

**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 a Commission Inquiry into
Xcel Energy’s Advanced Rate Design for Load
Management

DOCKET NOS. E-002/CI-24-115

In the Matter of a Petition by Citizens Utility
Board of Minnesota to Adopt Open Data
Access Standards

E,G-999/M-19-505

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

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Comments in response to the information filed by the Citizens Utility Board of Minnesota (CUB) and the Chan Lab at the University of Minnesota (Chan Lab) regarding Xcel Energy’s (Xcel) refusal of the Chan Lab’s request for customer energy use data (CEUD). The Commission should enforce the standards set forth in its July 5, 2024 order¹ and require Xcel to provide the requested information. Xcel’s reasons for denying access seek to relitigate the Commission’s order and do not meet the Commission’s established exceptions to the requirement to provide this type of data to a qualified third party.

¹ *In the Matter of a Petition by Citizens Utility Board of Minnesota to Adopt Open Data Access Standards*, Docket No. E,G-999/M-19-505, Order Refining Open Data Access Standards (July 5, 2024) (2024 Standards Order) (eDockets No. [20247-208349-01](#)).

BACKGROUND

In March 2025, CUB and the Chan Lab filed a complaint regarding Xcel's refusal to provide anonymized CEUD to the Chan Lab pursuant to the Open Data Access Standards (Standards).²

The Commission has been working on managing CEUD since 2012, first by initiating an investigation into dissemination of customer data by rate-regulated energy utilities.³ A workgroup met 13 times from 2013 to 2015 and had over 30 participants between those attending workgroup meetings and those filing comments.⁴ An administrative law judge presided over the workgroup and issued two reports describing the group's recommendations.⁵ Following these recommendations, in 2017 the Commission defined CEUD, declared that utilities should ensure that they have "adequately protected the customer's anonymity," and directed each utility to file its policies on aggregating and releasing CEUD.⁶

² Citizens Utility Board of Minn., Chan Lab Complaint Letter at 1-2 (Mar. 5, 2025) (eDocket No. [20253-216091-01](#)).

³ *In the Matter of a Comm. Inquiry into Privacy Policies of Rate-Regulated Energy Utilities*, Docket No. E,G-999/CI-12-1344, Order Establishing Procedures for Further Comment and for Working Group (June 17, 2013) (eDockets No. [20136-88230-01](#)).

⁴ *In the Matter of a Petition by Citizens Utility Board of Minnesota to Adopt Open Data Access Standards*, Docket No. E,G-999/M-19-505, Adopting Open Data Access Standards And Establishing Further Proceedings (Nov. 20, 2020) (eDockets No. [202011-168476-01](#)).

⁵ See Docket No. G-999/CI-12-1344, Final Report of the CEUD Workgroup (Sept. 17, 2014) (eDockets No. [20149-103119-01](#)); Second Report of the CEUD Workgroup (Aug. 24, 2016) (eDockets No. [20168-124392-01](#)).

⁶ Docket No. E,G-999/CI-12-1344, Order Governing Disclosure of Customer Energy Use Data to Third Parties, Requiring Filing of Privacy Policies and Cost Data, and Soliciting Comment at 11 (Jan. 19, 2017) (eDockets No. [20171-128260-01](#)).

In 2020, CUB proposed Open Data Access Standards to establish and streamline statewide rules and practices governing third-party access to CEUD.⁷ The Commission has updated these Standards as recently as last year, as the need for guidance around the data has evolved.

The Standards address the collection and sharing of CEUD for use by third parties.⁸ They distinguish between aggregated and anonymized CEUD. “Aggregated CEUD” is the data of individual customers combined into one collective data point per time interval, whereas “anonymized CEUD” is data of individual customers collected over a number of time intervals but that is modified to prevent release of customers’ personally identifiable information.⁹

In 2024, the Commission clarified that anonymized CEUD could also be requested by qualifying third parties if used for study and program design.¹⁰ This determination was made over the objection of the utilities, including Xcel, who maintained that it would not provide anonymized CEUD until an objective basis was established for assessing the risk of customer re-identification or the Commission otherwise requires Xcel to provide the data.¹¹

Nevertheless, the Commission refined the Standards to allow for anonymized CEUD to be accessed to provide information on topics regarding customer energy burden and inequities in the adoption of distributed energy resources and to permit “better informed, evidence-based decisions.”¹² The Commission reiterated that the potential benefit of access to CEUD “is significant and outweighs the potential risks, so long as adequate protections against customer

⁷ Docket No. E,G-999/CI-12-1344, Order Approving Petition with Modifications at 2 (Apr. 13, 2022) (eDockets No. [20224-184698-02](#)).

⁸ 2024 Standards Order at 2.

⁹ *Id.*

¹⁰ *Id.* at 4.

¹¹ *Id.* at 3.

¹² *Id.* at 4.

reidentification are in place.”¹³ The Commission’s determination balanced privacy concerns with allowing access to data necessary to address climate goals and other public policy concerns.¹⁴

ANALYSIS

The Chan Lab’s request complies with the Standards for CEUD access. The Chan Lab is a qualified third party requesting the anonymized CEUD for purposes authorized by the Commission. Xcel’s objections do not establish a basis for denying the Chan Lab’s request under the exceptions provided in the Standards. Instead, Xcel’s arguments simply restate its objections previously voiced to the Commission as it refined the Standards for anonymized CEUD. The Commission should direct Xcel to provide the data.

I. THE CHAN LAB IS A QUALIFIED THIRD PARTY REQUESTING DATA APPROPRIATELY.

The Standards address the collection and sharing of CEUD for use by third parties.¹⁵ The Commission’s July 5, 2024 order required that data be provided using a 15/15 anonymization screen, geographic boundaries, and a nondisclosure agreement with contractual protections to minimize risk. The order also amended the Standards to allow third parties to request anonymized CEUD in sub-hourly intervals.¹⁶ Further, the order added a category of eligible data requesters:

A researcher affiliated with a college or university accredited by a national or regional accrediting agency recognized by the U.S. Secretary of Education conducting research in compliance with the federal government’s “Common Rule” for the protection of human subjects by an Institutional Review Board, as defined by the National Science Foundation 45 CFR 690.¹⁷

¹³ *Id.*

¹⁴ *See, e.g., id.* at 2-4 (summarizing the Commission’s orders on data access standards).

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 8.

¹⁷ *Id.* at 11.

Gabriel Chan and the two other researchers who joined his CEUD request, Destenie Nock (Carnegie Mellon University) and Lucy Qiu (University of Maryland),¹⁸ are affiliated with colleges or universities that meet the accreditation requirements set forth by the Commission and conducting research in compliance with delineated federal standards.¹⁹ They therefore meet the Standards' criteria for eligible CEUD requesters.

Additionally, the data that the Chan Lab is seeking is consistent with the Standards. The Chan Lab hopes to conduct an independent customer segmentation study. To conduct the study, the Chan Lab is asking for anonymized CEUD data for a minimum of 12 consecutive months (and up to 36 months) at intervals of 30 minutes at the individual meter level (made possible through Advanced Metering Infrastructure, also called "smart meters") by the identified United States census block group for all households in Xcel's service area where data is available.²⁰ The Lab requested this information be provided according to the 15/15 standard of anonymization adopted by the Commission.

Xcel has made no claims that the Chan Lab does not meet the criteria established above. Xcel has not claimed that the proposed research is inappropriate because it does not comply with the referenced federal standards. Xcel has not indicated that the Chan Lab has refused or is unable to sign a non-disclosure agreement. Here, each researcher is additionally subject to standards set by the Institutional Review Board, which ensure protection of human subjects.²¹ The Standards' baseline requirements have been met.

¹⁸ Citizens Utility Board of Minn., Chan Lab Complaint Letter, attach. A at 1 (Mar. 5, 2025) (eDocket No. [20253-216091-01](#)).

¹⁹ *Id.*

²⁰ *Id.* at 2-3.

²¹ *Id.*, attach. A at 1.

II. XCEL’S DECISION TO DENY THE CHAN LAB’S REQUEST IMPROPERLY SEEKS TO RELITIGATE THE COMMISSION’S JULY 5, 2024 ORDER.

The Standards are designed to ensure that CEUD can be used by third parties if it is aggregated or anonymized, disaggregated CEUD.²² Qualifying third parties may access CEUD upon written or electronic request.²³ Requests must be only for study and program design.²⁴ Additionally, CEUD datasets must pass a 15/15 anonymization screen.²⁵ The Standards specify the circumstances when a denying a request is appropriate.²⁶ The Standards permit a refusal by a utility only when “it reasonably believes the data release would create a security risk for the utility, its customers(s), or the public, or that the release would allow reidentification of customers, or the third-party would otherwise use the data to violate the standards.”²⁷

The reasons that Xcel provides for its denial are insufficient. Xcel’s arguments are either unrelated to any valid exceptions or provide only a generalized claim that an exception applies with no supporting evidence. The Standards provide utilities with the ability to deny requests even to qualified third parties in two instances: (1) when the utility reasonably believes the data release would create a security risk for the utility, its customers, or the public; or (2) when the utility reasonably believes the release would allow the third party to re-identify customers, violate the terms of a contract meeting the data-access terms, or otherwise use the data in violation of the Standards. Xcel’s claim that an exception is met is not reasonable or supported.

²² 2024 Standards Order, attach. ¶ (I)(A)(1) (updated Open Data Access Standards).

²³ *Id.*, attach. ¶ (III)(A).

²⁴ *Id.* at 4.

²⁵ *Id.* at 8-9 and attach. ¶ III.B(2)(i).

²⁶ *See id.* at 2-5 and attach. ¶¶ (III)(B)(2)(v), (III)(C).

²⁷ *Id.*, attach. ¶ (III)(C).

Xcel denied the Chan Lab’s request first out of a concern that Xcel may be directed to do a study similar to CUB Illinois.²⁸ A potential regulatory outcome or anticipated Commission decision is not one of the bases that the Standards allow for denial. Moreover, this basis for denial goes against the public policy reasons for requiring utilities to disclose anonymized CEUD in the first place: to “allow for utilities and the Commission to make better, informed evidence-based decisions”²⁹ and allow for “further exploration of the use of anonymized CEUD to further the state’s energy goals.”³⁰ The Standards do not attempt to, nor would it be possible to, anticipate all potential research topics, needs, or studies for which the data could be used. Denying access to the data based on a hypothetical Commission decision does not further the public interest.

Xcel’s second reason for denying the request was “the risk that release would allow a third party to re-identify customers or create a security risk for the utility, its customers, or the public resulting in disclosure of sensitive information.”³¹ Rather than providing evidence why the Chan Lab’s request would risk this release or create a security risk, Xcel states the need for an objective basis to be established to address the risk of customer re-identification.³² It is unclear what an “objective basis” would be, and the Commission has heard Xcel make this argument before in opposing allowing requests for anonymized CEUD.

While the OAG agrees that protecting customers and their data is paramount, the Standards were created for the purpose of balancing customer privacy interests and the public interest in

²⁸ Citizens Utility Board of Minn., Chan Lab Complaint Letter, attach. B at 1-2 (Mar. 5, 2025) (eDocket No. [20253-216091-01](#)).

²⁹ 2024 Standards Order at 4.

³⁰ *Id.*

³¹ Citizens Utility Board of Minn., Chan Lab Complaint Letter, attach. B at 1-2 (Mar. 5, 2025) (eDocket No. [20253-216091-01](#)).

³² *Id.* at 2.

using anonymized data for research and study.³³ The Commission has shared concerns about confidence intervals and evaluated the possible discovery of private data through “reverse engineering” and non-secure data transfers.³⁴ However, the Commission weighed these potential privacy risks against the public-interest benefits of disclosure.³⁵ The Commission has found that overbroad or blanket protections are “detrimental to the public purposes enabled by increased data access.”³⁶ And the utilities have agreed to several different methods for securing customer data to mitigate risks to privacy.³⁷

Xcel’s denial appears to be using the Standards’ second basis for nondisclosure to impose a blanket denial of disclosure of CEUD, making the same generalized argument Xcel did when the Commission addressed the use of anonymized CEUD just last year. The data being requested meets the Standards as outlined in the Commission’s orders in this docket. Xcel’s blanket denial prohibits appropriate third-party researchers, including a researcher well known to the Commission, from conducting a potentially valuable study. Without access to Xcel’s data there is no way for researchers to conduct studies to “address climate goals and other initiatives serving the public interest” as envisioned by the Commission.³⁸

CONCLUSION

The Commission has worked hard to develop and create the Standards and just last year clarified that anonymized CEUD could be provided to qualified third parties for study and program

³³ Docket No. E,G-999/CI-12-1344, Order Approving Petition with Modifications at 4-5 (Apr. 13, 2022) (eDockets No. [20224-184698-02](#)).

³⁴ *Id.* at 6.

³⁵ Docket No. E,G-999/CI-19-505, Order Refining Open Data Access Standards at 2 (Mar. 13, 2023) (eDockets No. [20233-193874-01](#)).

³⁶ *Id.* at 14.

³⁷ *Id.*

³⁸ *Id.* at 6.

development. In creating the Standards, Commission has permitted ongoing record development, reevaluated issues, and accounted for utilities' concerns and the public interest. The Standards, when applied appropriately, protect customer privacy and ensure utilities have authority and guidance to protect themselves and their customers' data. Xcel should not be allowed to subvert the Commission's July 5, 2024 update to the Standards by denying the Chan Lab's request for reasons not based in the Standards. The Commission should require Xcel to provide the requested information.

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Respectfully submitted,

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