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July 14, 2023

VIA EDOCKETS

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

Re: *In the Matter of the Application of Xcel Energy for a Certificate of Need for Additional Dry Cask Storage at the Monticello Nuclear Generating Plant Independent Spent Fuel Storage Installation in Wright County*
MPUC Docket No. E-002/CN-21-668

Dear Mr. Seuffert:

The Minnesota Department of Commerce appreciates the Administrative Law Judge's thorough review of this matter and thoughtful report.¹ The Commission should adopt the Judge's report except with respect to Section VI(B)(3)(c)(ii) discussing the leak of water contaminated with radioactive tritium.²

The Commission should replace the Judge's findings 192 through 212 with Xcel Energy's proposed findings 162 and 163.³ The Judge appears to have relied upon the utility's supplemental filing regarding the tritiated water leak to draft findings 192 through 212.⁴ While Xcel's filing may provide some useful, initial context regarding the leak, neither the Department nor the Judge had the opportunity to meaningfully review Xcel's statements regarding the leak. The utility's filing was made after the dates scheduled for the evidentiary hearing and limited time was provided for subsequent investigation.

Xcel's actions precipitating the leak and its remediation efforts are ultimately a prudency question that should, to the extent necessary, be addressed in a separate proceeding.⁵ Adopting

¹ SUMMARY OF TESTIMONY, FINDINGS OF FACT, CONCLUSIONS OF LAW, & RECOMMENDATION (June 29, 2023) (eDocket No. 20236-197047-01).

² *Id.* at 36–38.

³ Xcel Energy's Proposed Findings of Fact, Conclusions of Law, & Recommendation at 37 (May 15, 2023) (eDocket No. 20235-195855-01).

⁴ Xcel Energy's Supplemental Submission (May 15, 2023) (eDocket No. 20235-195855-02).

⁵ Department Letter at 5–7 (May 30, 2023) (eDocket No. 20235-196219-01) (responding to Xcel's tritiated water leak).

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the Judge's findings 192 through 212 at this early stage, before the causes of the leak are fully investigated and understood, risks prejudging the matter and could interfere with future efforts to obtain customer refunds should further investigation deem them warranted. Xcel's proposed findings 162 and 163 are a reasonable substitute that acknowledge the tritiated water leak occurred during the pendency of this proceeding without impinging on future cost and prudence reviews:

162. The Company explained that it discovered a leak of tritiated water in November 2022 and promptly reported the leak to the Minnesota State Duty Officer and the NRC. The Company stated that the leak has not impacted groundwater outside the boundaries of the Plant, the Mississippi River, or any drinking water wells. The Company stated it has located the leak and repaired it. The Company also states that it continues to pump contaminated groundwater and will continue to take action to appropriately manage the cleanup of the tritiated water plume.

163. The ALJ finds that the Company's two replacement cases are reasonable test cases by which to compare the environmental impacts of extending the life of the Monticello Plant. The ALJ also finds that environmental considerations weigh in favor of extending the Monticello Plant and granting the CON, as compared to the Company's two replacement cases. The ALJ further finds that the circumstances around the leak of tritiated water at the Plant and the Company's response to that leak does not change the ALJ's finding on this point.

For these reasons, the Department recommends that the Commission adopt the Judge's report except with respect to Section VI(B)(3)(c)(ii). Thank you for your attention to this matter. By copy of this letter all parties have been served. A certificate of service is enclosed.

Sincerely,

/s/ Richard Dornfeld

RICHARD DORNFELD

Assistant Attorney General

(651) 757-1327 (Voice)

(651) 297-1235 (Fax)

richard.dornfeld@ag.state.mn.us

Attorney for Minnesota Department of Commerce

SERVICE LIST
MPUC Docket No. E-002/CN-21-668

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|-----------|--------------------------------|---|--|--------------------|-------------------|
| Ross | Abbey | ross.abbey@us-solar.com | United States Solar Corp. | 100 North 6th St Ste 222C Minneapolis, MN 55403 | Electronic Service | No |
| Gary | Ambach | Gambach@slipstreaminc.org | Slipstream, Inc. | 8973 SW Village Loop Chanhassen, MN 55317 | Electronic Service | No |
| Ellen | Anderson | eanderson@mncenter.org | Minnesota Center for Environmental Advocacy | 1919 University Ave W Ste 515 Saint Paul, MN 55104 | Electronic Service | No |
| Sigurd W. | Anderson | mariner4anderson@gmail.com | Engineering Lab Design | 30910 716th St Lake City, MN 55041 | Electronic Service | No |
| Alison C | Archer | aarcher@misoenergy.org | MISO | 2985 Ames Crossing Rd Eagan, MN 55121 | Electronic Service | No |
| Susan | Arntz | sarntz@mankatomn.gov | City Of Mankato | P.O. Box 3368 Mankato, MN 560023368 | Electronic Service | No |
| Mara | Ascheman | mara.k.ascheman@xcelenergy.com | Xcel Energy | 414 Nicollet Mall Fl 5 Minneapolis, MN 55401 | Electronic Service | No |
| Gail | Baranko | gail.baranko@xcelenergy.com | Xcel Energy | 414 Nicollet Mall 7th Floor Minneapolis, MN 55401 | Electronic Service | No |
| Jessica L | Bayles | Jessica.Bayles@stoel.com | Stoel Rives LLP | 1150 18th St NW Ste 325 Washington, DC 20036 | Electronic Service | No |
| David | Bender | dbender@earthjustice.org | Earthjustice | 1001 G Street NW Suite 1000 Washington, District of Columbia 20001 | Electronic Service | No |
| Tracy | Bertram | tbertram@ci.becker.mn.us | | 12060 Sherburne Ave Becker City Hall Becker, MN 55308-4694 | Electronic Service | No |
| James J. | Bertrand | james.bertrand@stinson.com | STINSON LLP | 50 S 6th St Ste 2600 Minneapolis, MN 55402 | Electronic Service | No |
| Jessica | Beyer | jbeyer@greatermankato.com | Greater Mankato Growth | 1961 Premier Dr Ste 100 Mankato, MN 56001 | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|----------------|--------------------|-----------------------------------|------------------------------------|--|--------------------|-------------------|
| Elizabeth | Brama | ebrama@taftlaw.com | Taft Stettinius & Hollister LLP | 2200 IDS Center 80 South 8th Street Minneapolis, MN 55402 | Electronic Service | No |
| James | Canaday | james.canaday@ag.state.mn.us | Office of the Attorney General-RUD | Suite 1400 445 Minnesota St. St. Paul, MN 55101 | Electronic Service | No |
| Thomas | Carlson | thomas.carlson@edf-re.com | EDF Renewable Energy | 10 2nd St NE Ste. 400 Minneapolis, Minnesota 55413 | Electronic Service | No |
| Christopher J. | Cerny | ccerny@winthrop.com | Winthrop & Weinstine, P.A. | 225 South Sixth Street Suite 3500 Minneapolis, MN 55402 | Electronic Service | No |
| John | Coffman | john@johncoffman.net | AARP | 871 Tuxedo Blvd. St, Louis, MO 63119-2044 | Electronic Service | No |
| Generic Notice | Commerce Attorneys | commerce.attorneys@ag.state.mn.us | Office of the Attorney General-DOC | 445 Minnesota Street Suite 1400 St. Paul, MN 55101 | Electronic Service | Yes |
| Jean | Comstock | jean.comstock.dbcc@gmail.com | St. Paul 350 | 729 6th St E St. Paul, MN 55106 | Electronic Service | No |
| George | Crocker | gwillc@nawo.org | North American Water Office | 5093 Keats Avenue Lake Elmo, MN 55042 | Electronic Service | No |
| James | Denniston | james.r.denniston@xcelenergy.com | Xcel Energy Services, Inc. | 414 Nicollet Mall, 401-8 Minneapolis, MN 55401 | Electronic Service | No |
| Ian M. | Dobson | ian.m.dobson@xcelenergy.com | Xcel Energy | 414 Nicollet Mall, 401-8 Minneapolis, MN 55401 | Electronic Service | No |
| Richard | Dornfeld | Richard.Dornfeld@ag.state.mn.us | Office of the Attorney General-DOC | Minnesota Attorney General's Office 445 Minnesota Street, Suite 1800 Saint Paul, Minnesota 55101 | Electronic Service | No |
| J. | Drake Hamilton | hamilton@fresh-energy.org | Fresh Energy | 408 St Peter St Ste 350 Saint Paul, MN 55101 | Electronic Service | No |
| Scott F | Dunbar | sdunbar@keyesfox.com | Keyes & Fox LLP | 1580 Lincoln St Ste 880 Denver, CO 80203 | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|----------------|--|---|---|--------------------|-------------------|
| Brian | Edstrom | briane@cubminnesota.org | Citizens Utility Board of Minnesota | 332 Minnesota St Ste W1360 Saint Paul, MN 55101 | Electronic Service | No |
| Kristen | Eide Tollefson | healingsystems69@gmail.com | R-CURE | 28477 N Lake Ave Frontenac, MN 55026-1044 | Electronic Service | No |
| Rebecca | Eilers | rebecca.d.eilers@xcelenergy.com | Xcel Energy | 414 Nicollet Mall - 401 7th Floor Minneapolis, MN 55401 | Electronic Service | No |
| Kate | Fairman | kate.frantz@state.mn.us | Department of Natural Resources | Box 32 500 Lafayette Rd St. Paul, MN 551554032 | Electronic Service | No |
| John | Farrell | jfarrell@ilsr.org | Institute for Local Self-Reliance | 2720 E. 22nd St Institute for Local Self-Reliance Minneapolis, MN 55406 | Electronic Service | No |
| Annie | Felix Gerth | annie.felix-gerth@state.mn.us | | Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155 | Electronic Service | No |
| Sharon | Ferguson | sharon.ferguson@state.mn.us | Department of Commerce | 85 7th Place E Ste 280 Saint Paul, MN 551012198 | Electronic Service | No |
| Mike | Fiterman | mikefiterman@libertydiversified.com | Liberty Diversified International | 5600 N Highway 169 Minneapolis, MN 55428-3096 | Electronic Service | No |
| Lucas | Franco | lfranco@liunagroc.com | LIUNA | 81 Little Canada Rd E Little Canada, MN 55117 | Electronic Service | No |
| Amy | Fredregill | afredregill@environmental-initiative.org | Environmental Initiative, MN Sustainable Growth Coalition | 211 First St N Ste 250 Minneapolis, MN 55401 | Electronic Service | No |
| Edward | Garvey | garveyed@aol.com | Residence | 32 Lawton St Saint Paul, MN 55102 | Electronic Service | No |
| Edward | Garvey | edward.garvey@AESLconsulting.com | AESL Consulting | 32 Lawton St Saint Paul, MN 55102-2617 | Electronic Service | No |
| Janet | Gonzalez | Janet.gonzalez@state.mn.us | Public Utilities Commission | Suite 350 121 7th Place East St. Paul, MN 55101 | Electronic Service | No |
| Todd J. | Guerrero | todd.guerrero@kutakrock.com | Kutak Rock LLP | Suite 1750 220 South Sixth Street | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|-----------|------------------------------------|--|--|--------------------|-------------------|
| | | | | Minneapolis, MN 554021425 | | |
| Thomas P. | Harlan | harlan@mdh-law.com | Madigan, Dahl & Harlan, P.A. | 222 South Ninth Street Suite 3150 Minneapolis, MN 55402 | Electronic Service | No |
| Matthew B | Harris | matt.b.harris@xcelenergy.com | XCEL ENERGY | 401 Nicollet Mall FL 8 Minneapolis, MN 55401 | Electronic Service | No |
| Kim | Havey | kim.havey@minneapolismn.gov | City of Minneapolis | 350 South 5th Street, Suite 315M Minneapolis, MN 55415 | Electronic Service | No |
| Philip | Hayet | phayet@jkenn.com | J. Kennedy and Associates, Inc. | 570 Colonial Park Drive Suite 305 Roswell, GA 30075-3770 | Electronic Service | No |
| Amber | Hedlund | amber.r.hedlund@xcelenergy.com | Northern States Power Company dba Xcel Energy-Elec | 414 Nicollet Mall, 401-7 Minneapolis, MN 55401 | Electronic Service | No |
| Adam | Heinen | aheinen@dakotaelectric.com | Dakota Electric Association | 4300 220th St W Farmington, MN 55024 | Electronic Service | No |
| Annete | Henkel | mui@mutilityinvestors.org | Minnesota Utility Investors | 413 Wacouta Street #230 St. Paul, MN 55101 | Electronic Service | No |
| Kristin | Henry | kristin.henry@sierraclub.org | Sierra Club | 2101 Webster St Ste 1300 Oakland, CA 94612 | Electronic Service | No |
| Katherine | Hinderlie | katherine.hinderlie@ag.state.mn.us | Office of the Attorney General-DOC | 445 Minnesota St Suite 1400 St. Paul, MN 55101-2134 | Electronic Service | No |
| Michael | Hoppe | lu23@ibew23.org | Local Union 23, I.B.E.W. | 445 Etna Street Ste. 61 St. Paul, MN 55106 | Electronic Service | No |
| Kari | Howe | kari.howe@state.mn.us | DEED | 332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101 | Electronic Service | No |
| Geoffrey | Inge | ginge@regintl.com | Regulatory Intelligence LLC | PO Box 270636 Superior, CO 80027-9998 | Electronic Service | No |
| Alan | Jenkins | aj@jenkinsatlaw.com | Jenkins at Law | 2950 Yellowtail Ave. | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|------------------|------------------------------------|--------------------------------------|---|--------------------|-------------------|
| | | | | Marathon, FL 33050 | | |
| Richard | Johnson | Rick.Johnson@lawmoss.com | Moss & Barnett | 150 S. 5th Street Suite 1200 Minneapolis, MN 55402 | Electronic Service | No |
| Sarah | Johnson Phillips | sarah.phillips@stoel.com | Stoel Rives LLP | 33 South Sixth Street Suite 4200 Minneapolis, MN 55402 | Electronic Service | No |
| Michael | Kaluzniak | mike.kaluzniak@state.mn.us | Public Utilities Commission | Suite 350 121 Seventh Place East St. Paul, MN 55101 | Electronic Service | No |
| William D | Kenworthy | will@votesolar.org | Vote Solar | 332 S Michigan Ave FL 9 Chicago, IL 60604 | Electronic Service | No |
| Samuel B. | Ketchum | sketchum@kennedy-graven.com | Kennedy & Graven, Chartered | 150 S 5th St Ste 700 Minneapolis, MN 55402 | Electronic Service | No |
| Ray | Kirsch | Raymond.Kirsch@state.mn.us | Department of Commerce | 85 7th Place E Ste 500 St. Paul, MN 55101 | Electronic Service | No |
| Frank | Kohlasch | frank.kohlasch@state.mn.us | MN Pollution Control Agency | 520 Lafayette Rd N. St. Paul, MN 55155 | Electronic Service | No |
| Brenda | Kyle | bkyle@stpaulchamber.com | St. Paul Area Chamber of Commerce | 401 N Robert Street Suite 150 St Paul, MN 55101 | Electronic Service | No |
| Carmel | Laney | carmel.laney@stoel.com | Stoel Rives LLP | 33 South Sixth Street Suite 4200 Minneapolis, MN 55402 | Electronic Service | No |
| Peder | Larson | plarson@larkinhoffman.com | Larkin Hoffman Daly & Lindgren, Ltd. | 8300 Norman Center Drive Suite 1000 Bloomington, MN 55437 | Electronic Service | No |
| Rachel | Leonard | rachel.leonard@ci.monticello.mn.us | City of Monticello | 505 Walnut St Ste 1 Monticello, MN 55362 | Electronic Service | No |
| Annie | Levenson Falk | annielf@cubminnesota.org | Citizens Utility Board of Minnesota | 332 Minnesota Street, Suite W1360 St. Paul, MN 55101 | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|-----------|-----------------------------------|------------------------------------|--|--------------------|-------------------|
| Eric | Lipman | eric.lipman@state.mn.us | Office of Administrative Hearings | PO Box 64620 St. Paul, MN 551640620 | Electronic Service | No |
| Ryan | Long | ryan.j.long@xcelenergy.com | Xcel Energy | 414 Nicollet Mall 401 8th Floor Minneapolis, MN 55401 | Electronic Service | No |
| Philip | Mahowald | pmahowald@thejacobsonlawgroup.com | Jacobson Law Group | 180 East Fifth Street Suite 940 St. Paul, MN 55101 | Electronic Service | No |
| Kavita | Maini | kmairi@wi.rr.com | KM Energy Consulting, LLC | 961 N Lost Woods Rd Oconomowoc, WI 53066 | Electronic Service | No |
| Emily | Marshall | emarshall@mojlaw.com | Miller O'Brien Jensen, PA | 120 S. 6th Street Suite 2400 Minneapolis, Minnesota 55402 | Electronic Service | No |
| Pam | Marshall | pam@energycents.org | Energy CENTS Coalition | 823 E 7th St St Paul, MN 55106 | Electronic Service | No |
| Mary | Martinka | mary.a.martinka@xcelenergy.com | Xcel Energy Inc | 414 Nicollet Mall 7th Floor Minneapolis, MN 55401 | Electronic Service | No |
| Gregg | Mast | gmast@cleanenergyeconomymn.org | Clean Energy Economy Minnesota | 4808 10th Avenue S Minneapolis, MN 55417 | Electronic Service | No |
| Daryl | Maxwell | dmaxwell@hydro.mb.ca | Manitoba Hydro | 360 Portage Ave FL 16 PO Box 815, Station Main Winnipeg, Manitoba R3C 2P4 Canada | Electronic Service | No |
| Taylor | McNair | taylor@gridlab.org | | 668 Capp Street San Francisco, CA 94110 | Electronic Service | No |
| Gregory | Merz | gregory.merz@lathropgpm.com | Lathrop GPM LLP | 80 S 8th St Ste 500 Minneapolis, MN 55402-5383 | Electronic Service | No |
| Joseph | Meyer | joseph.meyer@ag.state.mn.us | Office of the Attorney General-RUD | Bremer Tower, Suite 1400 445 Minnesota Street St Paul, MN 55101-2131 | Electronic Service | No |
| Stacy | Miller | stacy.miller@minneapolismn.gov | City of Minneapolis | 350 S. 5th Street Room M 301 Minneapolis, MN 55415 | Electronic Service | No |
| David | Moeller | dmoeller@allete.com | Minnesota Power | 30 W Superior St Duluth, MN 558022093 | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|--------------|----------------------------------|---|--|--------------------|-------------------|
| Andrew | Moratzka | andrew.moratzka@stoel.com | Stoel Rives LLP | 33 South Sixth St Ste 4200 Minneapolis, MN 55402 | Electronic Service | No |
| Evan | Mulholland | emulholland@mncenter.org | Minnesota Center for Environmental Advocacy | 1919 University Ave W Ste 515 Saint Paul, MN 55101 | Electronic Service | No |
| Alan | Muller | alan@greendel.org | Energy & Environmental Consulting | 1110 West Avenue Red Wing, MN 55066 | Electronic Service | No |
| Carl | Nelson | cnelson@mncee.org | Center for Energy and Environment | 212 3rd Ave N Ste 560 Minneapolis, MN 55401 | Electronic Service | No |
| J | Newberger | Jnewberger1@yahoo.com | State Rep | 14225 Balsam Blvd Becker, MN 55308 | Electronic Service | No |
| David | Niles | david.niles@avantenergy.com | Minnesota Municipal Power Agency | 220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402 | Electronic Service | No |
| M. William | O'Brien | bobrien@mojlaw.com | Miller O'Brien Jensen, P.A. | 120 S 6th St Ste 2400 Minneapolis, MN 55402 | Electronic Service | No |
| Ric | O'Connell | ric@gridlab.org | GridLab | 2120 University Ave Berkeley, CA 94704 | Electronic Service | No |
| Jeff | O'Neill | jeff.oneill@ci.monticello.mn.us | City of Monticello | 505 Walnut Street Suite 1 Monticello, Minnesota 55362 | Electronic Service | No |
| Carol A. | Overland | overland@legalelectric.org | Legalelectric - Overland Law Office | 1110 West Avenue Red Wing, MN 55066 | Electronic Service | No |
| Jessica | Palmer Denig | jessica.palmer-Denig@state.mn.us | Office of Administrative Hearings | 600 Robert St N PO Box 64620 St. Paul, MN 55164 | Electronic Service | No |
| J. Gregory | Porter | greg.porter@nngco.com | Northern Natural Gas Company | 1111 South 103rd St Omaha, NE 68124 | Electronic Service | No |
| Kevin | Pranis | kpranis@liunagroc.com | Laborers' District Council of MN and ND | 81 E Little Canada Road St. Paul, Minnesota 55117 | Electronic Service | No |
| Greg | Pruszinske | gpruszinske@ci.becker.mn.us | City of Becker | PO Box 250 12060 Sherburne Ave | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|----------------|--------------------------------|--------------------------------------|--------------------------------------|---|--------------------|-------------------|
| | | | | Becker, MN 55308 | | |
| Generic Notice | Residential Utilities Division | residential.utilities@ag.state.mn.us | Office of the Attorney General-RUD | 1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131 | Electronic Service | Yes |
| Kevin | Reuther | kreuther@mncenter.org | MN Center for Environmental Advocacy | 26 E Exchange St, Ste 206 St. Paul, MN 551011667 | Electronic Service | No |
| Amanda | Rome | amanda.rome@xcelenergy.com | Xcel Energy | 414 Nicollet Mall FL 5 Minneapolis, MN 55401 | Electronic Service | No |
| Stephan | Roos | stephan.roos@state.mn.us | MN Department of Agriculture | 625 Robert St N Saint Paul, MN 55155-2538 | Electronic Service | No |
| Nathaniel | Runke | nrunke@local49.org | | 611 28th St. NW Rochester, MN 55901 | Electronic Service | No |
| Elizabeth | Schmiesing | eschmiesing@winthrop.com | Winthrop & Weinstine, P.A. | 225 South Sixth Street Suite 3500 Minneapolis, MN 55402 | Electronic Service | No |
| Christine | Schwartz | Regulatory.records@xcelenergy.com | Xcel Energy | 414 Nicollet Mall FL 7 Minneapolis, MN 554011993 | Electronic Service | Yes |
| Douglas | Seaton | doug.seaton@umwlc.org | Upper Midwest Law Center | 8421 Wayzata Blvd Ste 300 Golden Valley, MN 55426 | Electronic Service | No |
| Jessie | Seim | jessie.seim@piic.org | Prairie Island Indian Community | 5636 Sturgeon Lake Rd Welch, MN 55089 | Electronic Service | No |
| Will | Seuffert | Will.Seuffert@state.mn.us | Public Utilities Commission | 121 7th PI E Ste 350 Saint Paul, MN 55101 | Electronic Service | Yes |
| Janet | Shaddix Elling | jshaddix@janetshaddix.com | Shaddix And Associates | 7400 Lyndale Ave S Ste 190 Richfield, MN 55423 | Electronic Service | No |
| Andrew R. | Shedlock | Andrew.Shedlock@KutakRock.com | Kutak Rock LLP | 60 South Sixth St Ste 3400 Minneapolis, MN 55402-4018 | Electronic Service | No |
| Edyta | Sitko | esitko@ucsusa.org | Union of Concerned Scientists | 1 N Lasalle Ave CHICAGO, IL 60602 | Electronic Service | No |
| Ken | Smith | ken.smith@districtenergy.com | District Energy St. Paul Inc. | 76 W Kellogg Blvd St. Paul, MN 55102 | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|-----------|--------------------------------|---|--|--------------------|-------------------|
| Joshua | Smith | joshua.smith@sierraclub.org | | 85 Second St FL 2 San Francisco, California 94105 | Electronic Service | No |
| Beth H. | Soholt | bsoholt@windonthewires.org | Wind on the Wires | 570 Asbury Street Suite 201 St. Paul, MN 55104 | Electronic Service | No |
| Anna | Sommer | ASommer@energyfuturesgroup.com | Energy Futures Group | PO Box 692 Canton, NY 13617 | Electronic Service | No |
| Mark | Spurr | mspurr@fvbenergy.com | International District Energy Association | 222 South Ninth St., Suite 825 Minneapolis, Minnesota 55402 | Electronic Service | No |
| Byron E. | Stams | byron.stams@stinson.com | STINSON LLP | 50 S 6th St Ste 2600 Minneapolis, MN 55402 | Electronic Service | No |
| James M | Strommen | jstrommen@kennedy-graven.com | Kennedy & Graven, Chartered | 150 S 5th St Ste 700 Minneapolis, MN 55402 | Electronic Service | No |
| Eric | Swanson | eswanson@winthrop.com | Winthrop & Weinstine | 225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629 | Electronic Service | No |
| Julie | Voeck | julie.voeck@nee.com | NextEra Energy Resources, LLC | 700 Universe Blvd Juno Beach, FL 33408 | Electronic Service | No |
| Cynthia | Warzecha | cynthia.warzecha@state.mn.us | Minnesota Department of Natural Resources | 500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040 | Electronic Service | No |
| Samantha | Williams | swilliams@nrdc.org | Natural Resources Defense Council | 20 N. Wacker Drive Ste 1600 Chicago, IL 60606 | Electronic Service | No |
| Laurie | Williams | laurie.williams@sierraclub.org | Sierra Club | Environmental Law Program 1536 Wynkoop St Ste 200 Denver, CO 80202 | Electronic Service | No |
| Joseph | Windler | jwindler@winthrop.com | Winthrop & Weinstine | 225 South Sixth Street, Suite 3500 Minneapolis, MN 55402 | Electronic Service | No |
| Tim | Wulling | t.wulling@earthlink.net | | 1495 Raymond Ave. Saint Paul, MN 55108 | Electronic Service | No |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret |
|------------|-----------|-----------------------|------------------------|---|--------------------|-------------------|
| Kurt | Zimmerman | kwz@ibew160.org | Local Union #160, IBEW | 2909 Anthony Ln St Anthony Village, MN 55418-3238 | Electronic Service | No |
| Patrick | Zomer | Pat.Zomer@lawmoss.com | Moss & Barnett PA | 150 S 5th St #1200 Minneapolis, MN 55402 | Electronic Service | No |