast expenses compared to actual expenses since 2017, as the Commission ordered, reveals a clear pattern of over-forecasting insurance premium expense by Xcel.

769. A significant portion of the total insurance premium expense is attributable to refunds and credits, which fluctuate greatly from year to year. As a result, annual changes in insurance premium expense have fluctuated from as little as -22.13% to as much as 122.67%. Where costs vary from year to year, it is reasonable to set costs based on historical averages. The Department’s proposal to use a four-year average to set insurance premium expense increases is reasonable and is adopted by the Commission.

**G. Residential Arrears Management Program (Findings ¶¶ 847–68, 1130–42; pages 134–37, 183–85)**

The Residential Arrears Management Program (“RAMP”) is designed to assist Minnesota residential customers in payment of past due amounts to prevent disruption of service.<sup>144</sup> Xcel proposes funding RAMP through residential late payment fees.<sup>145</sup> The ALJ adopted five of the Department’s proposed modifications to the RAMP program.<sup>146</sup> But the ALJ declined to support the Department’s final recommendation, which would prohibit Xcel from diverting late-payment fee revenue until after the program actually begins operating.<sup>147</sup> The Commission should adopt this limitation because it is reasonable and benefits ratepayers. As noted by the ALJ, Xcel

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<sup>144</sup> DOC-19 at 62 (Bahn Direct).

<sup>145</sup> *Id.*

<sup>146</sup> Findings ¶¶ 1138, 1141.

<sup>147</sup> *Id.* ¶¶ 1141–42.

anticipates collecting \$6.1 million in late payment fees in 2025 and \$5.8 million in 2026.<sup>148</sup> The ALJ also noted the Department’s recommendation that the 2026 plan year should, at most, only reflect half of the \$5.8 million anticipated late payment fee revenue or \$2.9 million – because the program should only eliminate late fees (not past-due amounts) and will not go into effect until mid-year 2026.<sup>149</sup>

The ALJ misunderstands the rationale for the Department’s position on late payment fee funding in the 2026 plan year, stating that “nothing about mid-year approval of the RAMP program precludes the Company from using the entire 2026 late fee revenue to fund the program.”<sup>150</sup> The Department provided that retaining 100% of the residential late fee operating revenues for 2026 to fund RAMP would excessively increase the total revenue requirement that Xcel would be authorized to recover from ratepayers in 2026.<sup>151</sup> The Department’s last RAMP modification is appropriate and well-considered – RAMP should only be funded up to 50% of the total residential late fee operating revenues for 2026, or no more than \$2.9 million.<sup>152</sup> Both the Department and Company support deferring the use of residential late fee operating revenues until after the Commission rules on the merits of RAMP in June 2026.<sup>153</sup>

To implement the Department’s exceptions, the Commission should revise paragraphs 867, 868, 1138, 1141, and 1142 as follows:

~~867. Nothing about Funding the RAMP program up to 50 percent of the total residential late fee operating revenues for 2026 comports with a mid-year approval of the RAMP program. precludes the Company from using the entire 2026 late fee revenue to fund the program.~~ The record supports a determination that the Company ~~intends to and~~ should do so. Accordingly, rates should reflect this proposal.

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<sup>148</sup> Finding ¶ 849.

<sup>149</sup> *Id.* ¶ 851; Ex. DOC-20 at 24 (Bahn Surrebuttal).

<sup>150</sup> *Id.* ¶ 867.

<sup>151</sup> Ex. DOC-20 at 26–27 (Bahn Surrebuttal).

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

868. The Commission should ~~reject~~ accept the Department's proposal to reduce the 2026 plan year revenue requirement by including 50 percent of the Company's late fee revenue for that year.

1138. The Company agreed to five of the six modifications proposed by the Department. Company Witness Howard agreed to the Department's modification to ensure eligible customers are placed on a payment plan arrangement or budget billing, at the customer's discretion, but noted that since the purpose of RAMP is to avoid disconnection by applying late fee payments towards the elimination of past due balances of low-income customers, many customers may have no need for a payment plan. If the amount of RAMP funds allocated to a customer does not eliminate that customer's arrears, the Company agreed to ensure that customer is enrolled in a payment plan or budget billing. The Department's recommendation to fund RAMP at 50 percent of residential late fee operating revenues for 2026 was addressed and ~~rejected~~ accepted in an entire section of this Report.

1141. The Company's proposal to implement the RAMP program, along with the ~~accepted~~ Department's modifications, is reasonable and comports with the requirements set forth in the Company's 2023 Safety, Reliability and Service Quality Annual Report docket. Further, the Company's agreement to waive late fees adequately addresses CUB's concerns about customers needing to pay late fees in order to remain eligible for the program.

1142. The Commission should adopt the Company's proposal and the Department's modifications, ~~except that the Commission should allow the Company to fund the RAMP program with all 2026 late payment fee revenue.~~

### **III. COST OF CAPITAL – RATE OF RETURN (Findings ¶¶ 883–994, pages 139–59)**

The ALJ recommended that the Commission increase Xcel's authorized return on equity (ROE) from 9.25% to 9.8%.<sup>154</sup> This change, if adopted by the Commission, would increase ratepayer bills by about \$55 million annually.<sup>155</sup> In reaching this recommendation, the ALJ found that Xcel's two-growth discounted cash flow (DCF) model overstated the appropriate return due to persistent upward bias in analyst growth forecasts.<sup>156</sup> The ALJ also found that the Department's multi-stage DCF analysis addresses the two-stage DCF model's key structural flaw—the

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<sup>154</sup> Finding ¶ 993.

<sup>155</sup> Ex. DOC-12 at 43 (Addonizio Direct).

<sup>156</sup> Findings ¶¶ 985–86.

assumption that a company may perpetually grow faster than overall economy.<sup>157</sup> Despite these findings, the ALJ still largely relied on Xcel’s two-stage DCF model results, concluding that the Department’s multi-stage DCF “overcorrects” the flaw.<sup>158</sup> That conclusion, however, is not supported by the ALJ’s own findings. The Department’s recommended 9.25% ROE is analytically sound and best supported by the record. The ALJ’s conclusion that the multi-stage DCF analysis overcorrects the two-stage DCF models flaws, in contrast, is unsupported by the record. Finally, the record establishes that a 9.8% ROE is not commensurate with Xcel’s real-world investment risk.

**A. The Department’s Recommended ROE Is Analytically Sound and Well-Supported by the Record.**

The Department’s recommended 9.25% ROE rests on a rigorous analytical framework that builds on the DCF methodology that the Commission has historically found reliable.<sup>159</sup> Central to the Department’s analysis is its multi-stage DCF model, which relies on observable stock prices and dividends together with analyst-projected near-term earnings growth, followed by a transition to long-term GDP growth, consistent with well-accepted financial principles.<sup>160</sup> This model incorporates the same elements the Commission has repeatedly praised in past orders—objectivity, transparency, and reliance on publicly reported data.<sup>161</sup> The Department’s multi-stage DCF model

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<sup>157</sup> *Id.* ¶¶ 978–79.

<sup>158</sup> *Id.* ¶ 981.

<sup>159</sup> *Id.* ¶ 972.

<sup>160</sup> Ex. DOC-12 at 45–52 (Addonizio Direct).

<sup>161</sup> *In re Appl. of Otter Tail Power Co. for Auth. to Increase Rates for Elec. Serv. in the State of Minn.*, MPUC Docket No. E017/GR-20-719, FINDINGS OF FACT, CONCLUSIONS, & ORDER at 34 (Feb. 1, 2022) (eDocket No. [2022-182349-01](#)) (recognizing that the multi-stage DCF “may be particularly useful for smoothing out more sharply anticipated variations in growth rates.”); *In re Appl. of Minn. Energy Res. Corp. for Auth. to Increase Rates for Nat. Gas Serv. in Minn.*, MPUC Docket No. G-011/GR-17-563, FINDINGS OF FACT, CONCLUSIONS, & ORDER at 27 (Dec. 26, 2018) (eDocket No. [201812-148702-01](#)); *In re Pet. by Great Plains Nat. Gas Co., a Div. of Montana-Dakota Utils., Co., for Auth. to Increase Nat. Gas Rates in Minn.*, MPUC Docket No. G-004/GR-

also addresses problems inherent in perpetual reliance on analyst forecasts by ensuring that long-term dividend growth does not exceed sustainable economic growth, a principle grounded in both financial theory and empirical evidence.<sup>162</sup>

The Department's assumption that no company can logically grow faster than the overall economy indefinitely further strengthens the analysis.<sup>163</sup> This assumption is supported by historical data showing that earnings and dividend growth broadly track GDP over long periods.<sup>164</sup> The Department also updated its analysis in surrebuttal testimony to reflect current financial conditions.<sup>165</sup> That update materially lowered the Department's multi-stage DCF results, demonstrating that the cost of equity has declined since direct testimony.<sup>166</sup> After incorporating flotation-cost adjustments grounded in the Company's own data, the Department's multi-stage DCF results produced a mean cost-of-equity estimate of approximately 8.35%.<sup>167</sup>

The Department, however, did not mechanically recommend that the Commission adopt its 8.35% cost of equity estimate as Xcel's authorized ROE. Instead, the Department applied the pragmatic, whole-record balancing required under *Hope* and *Bluefield*, considering allowed ROE trends, independent equity-return estimates, and Xcel's continued strong access to capital markets.<sup>168</sup> Taking these considerations as whole, the Department showed that a 9.25% ROE was

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19-511, FINDINGS OF FACT, CONCLUSIONS, & ORDER at 17 (Oct. 26, 2020) (eDocket No. [202010-167656-01](#)).

<sup>162</sup> Findings ¶¶ 978–79; Ex. DOC-12 at 49–52 (Addonizio Direct); Ex. DOC-13 at 11–16 (Addonizio Surrebuttal).

<sup>163</sup> Ex. DOC-12 at 49–52 (Addonizio Direct).

<sup>164</sup> *Id.* at 49–50.

<sup>165</sup> Ex. DOC-13 at 4–5 (Addonizio Surrebuttal).

<sup>166</sup> *Id.*

<sup>167</sup> Ex. DOC-13 at 4–6 (Addonizio Surrebuttal).

<sup>168</sup> Ex. DOC-12 at 70–72, 84–87 (Addonizio Direct); Ex. DOC-13 at 7–9 (Addonizio Surrebuttal); *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 605 (1944); *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923).

warranted despite model results showing a lower cost of equity. These factors establish that the Department's recommended ROE is analytically sound, conservative, and firmly supported by the record. The Commission should adopt it.

**B. The ALJ's Finding That the Department's Multi-Stage DCF Overcorrects the Two-Stage DCF's Flaws is Unsupported.**

The ALJ's conclusion that the Department's multi-stage DCF model overcorrects the two-stage DCF model is unsupported by the record or basic financial principles.<sup>169</sup> First, the ALJ's conclusion departs from the undisputed economic foundation underlying the Department's modeling. Second, the ALJ's conclusion relies on Xcel's greatly exaggerated claim regarding the historical relationship between utility sector growth and US GDP growth. Third, the Department's convergence periods are supported by basic financial principles and empirical data. Finally, independent market evidence confirms that the Department's results align with investor expectations.

The ALJ's finding that the Department's multi-stage DCF model "overcorrects" the flaws in the two-stage DCF model should be rejected because it disregards the undisputed financial foundation on which the Department's modeling rests.<sup>170</sup> The multi-stage DCF model, as the ALJ found, rests on the fact that no company can grow faster than the overall economy in perpetuity.<sup>171</sup> In short, using GDP as the long-term growth rate is not a modeling choice, but basic math.<sup>172</sup> The reasonableness is, moreover, confirmed by the fact that earnings, dividends, and GDP have moved together at materially similar long-run growth rates since 1947.<sup>173</sup> These facts establish that the

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<sup>169</sup> Findings ¶¶ 980–81.

<sup>170</sup> *Id.* ¶ 981.

<sup>171</sup> *Id.* ¶ 980.

<sup>172</sup> Ex. DOC-13 at 11–13 (Addonizio Surrebuttal).

<sup>173</sup> Ex. DOC-12 at 50–51 (Addonizio Direct).

Department’s use of a GDP-based terminal growth rate is simply an economically coherent way to avoid the perpetual above-GDP growth that the ALJ recognizes is unreasonable.

To support his “overcorrection” finding, the ALJ cites data showing the utility sector grew faster than GDP from 1947–2024.<sup>174</sup> But that data reveals that while utilities grew at a rate of 6.47% per year over that period, GDP grew at a rate 6.38% per year—a negligible difference.<sup>175</sup> Further, periods in which any industry outgrows GDP can cause its historical average growth rate to exceed GDP growth, but do not establish above-GDP growth is sustainable on a going-forward basis. Put another way, past performance is not a crystal ball.

The ALJ’s critique also misunderstands the Department’s convergence periods.<sup>176</sup> The Department modeled a 10-year and a 20-year transition period between short-term earnings-derived growth estimates and long-term GDP growth rates.<sup>177</sup> These two book-ended timelines provide a reasonable sensitivity range. While individual industries or companies may outpace GDP temporarily, such periods cannot persist indefinitely, reinforcing that some convergence must occur well before perpetuity.<sup>178</sup> The record also confirms that the Department relied on widely accepted sources for long-term GDP forecasts, ensuring that its terminal-stage growth inputs were grounded in unbiased projections.<sup>179</sup>

Finally, independent market evidence confirms the Department’s modeling is not an “overcorrection.” Independent equity estimates fall well below Xcel’s proposed ROE and align with the Department’s multi-stage DCF results, validating the reasonableness of the Department’s

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<sup>174</sup> Finding ¶ 980.

<sup>175</sup> Ex. DOC-13 at 16 (Addonizio Surrebuttal).

<sup>176</sup> Findings ¶¶ 980–81.

<sup>177</sup> Ex. DOC-12 at 52 (Addonizio Direct).

<sup>178</sup> *Id.* at 49–50; Ex. DOC-13 at 13–16 (Addonizio Surrebuttal).

<sup>179</sup> Ex. DOC-12 at 51–53 (Addonizio Direct).

long-term assumptions.<sup>180</sup> In short, the report’s reliance on raw historical utility-sector growth overlooks the core economic forces that make past above-GDP growth neither sustainable nor relevant to long-run valuation. As a result, this historical data provides no basis for finding that the Department’s multi-stage DCF overcorrects the two-stage DCF model’s documented limitations.

These dynamics demonstrate that the ALJ’s concerns about GDP-based terminal growth are unwarranted. The Department’s multi-stage DCF modeling simply applies well-established financial principles to prevent precisely the type of perpetual above-GDP growth that the ALJ agrees is unsustainable.<sup>181</sup> For these reasons, the Department’s use of a GDP-based terminal growth rate remains the most reasonable and economically grounded approach.

**C. The ALJ’s Findings Establish That the Recommended ROE Is Not Commensurate with Xcel’s Investment Risk.**

The ALJ observed that the Commission must allow the utility a return that matches the return expected for investments of corresponding risk.<sup>182</sup> The report’s recommended 9.8% ROE, however, is inconsistent with recent Commission ROE decisions and market data.

The ALJ’s recommended ROE would hand Xcel, the state’s largest utility with the most diverse ratepayer base, the highest ROE of any investor-owned utility in the state. Xcel’s ROE would be 15 basis points higher than the 9.65% ROE that the Commission recently approved for Minnesota Power and 32 basis points higher than the Otter Tail Power’s 9.48% ROE.<sup>183</sup> Although a utility’s approved ROE must be based on the specific facts and circumstances of that utility,

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<sup>180</sup> Findings ¶¶ 945–46, 992; Ex. DOC-12 at 66–70 (Addonizio Direct); Ex. DOC-13 at 21–23 (Addonizio Surrebuttal).

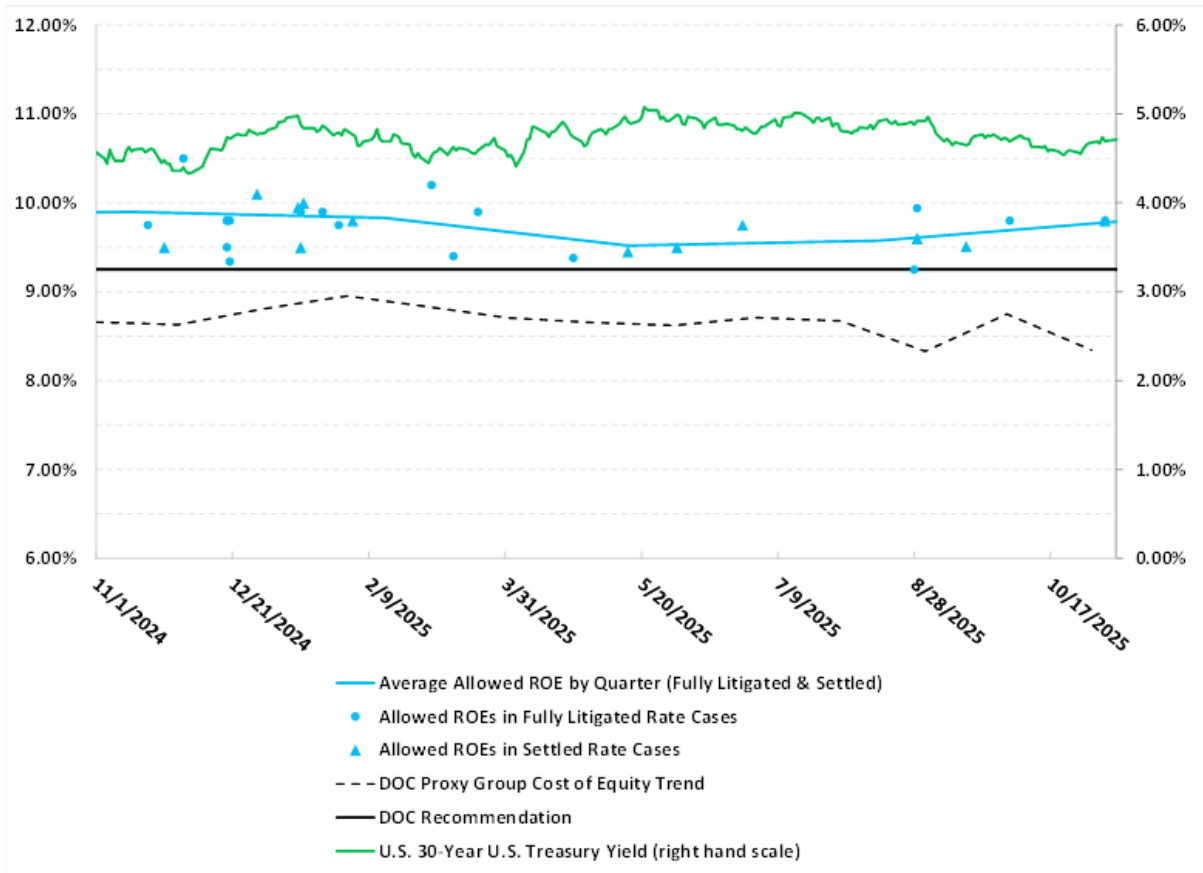
<sup>181</sup> Findings ¶¶ 941, 978–79.

<sup>182</sup> *Id.* ¶ 886.

<sup>183</sup> *In re Pet. of Minn. Power for Acq. of ALLETE by Canada Pension Plan Investment Board and Global Infrastructure Partners*, Docket No. E-015/PA-24-198, ORDER APPROVING PETITION at 4 (Dec. 10, 2025) (eDocket No. [202512-225721-01](#)); *In re Appl. of Otter Tail Power Co. for Auth. to Increase Rates for Elec. Serv. in the State of Minn.*, MPUC Docket No. E017/GR-20-719, FINDINGS OF FACT, CONCLUSIONS, & ORDER at 34 (Feb. 1, 2022) (eDocket No. [2022-182349-01](#)).

rewarding Xcel with an ROE that is substantially higher than that authorized for smaller and more risky utilities is facially unreasonable.

Nor is a 9.8% ROE justified by a comparison to Xcel’s proxy group or Treasury bond yields. As shown in the figure below, a 9.8% ROE is considerably higher than cost of equity trend of the Department’s proxy group.<sup>184</sup> It also significantly exceeds Treasury bond yields.



In sum, the ALJ’s recommended ROE neither matches up with the Commission’s decisions for other Minnesota utilities nor current market conditions. Instead, the recommendation gives Xcel a higher return than its level of risk justifies.

<sup>184</sup> Ex. DOC-13 at 7 (Addonizio Surrebuttal).

**D. The Commission Should Adopt the Department's Cost-of-Capital Report Modifications.**

To implement the Department's exceptions, the Commission should revise paragraphs 971, 973, 979, 982–83, 985–86, 992–94; delete paragraphs 972, 974–75, 980–81; and adopt new paragraphs 976–77 and 980–81 as shown below:

971. The Commission has traditionally relied on DCF analyses in determining the allowed ROE. ~~Specifically, the Commission has long relied on either Constant Growth DCF or Two-Growth DCF models, with consistent preference for the Two-Growth DCF for over the past decade.~~

~~972. The Commission's following finding from Xcel's most recent electric rate case is supported by the record in this proceeding:~~

~~The two-growth DCF model provides a fundamentally sound framework through which to analyze the Company's relative risk in relation to comparable companies, and through which to evaluate the Company's financial integrity and ability to attract investors in light of current as well as expected market conditions. This model is based on the financial theory that the current price of a stock equals the present value of all expected future dividends in perpetuity discounted by the appropriate cost of equity (i.e., the compensation for the risks associated with owning the stock). It uses growth forecasts to model dividend growth in years one through five, and then applies a different growth rate for years six and beyond, offsetting the limitations of the constant growth model, which assumes dividends are expected to grow at a constant rate over time.~~

973. ~~For these reasons~~ For reasons discussed below, the Commission should rely primarily on the Department's multi-stage Two-Growth DCF model when setting Xcel's ROE in this proceeding.

~~974. Because XLI's Two-Growth DCF Model differed from versions of the model previously relied on by the Commission incorporating GDP growth rates, the Commission should rely on the Two-Growth DCF performed by either the Department or the Company.~~

~~975. Ultimately, the results of the Department and Xcel's Two-Growth DCF models were similar, resulting in an average ROE of either 10.57 percent (Department Surrebuttal) or 10.38 percent (Xcel Rebuttal), minimizing the importance of the selection between the two models. As the utility seeking the ROE increase's model is actually the lower of the two, the Commission should accept 10.38 percent as the implied ROE from its preferred Two-Growth DCF model for the purposes of this proceeding.~~

979. The Department's Multi-Stage DCF model corrects this weakness by modeling an eventual convergence of the Company's growth to the long-term GDP growth

rate. By anchoring long-term growth to widely accepted GDP forecasts, the Department’s model incorporates a sustainable terminal growth rate that reflects basic financial principles and long-run economic behavior. The model also uses observable stock prices, dividends, and short-term analyst growth projections, maintaining the transparency and data-driven structure that the Commission has historically endorsed. These elements collectively provide a coherent framework for estimating the cost of equity using assumptions aligned with empirical evidence and established financial theory.

~~980. To be sure, there are problems with using the long term GDP as the Department does. From 1947 through 2024, the utility sector as a component of GDP has grown at a faster compound average annual rate than the overall GDP growth rate. Thus, while perpetual growth in excess of the GDP is an unreasonable assumption, the record does not support the Department’s implicit assumption that convergence to the GDP growth rate will occur on the time horizon of 15 to 25 years.~~

980. The record also establishes Department’s Multi-Stage DCF model does not “overcorrect” the limitations of the two-stage DCF approach. Historical periods in which the utility sector outpaced GDP do not demonstrate that such above-GDP growth is sustainable over the long term, nor do they negate the need for eventual convergence to broader economic growth. The Department reinforced the reasonableness of its approach by modeling both 10-year and 20-year convergence periods, offering a plausible range for the transition from short-term analyst expectations to long-term economic growth. These convergence periods reflect the reality that individual sectors may grow faster than the overall economy for limited periods, but not indefinitely. The Department also relied on independent, widely accepted GDP forecasts, ensuring that its long-term assumptions were grounded in unbiased projections.

~~981. In other words, while the Multi-Growth DCF analysis rectifies a modeling weakness of the Two-Growth DCF, this record also suggests that the Multi-Growth DCF represents an over-correction. Accordingly, the modeling results in this record suggest that Xcel’s ROE should be set in the range of 8.71 percent (Department Surrebuttal Multi-Stage DCF)1059 to 10.34 percent (Company Rebuttal Two-Growth DCF).~~

981. Viewed as a whole, the Department’s Multi-Stage DCF model provides a measured and economically grounded correction to the two-stage model’s perpetual-growth limitation. By applying sustainable long-term growth assumptions and integrating them with observable market data, the Department’s analysis offers a well-supported and analytically consistent basis for estimating Xcel’s cost of equity.

~~982. At the time of the Company’s last rate case filing in October 2021, the 18-month trailing average authorized ROE for vertically integrated electric utilities was 9.52 percent. By the time of the Initial Filing in the current case, the average authorized ROEs increased by approximately 30 basis points to 9.83 percent and average returns have remained at that level through 2025. This implies that, all else being equal, an increase in the Company’s ROE from its current level is appropriate. Between the filing of intervenor direct and surrebuttal testimony, the mean average multi-stage DCF had fallen between 47~~

and 49 basis points, the mean average constant growth DCF results had fallen by 39 basis points, and the mean average two-growth DCF results had fallen by 31 basis points.<sup>185</sup>

983. At the time of the Company's October 2021 rate case filing, the average yield on the 30-year Treasury was 2.06 percent. By the time of the Initial Filing in the current case, the average 30-year Treasury yield had risen to 4.54 percent and continued to increase to 4.88 percent in August 2025. This also implies that, all else being equal, an increase in the Company's ROE from its current level is appropriate. The record shows that several rate case decisions issued between intervenor direct and surrebuttal testimony have authorized ROEs that are slightly higher than those in the immediately preceding quarter but remain within the long-standing range. Considered individually and collectively, these more recent ROE determinations do not suggest that any adjustment to Xcel's existing 9.25 percent ROE is needed.<sup>186</sup> This ROE continues to reasonably balance the interests of Xcel's ratepayers and investors because it remains below prevailing authorized returns while still exceeding reasonable estimates of Xcel's cost of equity.

~~984. — These factors establish that the Company is entitled to an increase of some level to its existing 9.25 percent ROE. This reduces the range of supportable ROE figures to 9.25 percent to 10.34 percent.~~

985. DCF results based on equity analysts' growth rates are affected by upward bias due to structural incentives motivating higher projected growth rates. While a court settlement that became effective in 2003 resulted in short-term reduction in this bias, the upward bias still exists. Moreover, and more significantly, empirical evidence establishes that equity analysts' estimates significantly exceed GDP. As a result, constant-growth and two-stage DCF models overstate the appropriate ROE for Xcel.

986. This upward bias, along with the Department's independent earnings analysis and the Company's demonstrated ability to access capital with its current 9.25 percent ROE, supports a conclusion that ~~even though the Two-Multi-Stage Growth DCF is the most reasonable analysis in the record, it overstates the appropriate ROE for Xcel.~~

992. As discussed in more detail above, the following findings inform the state of the record:

- a. ~~Changing in~~ Market conditions and ROE decisions around the country establish that the Company is not entitled to an increase of some kind to its authorized ROE.
- b. ~~The Two-Multi-Stage Growth DCF analysis presented by the Department Company is the most reasonable estimate of the Company's ROE in the record. The results of this model imply an CROE of ~~40~~8.35 percent.~~

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<sup>185</sup> Ex. DOC-13 at 4–6 (Addonizio Surrebuttal).

<sup>186</sup> Id. at 7–8.

- c. The Company's demonstrated ability to access capital with an ROE of 9.25 percent, concerns about analyst bias inflating modeling results, concerns that equity analysts' 3-5 year earnings growth forecasts greatly exceed expected long-term GDP growth, and the Department's independent earnings estimates establish that, ~~while it is the most reasonable analysis in the record~~, the Two-Growth DCF overstates the appropriate ROE for the Company.
- d. Although it is important to consider multiple models, ~~the Commission should also give some weight to the primarily rely on the~~ Department's Multi-Stage DCF analysis, the results of which imply an CROE of 8.7135 percent because this model corrects a specifically identified shortcoming of the Two-Growth DCF Model, ~~though the Multi-Stage DCF analysis' own limitations establish that the Multi-Stage DCF analysis understates the appropriate ROE.~~
- e. The Company's and XLI's ROE recommendations rely on a blend of models, including CAPM and Risk Premium, which have doubtful reliability for establishing a reasonable ROE.
- f. It is reasonable to include a flotation cost adjustment of eight basis points (which is reflected in the Company's Two-Growth DCF analysis and the Department's Multi-Stage DCF analysis).

993. Applying these principles, ~~none of the recommendations made by the parties have sufficient support in the record to warrant adoption by the Commission. The~~ the Commission should reject these recommendations adopt the Department's analysis and instead authorize an ROE of 9.8-25 percent for the Company.

994. An ROE of 9.258 percent would:

- g. Align with the Department's multi-stage DCF results, which estimate Xcel's cost of equity at approximately 8.35% after flotation cost adjustments, and therefore sits comfortably above reasonable cost-of-equity estimates while remaining conservative for ratepayers. Represent a 50 basis point increase to the Company's ROE, exceeding the approximately 30 basis point increase in the 18-month trailing average of ROEs between the filing of the Company's most recent rate case and the instant rate case.
- h. Reflect the decline in DCF estimates between direct and surrebuttal testimony, indicating a modest decline in the cost of equity since the initial filing and no basis for an upward ROE adjustment. Exceed the Department's Multi-Stage DCF results, which understates the appropriate ROE, by 109 basis points.
- i. Reasonably reflect current market conditions, including the fact that authorized ROEs nationwide have remained flat for several years, and that recent decisions since direct testimony do not suggest movement away from the current authorized ROE. Be exceeded by the Company's Two-Growth DCF analysis,

which overstates the appropriate ROE, by 54 basis points. This difference also appropriately addresses the Department's concerns about the investment risk stemming from the Company's equity heavy capital ratio.

- j. Remain above long-term, independent cost-of-equity estimates from institutional investors, researchers, and financial firms, virtually all of which fall below both the Company's request and the 9.25% level, providing an external validation that the Department's recommendation is reasonable. Be approximately two-thirds of the way between the Department's Multi-Stage DCF analysis and the Company's Two-Growth DCF analysis, appropriately reflecting that the Multi-Stage DCF warrants consideration but that the Two-Growth DCF analysis is the most reasonable analysis in the record.
- k. Appropriately account for Xcel's higher-than-average equity ratio, which reduces the Company's financial risk relative to peers and therefore supports a lower cost of equity than would apply to a utility with a more debt-balanced structure. Incorporate an eight basis point flotation cost adjustment.
- l. Reflect Xcel's demonstrated the ability to raise capital at favorable terms under its current 9.25% ROE; recent bond issuances occurred at interest rates consistent with strong market access, and the Company's credit rating was upgraded following the Commission's prior 9.25% ROE decision, indicating no impairment of capital attraction. Allow, in light of the Company's demonstrated ability to access capital with a 9.25 percent ROE, the Company an opportunity to earn a fair return on its investments.
- m. Be consistent with the Commission's traditional reliance on DCF-anchored analysis and balances investor and consumer interests consistent with *Hope* and *Bluefield* by remaining within the zone of reasonableness while avoiding reliance on growth assumptions found to be unrealistic or unsustainable in the Company's DCF analyses.
- n. Avoid formulaic reliance on recent authorized ROEs in other jurisdictions—many of which remain above current cost-of-equity indicators—and instead incorporates a holistic assessment of market data, model results, and capital market access, in line with past Commission guidance very comparable to the national average authorized ROE for vertically integrated electric utilities of 9.77 percent.

#### **IV. XCEL'S FINANCIAL SCHEDULES COMPLIANCE FILING AND ANNUAL NUCLEAR REFUELING OUTAGE REPORTING.**

In addition to soliciting arguments and exceptions, the Commission's comment-period notice invited interested parties to address whether financial schedules filed by Xcel on May 11

accurately reflect the ALJ report.<sup>187</sup> The Commission also requested comments on Xcel's request to discontinue its annual reporting on nuclear refueling outage expenditures.<sup>188</sup> Based on a limited review, the Department believes Xcel's schedules accurately reflect the report. The Department also concludes that Xcel's request to discontinue its annual reporting on nuclear refuel outage expenditures is reasonable because this information is reported in other proceedings, including Xcel's jurisdictional annual reports and in its rate cases. In sum, the Department finds Xcel's financial schedules reasonable and recommends discontinuing the annual outage-expenditure report.

### CONCLUSION

The Commission should adopt the Department's exceptions and modifications to the report. Xcel has not met its burden to justify the substantial revenue increase it seeks. The record instead establishes that Xcel's proposal, even as modified by the ALJ, would impose unjust and unreasonable costs on customers. With customers already facing record energy burdens and Xcel continuing to thrive under existing rates, the public interest requires ensuring rates remain just, reasonable, and aligned with actual need.

Dated: May 15, 2026

Respectfully submitted,

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<sup>187</sup> COMMENT-PERIOD NOTICE (May 7, 2026) (eDocket No. [20265-231579-01](#)).

<sup>188</sup> *Id.*

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