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STATE OF MINNESOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION

Katie Sieben	Chair
Joseph K. Sullivan	Vice Chair
Hwikwon Ham	Commissioner
Audrey Partridge	Commissioner
John Tuma	Commissioner

In the Matter of Northern States Power Company's, d/b/a Xcel Energy, Petition for Approval of Generator Projects for MISO's Expedited Resource Addition Study (ERAs)

DOCKET NO. E-002/RP-24-67

**INITIAL COMMENTS OF THE OFFICE  
OF THE ATTORNEY GENERAL—  
RESIDENTIAL UTILITIES DIVISION**

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Initial Comments in response to the Public Utilities Commission's Notice of Comment Period issued on December 5, 2025. The topics open for comment include whether the Commission should approve Power Purchase Agreements (PPAs) and whether the Commission should authorize Xcel to recover, through the Fuel Clause Rider, the Minnesota jurisdictional portion of costs incurred under the PPAs from ratepayers. While the OAG does not oppose the submission of Xcel's projects to MISO through the Expedited Resource Addition Study (ERAs), the OAG recommends the Commission make two clarifications similar to the OAG's recommendations on PPAs in docket no. CN-23-212.<sup>1</sup> First, for the Sandhill Battery Energy Storage System (BESS) and Benton II BESS PPAs, the Commission should require that before Xcel may recover any rate increases from the New Trade Measure Event provisions, Xcel must show that the increased costs are just and reasonable for ratepayers to bear rather than Xcel's shareholders. Second, although Xcel references the potential impact on credit metrics from

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<sup>1</sup> See Docket No. E-002/CN-23-212, [Initial Comments of the OAG](#) (Oct. 31, 2025); [Supplemental Comments of the OAG](#) (Nov. 19, 2025).

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including these PPAs in its portfolio, the Commission should be clear that any action it takes in approving the PPAs is not a pre-authorization of any change to Xcel's authorized or ratemaking capital structure.

**I. THE COMMISSION SHOULD REQUIRE XCEL TO MAKE A FILING SHOWING THAT IT IS REASONABLE FOR RATEPAYERS TO BEAR ADDITIONAL COST INCREASES DUE TO THE OPERATION OF THE NEW TRADE MEASURE EVENT PROVISIONS BEFORE COSTS ARE ADDED TO BILLS.**

Xcel's proposed cost recovery for the Sandhill BESS and Benton II BESS PPAs shifts cost-increase risks to ratepayers. Xcel asks the Commission to authorize an up-to-20-percent price increase to flow through to ratepayers automatically through the Fuel Clause Rider if new or modified import tariffs increase costs for a project's major components.<sup>2</sup> The Commission should reject Xcel's proposal to have ratepayers bear the full costs of the uncertain and ever-changing actions of the federal government without Commission review. Instead, if costs increase beyond the prices stated in the proposed PPAs, the Commission should require that Xcel affirmatively prove to the Commission that it is just and reasonable for ratepayers, rather than Xcel's shareholders, to bear these additional costs.

Similar to some PPAs in docket no. 23-212, the Sandhill and Benton II BESS PPAs include provisions for price increases due to a New Trade Measure Event. As Xcel explains it in the public version of its petition, "If a new or modified import tariff is imposed on the project's major components, the Seller may request a rate increase, capped at no more than 20 percent, to account for the new tariff impact."<sup>3</sup> These rate increase requests can occur multiple times for various tariffs that may be put in place and the seller may delay the commercial operation date (COD) while the

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<sup>2</sup> See [Petition – Proposed Generator Projects for MISO Expedited Resource Addition Study \(ERAS\)](#) at 17 (Xcel Petition).

<sup>3</sup> *Id.*

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review occurs.<sup>4</sup> These tariff requests would be reviewed by an independent auditor and automatically applied to the PPA for the remainder of the term if “the Independent Auditor verifies the new tariff event and also verifies the Seller’s calculation of the rate increase.”<sup>5</sup>

Allowing an up-to-20-percent price increase unreasonably shifts risks from the Sellers’ and Xcel’s shareholders to ratepayers. While the OAG understands the ongoing economic uncertainty around federal tariffs is being felt throughout the economy, it is unreasonable for Xcel to request that ratepayers continue to be the sole bearers of this risk.

Notably [NOT PUBLIC INFORMATION BEGINS] [REDACTED]

[REDACTED] [NOT PUBLIC INFORMATION ENDS] shows that

it is not a foregone conclusion that ratepayers must accept an up-to-20-percent increase and shield Xcel’s shareholders from the risk of federal tariffs.

While Xcel may argue that the independent auditor’s review provides ratepayer protections, this limited review cannot and should not stand in for a Commission determination of

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

<sup>5</sup> *Id.*

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reasonableness. As noted above, the independent auditor’s determination is limited to determining “the validity and impact of any new tariff.”<sup>6</sup> In other words, the auditor would only verify that a tariff was enacted and that the cost calculations were correct; the auditor would not assess the reasonableness of imposing the increased costs on ratepayers. Even if the independent auditor were tasked with determining whether a cost increase is just and reasonable, the Commission cannot and should not delegate its ratemaking authority and statutory duties to an unregulated third party selected by Xcel and the Sellers. It is the Commission who should determine whether the increased costs are just and reasonable for ratepayers to bear. In doing so, the Commission may certainly consider the findings of the independent auditor regarding the accuracy of cost calculations, but it should not be bound by the independent auditor’s determination.

To protect ratepayers, the Commission should require that, before Xcel can recover additional costs from the Sellers availing themselves of the New Trade Measure Event provisions, Xcel must affirmatively demonstrate that it would be just and reasonable for ratepayers, rather than Xcel’s shareholders, to bear the increased costs. Specifically, the Commission should require Xcel to make a filing in the relevant Fuel Clause Rider docket showing that the increased costs are just and reasonable for ratepayers to bear versus Xcel’s shareholders. As with rates assessed through rate cases, utilities have the burden to show that rates assessed through the Fuel Clause Rider are just and reasonable.<sup>7</sup> Requiring Xcel to make a filing in the Fuel Clause Rider if a New Trade Measure Event provision is triggered will allow the Commission and stakeholders to review and

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<sup>6</sup> Xcel Petition at 17.

<sup>7</sup> See Minn. R. 7825.2390 (“When a utility proposes new or revised electric energy or purchased gas adjustment provisions, the proposal is considered a change in rates and must be reviewed according to commission rules and practices relating to utility rate changes.”); Minn. Stat. § 216B.03 (“Every rate made, demanded, or received by any public utility . . . shall be just and reasonable.”); Minn. Stat. § 216B.16, subd. 4 (“The burden of proof to show that the rate change is just and reasonable shall be upon the public utility seeking the change.”).

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monitor the Sellers' exercise of these provisions, which can occur multiple times under the PPA.<sup>4</sup> Such a requirement would not create any delay or require renegotiation of the PPAs. But this filing requirement would provide significant transparency to both the Commission and stakeholders about potential increased costs of these projects, which would otherwise flow directly onto ratepayers' bills through Xcel's Fuel Clause Rider.

**II. THE COMMISSION SHOULD AVOID APPEARING TO PRE-AUTHORIZE ANY INCREASE TO XCEL'S EQUITY RATIO.**

As with several other recent PPA filings, Xcel states in the petition its intent to seek an increase to its equity ratio in its next electric rate case filing due to claimed negative impacts of "incremental imputed debt."<sup>8</sup>

As the OAG has discussed in response to Xcel's other PPA filings,<sup>9</sup> the present docket is not the appropriate forum to explore any alleged impacts to Xcel's actual capital structure or ratemaking capital structure, and the Commission should not preauthorize an increased equity ratio. Changes to the approved range of Xcel's actual capital structure should occur in annual capital structure dockets. And changes to Xcel's ratemaking capital structure, including any increase to Xcel's ratemaking equity ratio, should be considered in rate cases as part of the Commission's determination of a utility's Weighted Average Cost of Capital (WACC). This is neither a proceeding to determine whether Xcel's actual capital structure is in the approved range or a rate case proceeding to set the ratemaking capital structure. This is not the appropriate docket to explore capital structures or approve equity ratio changes. Xcel is free to make any proposals it wishes in both its next annual capital structure filing and its next rate case, and those proposals can

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<sup>8</sup> Xcel Petition at 18-19.

<sup>9</sup> See Docket No. E-002/CN-23-212, [Initial Comments of the OAG](#) at 16-18 (Oct. 31, 2025); [Supplemental Comments of the OAG](#) at 6-7 (Nov. 19, 2025); [OAG Initial Comments on Cottage Grove BESS](#) at 2 (Dec. 23, 2025).

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and will be scrutinized in those filings. The Commission should not pre-authorize an increased equity ratio in this docket, and the Commission should be clear that it is not approving any changes to Xcel's actual or ratemaking capital structure in this docket

After the OAG made a similar recommendation regarding a similar filing from Xcel in docket no. CN-23-212, Xcel agreed that the Commission did not need to take action in that docket but stated it would pursue an increase to its equity ratio in its next rate case.<sup>10</sup> The OAG would appreciate Xcel making a similar clarifying statement here, as well as an agreement not to indicate or advocate in its next rate case that the Commission has predetermined whether Xcel's claims of imputed debt would require an increase to Xcel's equity ratio. If Xcel does not make such a commitment on this record, the Commission should be clear in its order that any action to approve these PPAs should not be interpreted as pre-authorizing an increased equity ratio in a future Xcel rate case.

**RECOMMENDATIONS**

The OAG appreciates the opportunity to provide comments to the Commission and offer additional ratepayer protections to provide transparency to ratepayers and the ability to better monitor potential cost increases. For the reasons stated above, the OAG recommends the following:

- For the Sandhill BESS and Benton II BESS PPAs, the Commission should require that before Xcel may recover through the Fuel Clause Rider any rate increases resulting from the New Trade Measure Event provisions, Xcel must make a filing showing that the increased costs are just and reasonable for ratepayers to bear.

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<sup>10</sup> Docket No. E-002/CN-23-212, [Xcel Reply Comments](#) at 3, 8 (Nov. 12, 2025).

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- The Commission should be clear that any action it takes in approving the PPAs is not a pre-authorization of any increase equity ratio or other pre-approval of Xcel's ratemaking or actual capital structure.

Dated: January 5, 2026

Respectfully submitted,

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