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July 10, 2025

**VIA EFILING**

Mr. Mike Bull  
Acting Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, MN 55101

Re: ANSWER IN OPPOSITION TO PETITION FOR RECONSIDERATION  
***Minnesota Energy Connection Project***  
Docket Nos. E-022/CN-22-131; E-022/TL-22-132

Dear Mr. Bull:

Northern States Power Company, doing business as Xcel Energy, respectfully submits its Answer to Petition for Reconsideration brought by Miguel Cabrera and Dr. Shannon Cabrera.

We have electronically filed this document with the Minnesota Public Utilities Commission. Copies are also being served on the persons on the attached service lists. Please contact me if you have any questions regarding this filing.

Sincerely,

FREDRIKSON & BYRON, P.A.

*/s/ Haley L. Waller Pitts*

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Enclosure  
C: Service Lists

**STATE OF MINNESOTA  
BEFORE THE  
PUBLIC UTILITIES COMMISSION**

Katie Sieben  
Hwikwon Ham  
Audrey Partridge  
Joseph Sullivan  
John Tuma

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

**In the Matter of the Application of Xcel  
Energy for a Certificate Of Need and  
Route Permit for the Minnesota Energy  
Connection Project in Sherburne,  
Stearns, Kandiyoji, Wright, Meeker,  
Chippewa, Yellow Medicine, Renville,  
Redwood, and Lyon Counties in  
Minnesota**

MPUC Docket No. E-022/CN-22-131  
E-022/TL-22-132  
OAH Docket No. 23-2500-39782

**ANSWER TO PETITION FOR  
RECONSIDERATION**

**INTRODUCTION**

Northern States Power Company doing business as Xcel Energy (Xcel Energy) submits this answer to Miguel Cabrera and Dr. Shannon Cabrera’s (Petitioners) petition for reconsideration (Petition) of the Minnesota Public Utilities Commission’s (Commission) June 11, 2025 Order Modifying and Adopting the Administrative Law Judge Report, Granting Certificate of Need, and Issuing Route Permit for the Minnesota Energy Connection Project (Order).

Petitioners own land adjacent to the Minnesota Energy Connection Project’s (Project) crossing of the Mississippi River. The Petition asserts that the Commission should have selected a different route for the Project’s Mississippi River crossing to preserve Petitioners’ viewshed. The Petition raises issues that the Commission fully considered in the rigorous and thorough permitting process. Because the Petition does not raise new issues, point to new evidence, or otherwise show that the Commission’s Order is unlawful or unreasonable, Xcel Energy respectfully requests that the Petition be denied.

## **LEGAL STANDARD**

A petition for reconsideration must be timely filed and must specifically set forth the grounds for rehearing.<sup>1</sup> The Commission “may reverse, change, modify, or suspend” its original decision only if “the original decision, order, or determination is in any respect unlawful or unreasonable.”<sup>2</sup> Generally, the Commission will review petitions for reconsideration to determine whether the petition (i) raises new issues, (ii) points to new and relevant evidence, (iii) exposes errors or ambiguities in the underlying order, or (iv) otherwise persuades the Commission that it should rethink its decision.<sup>3</sup> The Commission may decide on a petition for reconsideration with or without a hearing and oral argument.<sup>4</sup>

## **DISCUSSION**

The Petition asks the Commission to reconsider its Order and select a different crossing of the Mississippi River—one that is farther from Petitioners’ property. In perfunctory form, the Petition also takes issue with the process by which the Commission considered the Certificate of Need. The Petition raises four primary arguments: (1) the Commission should have selected Route

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<sup>1</sup> Minn. Stat. § 216B.27, subd. 2; *see also* Minn. R. 7829.3000, subp. 2.

<sup>2</sup> Minn. Stat. § 216B.27, subd. 3; *see also* Minn. Stat. § 14.69 (providing that, on appeal, a reviewing court may affirm an agency decision unless, among other things, it is not supported by substantial evidence or is arbitrary or capricious).

<sup>3</sup> *See, e.g., In the Matter of the Formal Complaint and Request for Relief by the Minnesota Solar Advocates*, MPUC Docket No. E-002/C-23-424, Order Denying Petition for Reconsideration at 1 (Apr. 26, 2024).

<sup>4</sup> Minn. R. 7829.3000, subp. 6. The Petitioners also assert that “deference to the Commission may no longer be inferred” and cite to *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) in support. In *Loper Bright*, the U.S. Supreme Court concluded that the federal Administrative Procedure Act requires federal courts to exercise their independent judgment in deciding whether a federal agency has acted within its statutory authority, and that federal courts may not defer to a federal agency’s interpretation of law simply because a statute is ambiguous. 603 U.S. 369 (2024). The federal Administrative Procedure Act does not apply to review of this Commission’s decisions, let alone to a request that the Commission reconsider its own decision, and *Loper Bright* is thus inapplicable.

246, and did not do so because Xcel Energy mischaracterized the Minnesota Department of Natural Resource's (MDNR) routing comments; (2) the Order is contrary to the Minnesota Court of Appeals' decision in *People for Environmental Enlightenment and Responsibility (PEER) v. Minnesota Environmental Quality Council (MEQC)*, 266 N.W.2d 858 (Minn. 1978), (3) the Final Environmental Impact Statement (FEIS) is inadequate; and (4) the Commission should have used a different process to consider the Certificate of Need. Ultimately, Petitioners want a different outcome: a Mississippi River Crossing using Route Segment 246 or the Purple Route.<sup>5</sup> As discussed next, none of the arguments in the Petition warrants reconsideration.

**I. NEITHER ROUTE SEGMENT 246 NOR THE PURPLE ROUTE IS SUPPORTED BY THE RECORD.**

**A. The Commission appropriately declined to adopt Route Segment 246 because it vastly increases impacts to humans and the natural environment.**

The Petition asks the Commission to reconsider the Order and instead select Route Segment 246 for the Mississippi River crossing. The Petition, however, does not identify any mistake or error of law in the Order, nor does the Petition acknowledge the significant additional impacts that would occur if Route Segment 246 were selected. As shown on the graphic below, Route Segment 246 would increase impacts on residences, because there is not sufficient right-of-way along River Road in this area.

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<sup>5</sup> Petition at 41.



Specifically, there would be 42 residences within 500 feet of Route Segment 246, as compared to two residences within the corresponding section of the approved route.

Route Segment 246 is also approximately 3.4 miles longer than the approved route, with a corresponding increase in costs and environmental impacts.<sup>6</sup> With respect to other resources, as identified in Table 12-17 of the FEIS, Route Segment 246 would intersect more acres of a Grassland Bird Conservation Area than the approved route and would have additional agricultural impacts (intersecting two additional center pivot irrigation systems). Thus, although the Petition is correct that Route Segment 246 is co-located for more of its (longer) length, the route selected by the Commission significantly reduces impacts on humans and the environment.

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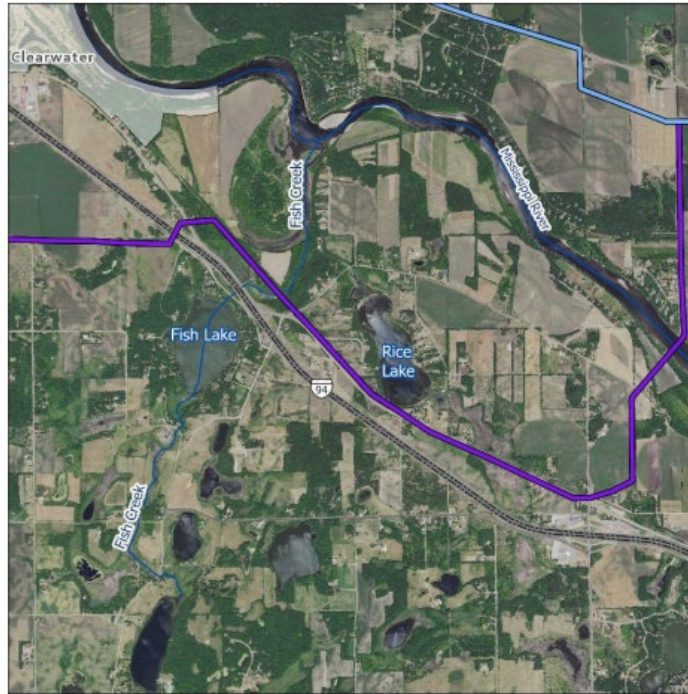
<sup>6</sup> Xcel Energy Response to Hearing Comments at 17.

**B. The Commission appropriately declined to adopt the Purple Route's crossing of the Mississippi River because, like Route Segment 246, it increases impacts to humans and the natural environment.**

Although the Petition primarily focuses on advocating for Route Segment 246, the Petition variously suggests that the Commission should have instead adopted the Purple Route's crossing of the Mississippi River. Here, too, the Petition fails to identify an error in fact or law, and the route selected by the Commission minimizes human and environmental impacts are compared to the Purple Route. More specifically, although the Purple Route would follow existing infrastructure at the river crossing, the Purple Route would result in residential impacts south and west of Sherco. In contrast, the approved route's crossing of the Mississippi River would be adjacent to undeveloped land and would cross at a narrow river channel. Likewise, during the permitting process, comments were submitted in opposition to the Purple Route particularly because of potential impacts on the Fish Creek Basin area; the comments noted the particular natural resources in that area. The figure below depicts the Purple Route within the Fish Creek and Fish Lake areas, as compared to the approved route. The approved route avoids these natural resources.<sup>7</sup>

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<sup>7</sup> *Id.* at 24–25.



The Purple Route would also require crossing an existing transmission line at this river crossing location, as compared to zero line crossings for the approved route. The record discusses reliability issues associated with increased numbers of line crossings, and the Commission’s route selection appropriately incorporated these considerations.<sup>8</sup>

**C. The Commission fully considered MDNR’s comments regarding the Project.**

The Petition asserts that the Commission failed to fully consider MDNR’s comments regarding the Project, primarily arguing that the failure was due to Xcel Energy’s discussion of MDNR’s comments and creation of a “proxy route” to allow for comparison among MDNR routing preferences and other routes under consideration. The Petition presents an incomplete factual history to support this argument, picking and choosing among issues and ignoring facts.<sup>9</sup>

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<sup>8</sup> *Id.* at 30-31.

<sup>9</sup> For example, the Petition states that it is attaching MDNR’s written comments because the comments were “hidden in the hearing record.” (Petition at 5.) This is wrong. MDNR filed its

Indeed, the Petition includes extensive screenshots of documents in the record that contradict the arguments in the Petition.<sup>10</sup>

The Commission did not misunderstand MDNR's comments. The Order states:

The DNR preferred a route over the Mississippi River that utilizes existing crossings, recommending the Purple Route in Wright County or Route Segment 246 along the Blue Route. According to the DNR, these routes would reduce the impact to the WSR district and minimize impacts related to viewshed, vegetation removal, and Minnesota Biological Survey (MBS) Sites of Biodiversity Significance.<sup>11</sup>

The Order also correctly observes that “Xcel developed a DNR Proxy Route that incorporated the most reasonable route segments in regions where the DNR supported more than one route segment.”<sup>12</sup> MDNR's prior comments are not new information, despite the Petition's attempt to characterize them as such. The Commission fully considered MDNR's comments, and there is no basis for reconsideration.<sup>13</sup>

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own comments on February 21, 2024, and November 26, 2024—both are readily apparent on the public docket.

<sup>10</sup> For example, even while accusing Xcel Energy of misrepresenting MDNR's routing preferences, the Petition includes a screenshot from the Administrative Law Judge's (ALJ) Report that summarizes the MDNR proxy route, noting that Xcel Energy compiled the route to allow for some comparison between end-to-end routes and that “selecting a different combination of MDNR's preferred route segments . . . would result in different impact calculations.” (Petition at 16.)

<sup>11</sup> June 11, 2025 Order at 15; *see also* Findings of Fact, Conclusions of Law, and Recommendation ¶ 567 (“MDNR prefers a crossing of the Mississippi River that uses an existing crossing (the Purple Route (Route G3) or Route Segment 246).”).

<sup>12</sup> Order at 15.

<sup>13</sup> Petitioners also note that under Minn. R. 6105.0170, a utility crossing of a wild, scenic, or recreational river may be required to receive a permit from MDNR and argue that the Commission failed to consider this rule. But the Commission does not implement Minn. R. 6105.0170. MDNR does, and the need for this permit was identified in the record. Route Permit Application at 213; FEIS at 30. Likewise, the Route Permit for the Project requires that Xcel Energy comply with all applicable state rules and statutes, including by obtaining “all required



Finally, the Petition criticizes Xcel Energy for not including Route 246 in the MDNR Proxy Route.<sup>14</sup> However, Xcel Energy's Response to Hearing Comments explained, the end-to-end route included the MDNR route preferences that were least impactful:

Note that MDNR's comments identified multiple potential route segments in some regions. Xcel Energy has addressed each of these route segments in the sections above/elsewhere. However, to allow for some comparison among MDNR's route preferences, Xcel Energy's Preferred Route, and the Blue and Purple Routes, the MDNR route presented in Table 2 below includes the following route segments: Route A6; Route B4 with Route Segments 211 and 214; Route C4 with Route Segment 223 and Route Connector 105; Route D1; Route E1; Route F1 with Route Connector 110; Route G1 with Route Segments 240, 249, and 115; and G3 with Route Segment 248. *Where MDNR indicated a preference for overlapping route segments, the route above includes the segment that (at least in Xcel Energy's view) is least impactful in comparison to the other MDNR route segment preferences in the same area.* Selecting a different combination of MDNR's preferred route segments in areas where they overlap would result in different calculations.

In other words, adding Route Segment 246 to the MDNR Proxy Route would have made that route *more* impactful, not less.

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permits for the Transmission Facility" and complying "with the conditions of those permits." Route Permit § 5.5.2. Finally, the DNR, like other state agencies, are bound by the Commission's route decision: "A state agency in processing a permittee's facility permit application is bound to the decisions of the commission with respect to (1) the site or route designation, and (2) other matters for which authority has been granted to the commission by this chapter." Minn. Stat. 216I.18, sub. 2.

<sup>14</sup> Petition at 14. The Petition also criticizes Xcel Energy for not including Route 246 in MDNR's routing preferences for Region G. The criticism is misplaced. Xcel Energy's comments merely restate MDNR's own comments and then responds to those comments, in detail, by individual route alternative. (MDNR DEIS Comments at 1–2; Xcel Energy Response to Hearing Comments at 21–25 )

## II. ***PEER* DOES NOT REQUIRE THE SELECTION OF ROUTE SEGMENT 246 OR THE PURPLE ROUTE.**

The Petition asserts that the Commission was required to select Route Segment 246 or the Purple Route because they are co-located with existing infrastructure, ignoring other impacts and issues associated with those routes.<sup>15</sup> This is not the law, and the argument misconstrues the extensive record before the Commission and the Commission’s detailed analysis of that record. Contrary to the assertions in the Petition, the Commission’s Order properly considered all the state routing factors and the state’s preference for right of way sharing, as stated in *People for Environmental Enlightenment & Responsibility (PEER), Inc. v. Minnesota Environmental Quality Council*, 266 N.W.2d, 858 (Minn. 1978).

In *PEER*, the Minnesota Supreme Court evaluated the selection of route alternatives under the Power Plant Siting Act (PPSA) for compliance with the Minnesota Environmental Rights Act (MERA).<sup>16</sup> Unlike this route proceeding, the routes at issue in *PEER* had two distinctly different impacts: the first impacted 130 acres of old-growth oak trees and a 49-acre lake, and the second required condemnation of several homes. The Minnesota Supreme Court observed that the policies behind the PPSA and MERA may be different, and that the Legislature sought to “harmonize the need for electric power with the equally important goal of environmental protection.”<sup>17</sup> In harmonizing these statutes, the *PEER* Court held that a route that “impairs, pollutes, or destroys protected natural resources cannot be approved if there is a prudent and feasible alternative route

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<sup>15</sup> Petition at 10–11 (citing *PEER*); § III (citing *PEER*); § IV (citing *PEER*); § V.A; § V.F; § VIII (citing *PEER* for a non-proliferation policy).

<sup>16</sup> *People for Env’t Enlightenment & Resp. (PEER), Inc. v. Minnesota Env’t Quality Council*, 266 N.W.2d 858 (Minn. 1978)

<sup>17</sup> *Id.* at 865.

available.”<sup>18</sup> The *PEER* Court concluded that the fact that a route required condemnation of several homes did not, on its own, render the route imprudent or infeasible.<sup>19</sup> Thus, *PEER* stands for the indisputable principle that no one routing factor is more important than the others.

Further, in *PEER*, the court determined that the EIS prepared for that project did not sufficiently address the route ultimately selected by the agency: “Since Route 7 was not analyzed in the same depth as the other routes, the EIS, as written, could not have helped the decisionmaker to evaluate the relative damages to the three routes under consideration and to make a meaningful choice among them.”<sup>20</sup> In contrast, here, the EIS included a fulsome comparison of, among others, the Purple Route, Blue Route, and Route Segment 246, analyzing the impacts of each on a full range of human and environmental resources. Further, unlike the agency in *PEER*, the Order and the ALJ Report specifically discuss the route alternatives available for the Project’s crossing of the Mississippi River.<sup>21</sup>

The *PEER* Court also observed that transmission line siting must comport with the state’s nonproliferation commitment—a preference to route new power lines along existing infrastructure

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<sup>18</sup> *Id.* at 864.

<sup>19</sup> In *PEER*, unlike in this record, the approved route was not analyzed to the same depth as other routes in the FEIS. *See id.* at 871. The *PEER* Court concluded that, on remand, the agency could still select the same route if, after more environmental review that “treats all the routes comparably,” found significant noncompensable damage (including environmental damage) would be caused by using the existing right-of-way. Here, unlike in *PEER*, the FEIS thoroughly analyzed each of the routes, treated them comparably, and found significant human and environmental impacts from Route 246 and the Purple Route.

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

<sup>21</sup> Findings of Fact, Conclusions of Law, and Recommendation ¶¶ 209–212, 567–568, 601, & 648.

to minimize the proliferation of new corridors.<sup>22</sup> This nonproliferation policy is reflected in the siting rules and statutes applicable to this Project.<sup>23</sup>

*PEER* did *not* hold, however, that following existing rights-of-way or linear features is the only criteria to the exclusion of other routing factors. When, as here, all of the routes have some impacts on environmental and human resources, the routing criteria govern the Commission's selection among routes.<sup>24</sup> As the ALJ Report notes, Route Segment 246 is "in closer proximity to more residences than other available routes" and "increase[s] impacts to residences as opposed to

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<sup>22</sup> *Id.* at 868.

<sup>23</sup> Minn. Stat. § 216E.03, subd. 7(b)(8) (2022) (requiring evaluation of "potential routes that would use or paralleling existing railroad and highway rights-of-way"); Minn. R. 7850.4100 (H) (requiring analysis of "use of paralleling of existing rights-of-way..." and (J) (requiring analysis of "use of existing transportation, pipeline, and electrical transmission systems or rights-of-way").

<sup>24</sup> Unlike the PPSA, MERA does not provide a mechanism to distinguish between route options that all cause some human and environmental impacts. *See* Minn. Stat. § 116B.04(b); Minn. Stat. § 116B.01 ("The legislature further declares its policy to create and maintain within the state conditions under which human beings and nature can exist in productive harmony . . ."). In fact, in *PEER*, the Court added that, "[i]mplicit in the operation of MERA is the principle that environmentally damaging action cannot be taken if there is another, *less damaging* way to achieve the desired result." 266 N.W.2d at 873 (emphasis added). But here, the record does not support a conclusion that Route 246 or the Purple Route are less damaging. Petitioners also implicitly rely on an unfounded assumption that a route that is *not* located with existing transmission will have greater environmental impacts. The Minnesota Supreme Court rejected such a sweeping conclusion about the impacts of transmission in *Skeie v. Minnkota Power Co-op., Inc.*, 281 N.W.2d 372, 373 (Minn. 1979). While Xcel Energy recognizes that all of the routes have some environmental and human impacts, it is the Commission's role to consider these impacts and the other routing criteria set forth in statute and to balance those impacts under the PPSA. The record reflects the Commission's thorough balancing of environmental and human impacts, and Petitioners' generalized assertion that a river crossing will have environmental impacts does not warrant reconsideration. *See PEER*, 266 N.W.2d at 865 (explaining that MERA and PPSA are part of "a coherent legislative policy, one whose aims is to harmonize the need for electric power with the equally important goal of environmental protection); *Floodwood-Fine Lakes Citizens Grp. v. Minnesota Env't Quality Council*, 287 N.W.2d 390 (Minn. 1979) (noting that the "task of balancing the impact on the environment with the impact on those who may be dislocated is a difficult and delicate one" and concluding that the record should reflect environmental impacts of all proposed routes).

other route segments.”<sup>25</sup> Specifically, there would be 42 residences within 500 feet of this route.<sup>26</sup> The record shows that the human impact of Route Segment 246 is significant, and the Commission appropriately and thoughtfully balanced the routing factors when it identified a route for the Project. Further, as noted in Section I(A) and (B) above, the route selected by the Commission also avoids other resources that would be impacted by Route Segment 246 and/or the Purple Route. For example, Route Segment 246 is several miles longer than the approved route, and the Purple Route would cross the Fish Creek and Fish Lake Areas. None of the routes are impact-free, and the Commission appropriately applied Minnesota law to select a route that minimizes environmental and human impacts.

The Petition purports to argue that the Commission failed to consider non-compensable impacts under *PEER*. However, the primary asserted impacts raised in the Petition are impacts to Petitioners’ residence related to viewshed and property values. But these are not potential impacts unique to Petitioners’ property, nor are they potential impacts unique to the approved route. Indeed, the Order recognizes that Petitioners’ preferred routes (Route Segment 246 and the Purple Route) are likely to have *greater* impacts.

In short, Petitioners want the Commission to consider a narrow range of factors in a narrow geographic area. This is contrary to Minnesota law, and the Commission did not err when it selected the approved route after considering all of the routing factors in making its route decision.<sup>27</sup>

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<sup>25</sup> ALJ Report ¶ 382.

<sup>26</sup> Langan Direct Testimony at 14:13–15:2.

<sup>27</sup> FEIS § 5.2.7.2 (“Every landowner has a unique relationship and sense of value associated with their property.”).

### III. THE FEIS THOROUGHLY CONSIDERED ENVIRONMENTAL IMPACTS.

The Petition asserts several deficiencies in the FEIS, but none of the issues raised by the Petition render the FEIS inadequate or warrant reconsideration. An EIS should be “an analytical rather than an encyclopedic document that describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated.”<sup>28</sup> An FEIS is adequate if it:

- A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;
- B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
- C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.<sup>29</sup>

The Petition does not identify any deficiencies under this rule; the Petition does not even reference the rule. Instead, the Petition asserts that the FEIS was inadequate with respect to “compensable and non-compensable impacts,”<sup>30</sup> its analysis of MDNR’s comments,<sup>31</sup> eagle nests,<sup>32</sup> viewshed,<sup>33</sup> property values,<sup>34</sup> and non-proliferation. The FEIS addressed each of these topics, and the Commission properly determined the FEIS to be adequate.

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<sup>28</sup> Minn. Stat. § 116D.04.

<sup>29</sup> Minn. R. 7850.2500, subp. 10.

<sup>30</sup> Petition at 24.

<sup>31</sup> *Id.* at 24-26.

<sup>32</sup> *Id.* at 26-31.

<sup>33</sup> *Id.* at 31-24

<sup>34</sup> *Id.* at 34-35.

The Petition takes issue with the FEIS because it includes a table, Table 12-17, that compares Route Segment 246 with the Blue Route equivalent and includes information regarding paralleling existing infrastructure, human settlement impacts, and natural resource impacts. The Petition appears to assert that *PEER* would prohibit the Commission from considering impacts to residences.<sup>35</sup> As discussed previously, that is not the law.

With respect to the Petition's assertion regarding MDNR's comments, Xcel Energy previously addressed these issues in Section I of this response. Likewise, the FEIS reflects a consideration of MDNR's comments throughout.<sup>36</sup> At the end of the day, however, the Legislature tasked the Commission with routing transmission lines, and directed the Commission to evaluate multiple criteria in selecting a route. That the Commission selected a different route than the one Petitioners preferred does not render the FEIS deficient.

Next, the Petition asserts that the FEIS is inadequate because it fails to “disclose and consider locations of eagle nests.” They assert that the FEIS failed to consider a MDNR site that documents the location of eagles' nests, citing to a webpage dated March 13, 2025.<sup>37</sup> The FEIS was published three months *before* the website Petitioners cite—on January 22, 2025. At that time, the FEIS recognized that, “[t]he DNR is in the process of developing a data base of eagle nest locations; however it is not currently available.”<sup>38</sup> The FEIS was not inadequate because it did not consider future information.

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<sup>35</sup> *Id.* at 24.

<sup>36</sup> *See* FEIS at §§ 6 - 13.

<sup>37</sup> *Bald Eagle Nest Locations*, Minnesota Geospatial Commons (Mar. 13, 2025) <https://gisdata.mn.gov/dataset/biota-bald-eagle-nest-locations>; Petition at 29.

<sup>38</sup> FEIS at 198.

The Petition further asserts that the FEIS is inadequate because “there is no demonstration that Xcel has done the background investigation to determine whether eagles will be affected” by the Project.<sup>39</sup> First, that argument fails because it ignores the legal standard for adequacy set forth in Minn. R. 7850.2500, subp. 10. The scoping decision does not require a specific type of analysis related to eagle nests and the Petition likewise does not identify a specific comment on the draft EIS that the FEIS failed to consider. Second, the FEIS discusses eagles and related guidance and restrictions, including the 660-foot buffer noted in the Petition. The FEIS then explains what would occur if an eagle nest is observed.<sup>40</sup>

The Petition next claims that the FEIS gave “inadequate weight to aesthetics and destruction of viewshed.”<sup>41</sup> The Petition reiterates Petitioners’ prior comments and concludes by asserting that the Commission’s selection “would result in far greater impacts than any other route option.”<sup>42</sup> This is too narrow a view and disregards the potential impacts on the 42 additional residences that would be in closer proximity to Route Segment 246 and would thus also experience aesthetic impacts. Further, the Petition disregards that the Project will use a horizontal configuration for the Mississippi River crossing with shorter structures, which will minimize impacts to avian species; the shorter structures could also reduce aesthetic impacts.<sup>43</sup> The Commission, however, did not ignore those impacts, and the Order is lawful and reasonable.

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<sup>39</sup> Petition at 31.

<sup>40</sup> FEIS at 198.

<sup>41</sup> This argument misses the mark first because the *Commission*, not the FEIS, is tasked with weighing resources and impacts. The purpose of the FEIS is to inform the Commission’s decision, not make the decision itself.

<sup>42</sup> Petition at 34.

<sup>43</sup> Xcel Energy Response to Hearing Comments at 18.



Finally, the Petition asserts the FEIS is inadequate because it failed to sufficiently address the effect on property values.<sup>44</sup> Petitioners previously raised their concerns with decreasing property values,<sup>45</sup> stating decreases in property values between 10 and 40 percent. The FEIS addressed the potential for impacts to property values, including in a standalone appendix to the FEIS, finding that “research has shown these effects to be almost always less than 10 percent.”<sup>46</sup> The FEIS is not inadequate merely because it reaches a different conclusion from the Petitioners.

Further, Petitioners correctly quote the FEIS’ conclusion that there will be an increased impact on properties that heavily rely on aesthetic character,<sup>47</sup> but their quote is incomplete. The FEIS went on to state:

Every landowner has a unique relationship and sense of value associated with their property. Thus, a landowner’s assessment of potential impacts to their property’s value is often a deeply personal comparison of the property “before” and “after” a proposed project is constructed. These judgments, however, do not necessarily influence the market value of a property. Rather, appraisers assess a property’s value by looking at the property “after” a project is constructed. Moreover, potential market participants likely see the property independent of the changes brought about by a project; therefore, they do not take the “before” and “after” into account the same way a current landowner might. Staff acknowledges this section does not and cannot consider or address the fear and anxiety felt by landowners when facing the potential for negative impacts to their property’s value (references (81); (82)).<sup>48</sup>

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<sup>44</sup> Petition at 34.

<sup>45</sup> *See id.* § V (E) (“The EIS Fails to Sufficiently Address the Impacts of Project on Property Values.”); Cabrera Comments (February 21, 2024); Public Comment 148-178 at 45-49 (March 20, 2024); Cabrera Comments (November 25, 2024).

<sup>46</sup> FEIS § 5.2.7.

<sup>47</sup> Petition at 35 (citing FEIS at 35).

<sup>48</sup> FEIS § 5.2.7.2.

The FEIS adequately considered impacts on property values, and although the Petition would seek a different routing outcome, it does not identify a deficiency in the FEIS.

Overall, the record demonstrates that the FEIS complied with Minnesota law, and the Commission appropriately determined the FEIS to be adequate. None of the issues raised in the Petition shows the Order to be unlawful or unreasonable, and the Petition should be denied.

#### **IV. THE PETITION’S ARGUMENTS RELATED TO NEED ARE UNTIMELY & LACK MERIT.**

The Petition next raises issues related to the Certificate of Need the Commission granted for the Project. First, the Petition asserts that the Project presents an “issue of first impression” and should not be granted a Certificate of Need. The argument is not well-developed and does not identify anything in the Order that is unlawful or unreasonable. Regardless, contrary to the assertions in the Petition, the process by which the Commission reviewed the Project was lawful and comprehensive. The Project arose out of an integrated resource plan (“IRP”) proceeding in which the Commission directed Xcel Energy to proceed with permitting the Project.<sup>49</sup> Xcel Energy then filed a Certificate of Need Application, and the Commission considered the Application under its informal process, as authorized by Minn. R. 7829.1200.<sup>50</sup> The Commission issued an order authorizing that process in May 2023—more than two years ago, and no challenges to that order were raised.

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<sup>49</sup> Pursuant to Minn. R. 7843.0600, subp. 2, the Commission’s decision in the IRP proceeding “constitutes prima facie evidence of the facts stated in the decision.” The rule further provides that an interested person may submit “substantial evidence” to rebut the findings in another proceeding; no one submitted such evidence in this case.

<sup>50</sup> Order Approving Certificate of Need Exemptions (June 28, 2022) (eDocket No. [20226-186932-01](#)); Notice of Comment Period on Request for Exemption from Certain certificate of Need Application Content Requirements (May 9, 2022) (eDocket No. 20225-185603-01).

Second, and related, the Petition argues that the Commission’s approval of Xcel Energy’s requested exemptions from certain application content requirements—a standard procedural step—and the use of the informal process was an “error of law.” The argument is untimely and lacks merit. After a notice and comment period, the Commission issued an order on Xcel Energy’s requested exemptions on June 28, 2022. On May 2, 2023, again after a notice and comment period, the Commission issued an Order finding the Application complete and authorizing use of the informal process. Petitioners did not comment on either request, nor did they object to those orders. Indeed, no objections to those orders were raised. Likewise, no one requested a contested case proceeding, even though the Commission’s May 2023 order acknowledged that one could be requested: “recognizing that a contested case may be requested through the deadline for public comments.” It is too late to raise those issues now, and there is no basis to grant reconsideration on that basis.

Finally, the Commission did not err in concluding that the Project meets the criteria for a certificate of need.<sup>51</sup> The Project will enable Xcel to retain and reuse approximately 2,000 MW of transmission interconnection rights at the Sherco substation under its Midcontinent Independent System Operator, Inc. (MISO) Tariff. In the 2020-2034 IRP proceeding, the Commission found that Xcel Energy: (1) must retire the coal-powered Sherco Unit 3 by 2030, (2) will need approximately 600 MW more solar-powered generation and 2,150 MW more wind power generation, and (3) approved Xcel Energy’s plan to begin certificate of need proceedings for transmission lines with a capacity of 345 kV extending from the retiring King and Sherco

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<sup>51</sup> See Petition § VI (arguing that the Project is not needed).

generators, to permit new energy resources to connect to the MISO grid.<sup>52</sup> Consistent with the 2020-2034 IRP docket, the Commission found that,

the Project will address multiple needs for Xcel. As found by the ALJ, the Project will enable the delivery of at least 1,996 MW to the Sherco substation to utilize Xcel's existing transmission interconnection rights once the coal-powered units retire, supporting Xcel's acquisition of sources of carbon-free generation. Finally, the Project will support regional energy needs and enhance the efficiency and reliability of the transmission system as the Project will enable more predictable and cost-effective interconnection of wind- and solar-generated energy produced in southwestern Minnesota.<sup>53</sup>

Petitioners do not identify any error in this conclusion—instead asserting, without factual basis—that the Commission's conclusion is incorrect. These generalized assertions do not warrant reconsideration, especially in light of the thorough record here.

### **CONCLUSION**

Petitioner does not raise new issues that warrant reconsideration. Accordingly, for the reasons stated herein, Xcel Energy respectfully asks the Commission to deny the Petition.

Dated: July 10, 2025

*/s/ Haley L. Waller Pitts*

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<sup>52</sup> Order at 6, 10–13 (citing *In the Matter of the 2020–2034 Upper Midwest Integrated Resource Plan of Northern States Power Company d/b/a Xcel Energy*, Order Approving Plan with Modifications and Establishing Requirements for Future Filings, Docket No. E-002/RP-19-368 (April 15, 2022)).

<sup>53</sup> Order at 11.

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**In the Matter of the Certificate of Need  
and Route Permit Applications for the  
Minnesota Energy Connection Project**

**CERTIFICATE OF SERVICE**

**MPUC Docket Nos. E002/CN-22-131 and  
TL-22-132**

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Breann L. Jurek certifies that on the 10th day of July 2025, she e-filed on behalf of Northern States Power Company, doing business as Xcel Energy, a true and correct copy of the following documents:

- Answer in Opposition to Cabrera Petition for Reconsideration; and
- Certificate of Service,

with the Minnesota Public Utilities Commission via eDockets ([www.edockets.state.mn.us](http://www.edockets.state.mn.us)). Said documents were also served on the Official Service Lists of record on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: July 10, 2025

*Signed: /s/ Breann L. Jurek*

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