

Staff Briefing Papers

Meeting Date **May 7, 2026** **Agenda Item 2*****

Company Northern States Power Co. d/b/a Xcel Energy

Docket No. E-002/AA-22-179

In the Matter of Xcel Energy’s Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges.

Issues What is the appropriate amount of replacement power costs incurred by Xcel Energy to serve its Minnesota customers as a result of the October 2023 Prairie Island outage?

Whether any demonstrated customer benefits or offsets should reduce the replacement power refund otherwise owed to customers, and if so, in what amount?

Should Xcel Energy be allowed to recover its contested case litigation costs from ratepayers?

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✓ Relevant Documents

Date

Commission Orders

Notice of and Order for Hearing November 15, 2024

Order Denying Petition for Reconsideration and Granting Request for Clarification January 31, 2025

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✓ **Relevant Documents**

Date

Direct Testimony

Xcel Energy

May 1, 2025

Department of Commerce

July 2, 2025

OAG

July 2, 2025

Xcel Large Industrials

July 2, 2025

Rebuttal Testimony

Xcel Energy

August 13, 2025

Surrebuttal Testimony

Department of Commerce

September 17, 2025

OAG

September 17, 2025

Xcel Large Industrials

September 17, 2025

Xcel Energy

September 23, 2025

Post-Hearing Briefs

Xcel Energy

November 25, 2025

Department of Commerce

November 25, 2025

OAG

November 25, 2025

Citizens Utility Board of Minnesota

November 25, 2025

Xcel Large Industrials

November 25, 2025

November 25, 2025

Post-Hearing Reply Briefs

Xcel Energy

January 8, 2026

Department of Commerce

January 8, 2026

OAG

January 8, 2026

Citizens Utility Board of Minnesota

January 8, 2026

Xcel Large Industrials

January 8, 2026

Proposed Findings of Fact (if filed separately from reply brief)

Xcel Energy

January 8, 2026

Department, OAG, CUB – Joint Proposed Findings

January 8, 2026

Xcel Large Industrials

January 8, 2026

✓ Relevant Documents	Date
<p><u>ALJ Report</u> CAH- Findings of Fact, Conclusions of Law, and Recommendation</p>	March 11, 2026
<p><u>Exceptions to ALJ Report</u> Xcel Energy</p>	March 31, 2026
<p><u>Replies to Exceptions</u> The Department of Commerce Xcel Large Industrials Citizens Utility Board of Minnesota OAG</p>	April 10, 2026 April 10, 2026 April 10, 2026 April 10, 2026

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I. BACKGROUND

In October 2023, Northern States Power Company, doing business as Xcel Energy (Xcel, the Company), conducted maintenance work at its Prairie Island Nuclear Generating Plant (PINGP, Prairie Island) that involved underground horizontal directional drilling to install replacement power cables. During this work, contractors inadvertently struck and severed a bundle of buried direct-current control cables that supplied power to equipment essential to plant operations. The damage caused PINGP Unit 1 to trip offline and extended a planned refueling outage already underway at Unit 2. As a result, both units were unavailable for a total of 103 days.¹

The Licensee Event Report prepared by Xcel attributed the accident to weaknesses in the excavation permit approval process and inadequate oversight of supplemental workers.² Workers were provided with maps that did not fully depict all underground cables and deviated from the surveyed drilling path into an un-surveyed area. During the outage, Xcel purchased replacement power to serve customers and recovered those costs through the fuel-clause adjustment mechanism.

In its November 15, 2024 Order approving Xcel's 2023 fuel-clause true-up report, the Minnesota Public Utilities Commission (Commission) determined that Xcel acted imprudently with respect to the October 2023 outage at PINGP. The Commission concluded that it could not satisfactorily resolve all relevant issues necessary to determine the appropriate amount for Xcel to refund ratepayers due to that lack of prudence. Accordingly, the Commission referred the matter to the Court of Administrative Hearings (CAH) for contested-case proceedings. Administrative Law Judge (ALJ) Kimberly Middendorf was assigned to the proceedings.

The Commission directed that the contested case develop a record to determine the appropriate refund amount associated with replacement power costs incurred during the outage.³ The Commission further clarified that, in determining the refund amount, the proceedings may consider whether any demonstrated customer benefits or offsets—such as avoided future maintenance or outage time—should appropriately be reflected in the final refund owed to ratepayers.

The parties to the proceedings are Xcel, the Minnesota Department of Commerce, Division of Energy Resources (Department), Minnesota Office of the Attorney General – Residential

¹ *In the Matter of Xcel Energy's Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges, Order Approving 2023 Fuel Clause True-Up Report, Requiring Additional Filings, Finding Imprudence, and Notice of and Order for Hearing*, Docket No. E-002/AA-22-179 (Nov. 15, 2024) (Initial Order); XLI Reply Brief at 2 (confirming outage ran from Oct. 19, 2023 to Mar. 1, 2024, totaling 103 days).

² Xcel's response to DOC IR 13(b) and 18(c).

³ Order Denying Petition for Reconsideration and Granting Request for Clarification, Docket No. E-002/AA-22-179 (Jan. 31, 2025) (Clarifying Order) at 3–4 (limiting contested case scope to refund owed for costs flowing through the fuel-clause adjustment report and permitting consideration of customer benefits or offsets).

Utilities Division (OAG), Citizens Utility Board of Minnesota (CUB), and Xcel Large Industrials (XLI).

II. DISCUSSION

To determine the appropriate level of any customer refund, the Commission must identify the portion of power costs incurred during the Prairie Island outage that are attributable to Xcel's imprudence. This requires establishing what costs customers actually paid and comparing them to what costs would have been absent the outage. The record presents two primary approaches to this analysis—PLEXOS modeling and the Locational Marginal Price (LMP) method—which use different methodologies to estimate these incremental costs. Application of these approaches results in materially different outcomes: the PLEXOS method produces an estimated refund of approximately \$34.4 million, while the LMP method results in an estimated refund of approximately \$40.6 million.

However, subsequent to the ALJ's Report, there is agreement in the record with the ALJ's recommendation that Xcel issue a Minnesota-jurisdictional refund of \$40.6 million, plus interest. As a result, the refund amount is no longer contested. The remaining issue before the Commission is whether to (1) adopt the ALJ's Report in full, as recommended by the Department, OAG, CUB and XLI, or (2) strike certain findings and conclusions and instead adopt the alternative order language proposed by Xcel .

Although the refund amount is no longer in dispute, understanding the underlying methodologies remains relevant to the Commission's consideration of whether to adopt the ALJ's findings and conclusions. The two approaches differ in both structure and underlying assumptions.

PLEXOS is a commercial software platform widely used across the electric utility industry to simulate how a utility's entire generation system operates over time. The model incorporates data on each generating unit—such as fuel costs, operating characteristics, and capacity—along with forecasts of demand, fuel prices, and market conditions, to determine the least-cost way to meet electricity needs on an hourly basis. Because it captures interactions across the full system, PLEXOS is commonly used for planning and cost analysis. In this proceeding, Xcel used PLEXOS to estimate replacement power costs by modeling two scenarios: one reflecting actual outage conditions and another assuming Prairie Island remained online. The difference in total system costs between these scenarios represents the estimated cost attributable to the outage.

LMP is the method wholesale electricity markets use to set the price of power at specific locations on the grid. The Midcontinent Independent System Operator (MISO), the regional grid operator covering Minnesota and 14 other states, calculates and records these prices every five minutes based on real-time supply and demand conditions, transmission constraints, and electrical losses. Because LMP prices are observed and recorded by the market operator rather than generated by a model, they represent actual market data. The LMP calculation method

uses these prices as the foundation for estimating replacement power costs. Rather than simulating an entire power system, it focuses narrowly on the generating unit that was offline and asks a straightforward question: what was the market value of the electricity that unit would have produced, minus the fuel and operating costs saved by not running it? The answer provides a market-grounded proxy for what the outage cost customers.

A. Replacement Power Cost

1. Xcel

Xcel took the position that PLEXOS production-cost modeling provides the most reliable and reasonable estimate of the replacement power costs incurred during the 103-day outage at Prairie Island. Using this methodology, Xcel calculated the Minnesota-jurisdictional portion of those costs to be \$34.3 million.⁴

This position is supported by established regulatory practice, as the Commission and parties routinely relied on PLEXOS modeling in fuel-clause proceedings and other cases involving unplanned outages, including the Sherco Unit 3 outage.⁵ Xcel noted that PLEXOS allows for a realistic comparison between a base case with Prairie Island offline and a change case with the plant online, while accounting for real-world operational variables such as unit availability, fuel costs, wind generation, and customer load.

Xcel also argued that Prairie Island operates within a “Narrow Constrained Area” of the MISO transmission system.⁶ Transmission constraints in this area frequently bind, limiting access to lower-cost external resources. As a result, when Prairie Island was unavailable, Xcel’s other, higher cost generating units were required to increase output to maintain system reliability rather than relying primarily on market purchases.

The Company strongly opposed the LMP Method proposed by intervenors, characterizing it as overly simplistic and based on unrealistic assumptions. The LMP Method assumes the output of its other generation resources remained largely unchanged during the outage, an assumption it contended was contradicted by actual operating experience. Also leaving LMPs unchanged in its PLEXOS modeling is a conservative assumption that likely overstates replacement power costs, thereby resolving uncertainty in favor of ratepayers.

⁴ Xcel Initial Brief at 24–25.

⁵ Xcel Reply Brief at 12 (noting the Commission and parties routinely rely on PLEXOS in fuel-clause and other proceedings); *id.* at 13–16 (discussing Sherco Unit 3 proceeding, where the Commission adopted PLEXOS-derived replacement power costs and rejected the simplistic LMP method). See Order Adopting Administrative Law Judge Report as Modified, Requiring Refund of Certain Disallowed Replacement Power Costs, and Requiring Further Action, Docket E-002/GR-12-961 et al. at 25–26 (Dec. 24, 2024) (Sherco 3 Order).

⁶ Xcel Reply Brief at 6.

2. Intervenors (Department, OAG, CUB, and XLI)

All four intervenors—the Department, OAG, CUB, and XLI—agreed that Xcel’s PLEXOS production-cost modeling is unreliable and that the Commission should instead calculate replacement power costs using the LMP methodology, yielding a Minnesota-jurisdictional refund of \$40.6 million.

The intervenors criticized Xcel’s PLEXOS model on three main grounds. First, the model relies on internally inconsistent assumptions: it simultaneously claims that the Prairie Island outage had little or no effect on regional wholesale electricity prices while projecting that Xcel’s own higher-cost generating units were significantly dispatched as a result. Because generators respond to market price signals, both assumptions cannot be true at once. Second, Xcel’s model was not calibrated against actual MISO purchase costs or sales revenues, and the change case improperly constrained reductions in market purchases—a flaw the intervenors described as fatal to the modeling exercise. Third, Xcel failed to substantiate its claim that transmission constraints in the Minnesota region of MISO required its own fleet to absorb Prairie Island’s lost output. The Department reviewed actual MISO market data for the outage period and found that Minnesota did not experience meaningful congestion—defined as LMPs at least 30 percent above neighboring hubs—in more than half the hours in any given month, and that when congestion did occur, the divergence was rarely material.⁷ Despite being pressed on this point, Xcel offered no corroborating exhibits and relied solely on witness testimony.

By contrast, the intervenors supported the LMP methodology as a transparent, data-driven proxy for replacement power costs. Under this approach, replacement costs are calculated by multiplying Prairie Island’s expected hourly generation by actual Day-Ahead LMPs at the Prairie Island node and subtracting the plant’s variable fuel and operating costs. Because Prairie Island represents approximately 0.5 percent of total MISO installed capacity, its unavailability had a negligible effect on market prices—approximately \$0.01 per megawatt-hour—and would not have materially changed the dispatch of other generators on the system. The OAG also stressed that, under Minnesota law, Xcel bears the burden of proving its proposed refund is just and reasonable, and any unresolved doubt must be resolved in favor of ratepayers.

3. ALJ Recommendation

The ALJ rejected Xcel’s cost calculation and adopted the intervenors’ approach, recommending that Xcel refund \$40.6 million to customers for replacement power costs incurred during the Prairie Island outage.⁸

The ALJ found Xcel’s PLEXOS model unreliable for two fundamental reasons. First, the model

⁷ Department Initial Brief at 9-11.

⁸ *In the Matter of Xcel Energy’s Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges*, Docket E-002/AA-22-179, Findings of Fact, Conclusions of Law, and Recommendation at 27–28 (Mar. 11, 2026)

rested on internally inconsistent assumptions: it simultaneously claimed that the Prairie Island outage had minimal effect on regional wholesale electricity prices while also projecting that Xcel's own higher-cost generators were significantly dispatched as a result of the outage. Because generators respond to market price signals, both claims cannot be simultaneously true. Second, Xcel declined to verify its model results against actual market data from the outage period, which the ALJ found unreasonable given the model's central role in the case. The ALJ instead agreed with the intervenors' LMP methodology. Prairie Island represents roughly 0.5 percent of the regional grid's total installed capacity, meaning its outage had a negligible effect on wholesale market prices—approximately \$0.01 per megawatt-hour. Because Prairie Island was too small to materially shift what other generators produced or what prices they received, the most accurate measure of replacement power costs is the actual market prices that prevailed during the outage, not a modeling exercise that produced contradictory results.

B. Refund Offsets

Xcel proposed three primary offsets to reduce the total refund amount owed to customers, arguing that the 103-day outage produced long-term benefits that should be reflected in a just and reasonable final refund. Under Xcel's proposal, application of these offsets would reduce its baseline replacement power cost estimate of \$34.3 million to a recommended refund of approximately \$7.4 million.

Xcel's Proposed Customer Refund⁹	
Replacement Power Costs	\$34.3 million
- Avoided 2029 Costs	\$20.5 million
-Supplemental Work	\$0.5 million
Total Before Performance Adjustment	\$13.3 million
x Performance Adjustment	51%
Customer Refund	\$6.5 million ¹⁰

1. Avoided 2029 Costs

a. Xcel

Xcel noted that replacing the damaged direct-current control cables during the October 2023 Prairie Island outage eliminated the need for an otherwise inevitable future dual-unit outage to replace those same cables. This avoided future outage represents a substantial customer

⁹ Exhibit. XCEL-5 at 24 (Detmer Direct).

¹⁰ Xcel notes applying the methodology in Mr. Detmer's Direct Testimony and incorporating the agreed adjustment to supplemental work (from \$1.8 million down to \$0.5 million) with the Department results in a \$6.5 million refund; however, because Xcel previously proposed a \$7.4 million refund in rebuttal testimony, it continues to support the \$7.4 million amount as a just and reasonable outcome.

benefit that should be credited as an offset against the replacement power refund.¹¹

The control cables, which were over 50 years old, exhibited signs of degradation, including cracked insulation and water intrusion. Xcel contended that, even absent the October 2023 event, the cables would have required full replacement in the near future. To support this claim, Xcel developed three hypothetical scenarios describing when and how a future cable replacement outage might have occurred. Xcel ultimately based its proposed offset—valued at approximately \$21 million—on what it described as “Case 1.”¹²

Under Case 1, Xcel assumed that the condition of the control cables would have been identified through the U.S. Nuclear Regulatory Commission’s Subsequent License Renewal (SLR) process. Xcel also assumed that identification through SLR would have required a planned dual-unit outage in 2029 to replace the cables, resulting in significant replacement power costs that customers purportedly avoided due to the earlier replacement during the 2023 outage.¹³

b. Intervenors

Intervenors strongly oppose this proposed offset, arguing that it is speculative and unsupported by the record. They noted that Xcel’s assumptions depend on a chain of contingent events, including the likelihood that the specific control cables at issue would have been selected for inspection during the SLR process and that such an inspection would have led to a mandatory, lengthy dual unit outage. Intervenors emphasized that Xcel’s own expert witness, Dr. Hiser, testified that there was less than a 20 percent probability that these particular cables would have been selected for inspection as part of SLR, undermining Xcel’s claim that a future outage was inevitable.¹⁴

Intervenors also raised the point that, even if a future outage had occurred, Commission precedent does not permit a utility to offset refunds based on benefits arising from remedial actions taken to correct its own imprudence. They cite the Commission’s decision in the Sherco Unit 3 forced-outage proceeding, in which the Commission rejected attempts to reduce customer refunds by attributing value to corrective actions undertaken in response to a utility-

¹¹ Xcel Reply Brief at 9–12, 18–28 (arguing that because the cables would have required replacement in any future scenario, the Company’s replacement in 2023 avoided an otherwise inevitable future dual-unit outage).

¹² Ex. Xcel-5 at 18 (Detmer Direct); Xcel Reply Brief at 22–28 (describing the EPRI report findings on cable degradation including cracked jackets, moisture intrusion, and overheating)

¹³ Xcel Reply Brief at 10–12 (describing NRC SLR process and Dr. Hiser’s opinion that 20 percent of DC control cables would be subject to sampling, with the degraded cables likely to be identified and replaced during a future planned dual-unit outage around 2029)

¹⁴ CUB Reply Brief at 3–5 (describing Xcel’s chain of contingent assumptions as compounding layers of speculation); OAG Reply Brief at 3–8 (arguing Xcel failed to establish by a preponderance of the evidence that the cables would have failed during Prairie Island’s operating life, and that Dr. Hiser admitted predicting future cable fate “involves speculation”).

caused outage.¹⁵ Intervenors contended that the same principle applies here and that Xcel's proposed avoided outage offset should therefore be rejected.¹⁶

c. ALJ Recommendation

The ALJ recommended that the Commission deny this offset in its entirety, on two independent grounds, either of which would be sufficient standing alone.¹⁷ First, the ALJ concluded that the Commission's prior decision in the Sherco 3 proceeding forecloses this type of offset. In that case, the Commission precluded the utility from reducing an imprudence refund based on benefits that resulted from prudent remedial actions taken to correct its own imprudent conduct. Replacing the severed cables was the only available remedy for damage Xcel caused—it was an obligation, not a service rendered. Accepting this offset would effectively allow Xcel to reduce its liability by doing merely what was required of it.

Second, the ALJ found Xcel's evidentiary showing too speculative to support this type of offset. Xcel's scenario assumed that the replaced cables would have been selected for federal regulatory inspection—a less-than-20-percent probability according to Xcel's own witness—and then stacked multiple additional uncertain assumptions on top of that: that the cables would have failed inspection, that the resulting outage would occur in 2029 specifically, and that the 2029 outage would be unusually brief and free of other major concurrent work. That last assumption was directly contradicted by Xcel's own outage history, which includes six planned outages exceeding 70 days since 2005, and by Xcel's own projected capital work for 2029. The ALJ also declined to credit the testimony of Xcel's expert witness, Carl Bible, finding his opinions were unsupported by independent analysis and his record overseeing another nuclear utility included multiple safety violations and regulatory fines. Minnesota law requires that doubts related to the reasonableness of rates be resolved in favor of ratepayers, and the ALJ found that standard dispositive here.

2. Supplemental or Pulled-Forward Work

a. Xcel

During the October 2023 forced outage at Prairie Island, Xcel performed certain maintenance activities that were originally scheduled for future planned outages in order to take advantage of the opportunity created by having both units offline. Xcel argued that completing this work during the forced outage avoided the need for additional outage time in the future and therefore produced a customer benefit that should be credited as an offset against the replacement power refund.

¹⁵ Sherco 3 Order at 36.

¹⁶ Sherco 3 Order at 35–36 (rejecting proposed offsets as outside the scope of that proceeding and as “separate and distinct from replacement power costs”)

¹⁷ ALJ Report at 28–40.

Xcel identified the supplemental work to include activities such as inspection of cooling water pump strainers, condenser cleaning, and replacement of certain piping components. These activities would otherwise have required additional outage time if performed during future planned outages.

Xcel initially proposed an offset of approximately \$1.8 million, based on its estimate that the supplemental work avoided 8.1 days of future outage time. After additional review and in response to party criticism, Xcel revised its proposal and requested a reduced offset of approximately \$500,000, reflecting an estimate that the work avoided roughly 2.2 days of future outage time.¹⁸

b. Intervenors

Intervenors opposed this proposed offset, describing it as speculative and unsupported by the record. They took the position that the identified maintenance activities were not “critical path” work items—meaning the tasks did not determine the length of an outage and could have been performed concurrently with other outage work without extending the duration of a future planned outage. As a result, intervenors concluded that Xcel had not demonstrated that performing this work during the forced outage actually avoided any additional outage days.¹⁹

Intervenors also pointed out that the projects at issue appeared on Xcel’s “dual-unit forced outage list,” indicating that the work was already designated to be performed during any future dual-unit outage, whenever such an outage might occur. According to intervenors, this undermined Xcel’s claim that the work necessitated or avoided a discrete future outage, as the projects were simply deferred pending the occurrence of a dual-unit outage rather than driving the need for one.²⁰

Finally, intervenors contended that, even if some amount of future outage time were avoided, past Commission orders do not support reducing customer refunds based on speculative estimates of avoided outage days, particularly where the underlying work was accelerated only because of an outage caused by the utility’s own imprudence. They therefore recommended that the Commission reject Xcel’s proposed supplemental work offset in its entirety.

c. ALJ Recommendation

The ALJ recommended that the Commission deny this offset. During the proceedings, Xcel substantially narrowed its claim—from an initial 8,505 labor hours down to 2,272 hours—after

¹⁸ Xcel Reply Brief at 28–30.

¹⁹ OAG Reply Brief at 8–11 (arguing Xcel failed to prove the supplemental projects would be critical-path in any future outage and noting they were not critical-path in the October 2023 outage itself)

²⁰ OAG Reply Brief at 9–10 (noting that the cooling-water-system pipe replacement was on the “dual unit forced outage list,” meaning it was held in reserve for when other factors occasioned a dual-unit outage rather than driving the need for one)

conceding in discovery that most of the originally identified work would not have independently affected outage duration. The ALJ found the remaining claim unpersuasive as well.²¹

To justify a supplemental work offset, Xcel needed to show that the work performed during the October 2023 outage would have independently caused or extended a future outage. The ALJ found that neither of the two remaining projects met that standard. The screenhouse stop log rail-guide inspection had originally been identified in Xcel's own records as performable with the plant online, undermining any claim that it required outage conditions. The cooling-water pipe replacement was listed on Xcel's dual-unit forced outage list—meaning it was scheduled to be performed whenever a suitable outage became available, not that it would itself drive one. Because neither project would have caused Xcel to take Prairie Island offline in the future, completing them in 2023 produced no demonstrable customer benefit that could offset the refund.

3. Historical Performance Adjustment

a. Xcel

Xcel proposed an additional offset to the replacement power refund based on Prairie Island Nuclear Generating Plant's historic operating performance prior to the October 2023 outage, asserting that Prairie Island's strong performance over recent years provided substantial customer benefits that should be credited against the financial impact of this single imprudent event.

Specifically, Xcel proposed reducing the remaining refund amount by 49 percent, or approximately \$5.7 million, based on what it characterized as Prairie Island's exceptional operational record. Xcel noted that from 2018 through 2022, Prairie Island's capacity factor exceeded the nuclear industry median by approximately 51 percent. This above-average performance delivered more than \$50 million in cumulative benefits to customers, which the Company argued should be credited to offset the refund otherwise owed for the 2023 outage.²²

b. Intervenors

Intervenors opposed this proposed performance-based offset, describing it as inconsistent with Commission precedent and fundamental prudence principles. Intervenors took the position that prudence represents the minimum standard of utility performance and that Xcel is already compensated for prudent operation through base rates and authorized returns. They concluded

²¹ ALJ Report at 40–43, 50 (Conclusion of Law 11) (denying supplemental work offset; Xcel failed to establish the two remaining projects were critical-path or would independently have caused a dual-unit outage; the cooling-water pipe replacement was on the “dual unit forced outage list” and the rail-guide inspection was initially noted as performable with the plant online).

²² Xcel Reply Brief at 31–32.

that there is no legal or regulatory basis for recognizing or allowing utilities to accumulate performance credits that can later be applied to excuse or offset the consequences of imprudent conduct.²³

Intervenors also raised the concern that accepting a performance-based offset would improperly weaken the prudence standard by allowing utilities to trade past performance for relief from accountability when imprudence occurs. In their view, such an approach would undermine the Commission's long-standing practice of evaluating prudence on an event-specific basis and requiring customers to be made whole when imprudent actions cause harm.

The Department also raised concerns regarding the data underlying Xcel's performance claim. The Department contended that Xcel selectively relied on a favorable five-year period and performance metrics that overstate Prairie Island's long-term operating record.²⁴ According to the Department, when Prairie Island's performance is evaluated over a longer 20-year period (2005–2024), the plant underperformed the industry average by nearly 5 percent. The Department also noted that Prairie Island's capacity factor lagged the industry median during the five-year period immediately preceding the window selected by Xcel, calling into question the representativeness of the Company's chosen timeframe.²⁵

Based on these considerations, intervenors and the Department concluded that Xcel had not demonstrated that Prairie Island's historic performance provides a valid or appropriate basis for reducing the refund owed to customers and recommended that the Commission reject the proposed performance-based offset in its entirety.²⁶

c. ALJ Recommendation

The ALJ recommended that the Commission deny this offset on both legal and factual grounds.²⁷ As a legal matter, the ALJ concluded that the prudence standard defines a minimum threshold for acceptable utility conduct, not a sliding scale from which positive deviations can be accumulated and spent against future liability. A utility that operates prudently for several years has simply met its obligation; it has not earned a reserve of credit to offset a subsequent

²³ CUB Reply Brief at 5–6; DOC Reply Brief at 3–4; XLI Reply Brief at 11–12. XLI further argues that rewarding adequate performance of generation assets would violate the longstanding prohibition on retroactive ratemaking.

²⁴ Ex. DOC-2 at 4-5 (Golden Surrebuttal).

²⁵ DOC Reply Brief at 3–4 (presenting a capacity factor comparison table showing Prairie Island underperformed the industry average by 4.98% over the full 2005–2024 period and by 7.32% during 2013–2017, the five-year period immediately preceding Xcel's chosen 2018–2022 window

²⁶ CUB Reply Brief at 5–6; DOC Reply Brief at 3–4; OAG Reply Brief at 11; XLI Reply Brief at 11–12.

²⁷ ALJ Report at 43–46, 50–51 (Conclusions of Law 12–17) (denying historical performance adjustment; prudence standard sets a floor not a ceiling; Xcel's 2018–2022 lookback is cherry-picked; over the full 2005–2024 period PINGP underperformed the industry average by 4.98%; capital-investment-driven improvements are already recovered through rates).

finding of imprudence. Regulators in Texas and New Hampshire have rejected similar arguments, and the ALJ found the Commission’s own Sherco 3 decision consistent with this view.²⁸ Permitting such offsets would also dilute the deterrent function of prudence review, insulating utilities from the full financial consequences of imprudent decisions.

As a factual matter, the ALJ found that Xcel’s claimed record of superior performance was not borne out by the full evidentiary record. Xcel relied on a five-year window (2018–2022) during which Prairie Island exceeded the industry average by 2.18 percent. When examined over a longer period, however, Prairie Island underperformed the national average by 4.98 percent from 2005 to 2024, and lagged by 7.32 percent in the five years immediately preceding Xcel’s selected window. The ALJ also found that the performance improvement during Xcel’s chosen period was likely attributable to capital investments that customers had already paid for through rates, meaning ratepayers would effectively be charged twice if this offset were credited.

C. Litigation Expenses

1. Xcel

Xcel sought to recover its litigation expenses associated with the contested case through future cost recovery mechanisms, asserting that such costs are a normal and reasonable part of participating in Commission-directed proceedings. Xcel stated that the intervenors’ position failed to account for the regulatory nature of this proceeding. Xcel took the position that its participation in the contested case was mandatory, not voluntary, as the Commission expressly ordered the development of a full evidentiary record to resolve significant unresolved issues concerning the refund amount and potential offsets.²⁹

Xcel also challenged the application of the “American Rule,” reasoning that this is not a privately initiated civil action but a Commission-directed regulatory proceeding.³⁰ According to Xcel, presenting expert testimony and analysis was necessary to comply with the Commission’s order and to support a just and reasonable determination of the net customer impact.

2. Intervenors (Department, OAG, CUB, and XLI)

Intervenors took the position that requiring customers to pay Xcel’s litigation expenses is neither just and reasonable nor a recoverable cost of service. The contested case did not provide a public or customer benefit, but instead served as a vehicle for Xcel to reduce or delay refunds owed for its established imprudence.

²⁸ ALJ Report at 46.

²⁹ Xcel Reply Brief at 33–34.

³⁰ Xcel Reply Brief at 34.

Intervenors maintained that the recovery of litigation expenses is inconsistent with the American Rule, under which parties generally bear their own legal costs absent express statutory authorization. They argued that Minnesota law does not permit utilities to shift attorney fees incurred in defending or mitigating imprudent conduct to ratepayers.

Intervenors also cautioned that allowing recovery would create perverse incentives, encouraging utilities to litigate refund disputes aggressively with little risk, knowing that litigation costs could be passed on to customers. In their view, this would weaken the deterrent effect of prudence reviews and erode accountability.

Finally, Intervenors contended that the litigation expenses are incompatible with cost-of-service ratemaking principles, which limit recovery to costs necessary to provide adequate, efficient, and reasonable service. They concluded that expenses incurred to justify a reduced refund do not meet this standard and should be borne by shareholders.

3. ALJ Recommendation

The ALJ recommended that the Commission bar Xcel from recovering its contested-case litigation expenses from ratepayers and require Xcel to submit a compliance filing confirming those costs are excluded from any future rate case or cost-recovery proceeding.³¹

The ALJ found that litigation expenses are not a cost of providing utility service and therefore are not properly recoverable from ratepayers. The contested-case proceeding arose directly from Xcel's imprudent conduct and the improper automatic fuel-clause adjustment that followed. Under Minnesota's general rule that each party bears its own legal costs, there is no statutory authority permitting Xcel to shift those expenses to customers. The ALJ also identified a policy concern: allowing recovery would create a perverse incentive for utilities to litigate aggressively in imprudence proceedings, knowing that legal costs would ultimately be borne by ratepayers rather than shareholders. Recovery of these costs would also be inconsistent with the Commission's obligation under Minnesota Statutes section 216B.03 to ensure that only just and reasonable charges are passed on to customers.

III. XCEL'S PROPOSED RESOLUTION AND EXCEPTIONS TO ALJ REPORT

In its March 31, 2026 filing responding to the ALJ's Report, Xcel stated that it disagreed with the ALJ's conclusions but nonetheless proposed a full and final resolution of the dispute. Specifically, the Company agreed to refund \$40.6 million to customers, consistent with the ALJ's recommended amount, with interest at the prime rate. Xcel indicated that this proposal was intended to avoid further litigation and provide a reasonable outcome for customers, despite its continued disagreement with the use of the LMP methodology and the rejection of its

³¹ ALJ Report at 46–48, 51 (Conclusion of Law 18) (barring litigation expense recovery; contested case expenses are not a cost of providing utility service; American Rule bars fee-shifting absent statutory authorization; recovery would create perverse incentives weakening the deterrent effect of prudence reviews).

proposed offsets. The Company also proposed that parties work collaboratively to develop a standardized methodology for calculating replacement power costs in future outage-related proceedings and committed not to seek recovery of external litigation costs associated with this case in future rate proceedings.

However, Xcel argued that the Commission should not accept the ALJ's recommendation that "in a future rate case or cost-recovery proceeding that relies on actual cost data," the Company show that "internal" costs for this case have been "adjusted out of the test year(s) or otherwise removed."³²

Xcel asserted that the recommendation from the ALJ is based on a proposal from the OAG made for the first time in its initial brief and argued the proposal was without any basis or support. Xcel argued that the Commission should reject the proposal for at least three reasons. Specifically, Xcel stated:

First, the Company's internal costs of this contested case are not incremental. Rather, they are primarily labor and other costs of internal staff that the Company would have incurred even if the contested case had not occurred. Second, it is not clear how the Company would "adjust out" costs from 2025 and 2026 in a future rate case that would have a test year no earlier than 2027. Third, and relatedly, the OAG did not raise this recommendation in the Company's current rate case, which would have been the appropriate venue to do so since it seeks to deny a portion of the Company's internal costs from the 2025-2026 time-period. As a result, its attempt to have the Commission order these costs removed in the Company's next rate case would constitute retroactive ratemaking.

Rather, the Company proposed that the Commission take the following actions in response to the ALJ's report:

- Accept Findings 1-73 of the ALJ's Report, which provide the necessary factual background of the dispute and the parties' positions;
- Modify Findings 74-203 and Conclusions 1-18 of the ALJ Report by striking them and replacing them with the following order points:
 - i. Accept the Company's proposal to refund customers \$40.6 million plus interest at the prime rate, compounded monthly until the refund is fully paid.
 - ii. Require the Company to make a compliance filing no later than 30 days from the date of the Commission's order approving this agreement. The compliance filing will set forth the full refund amount, including interest, as well as the anticipated refund date.
 - iii. Require the Company to work cooperatively with the other parties in this docket

³² ALJ Report Recommendation 5.

- to explore developing an agreed-upon methodology for calculating replacement power costs in future outage-related proceedings and report back to the Commission on the status or resolution of such efforts within 90 days of the date of the Commission order approving this agreement.
- iv. Accept the Company's proposal that it will not seek to recover outside expert and legal costs associated with this proceeding, and require the Company to provide testimony or other evidence in its next rate proceeding demonstrating compliance with this proposal.

IV. REPLIES TO ALJ EXCEPTIONS

The Intervenors (Department, CUB, OAG, XLI) recommended that the Commission adopt the ALJ report in its entirety and reject Xcel's exceptions. Although Xcel has agreed to a \$40.6 million refund, it proposed to reject a substantial portion of the ALJ's findings of fact and all legal conclusions as unnecessary. The Intervenors argued that such an approach would be inconsistent with Minn. Stat. § 14.62, which requires the Commission to provide a reasoned basis for any rejection or modification of the ALJ's findings.

The OAG further emphasized that the ALJ's findings served an important precedential function, particularly with respect to Xcel's proposed offset arguments. These included an avoided cost offset based on a speculative future outage and a historic performance adjustment based on prior plant performance. The ALJ rejected both as unsupported and inconsistent with Commission precedent. Adopting these findings would provide clarity in future proceedings and reduce the likelihood of continued litigation over similar claims.

The Intervenors also supported the ALJ's recommendation requiring Xcel to exclude both internal and external litigation costs from future rate recovery. While Xcel agreed not to seek recovery of outside legal and expert costs, it opposed excluding internal labor costs, arguing they were not incremental, difficult to remove from future rate cases, and that doing so would implicate retroactive ratemaking.

The Intervenors rejected all three arguments. Internal labor devoted to the contested case represented a real opportunity cost, as those resources could have been used to support utility operations or other company functions.³³ The removal of such costs is administratively feasible, as Xcel already relied on historical spending to develop test-year budgets, and these costs could be excluded from those baselines without disrupting the ratemaking process. And finally excluding litigation-related expenses did not constitute retroactive ratemaking, because it did not alter past rates but instead ensured that costs unrelated to providing utility service were not carried forward into future revenue requirements.

XLI noted as part of its November 2024 order referring this matter to a contested case, the

³³ DOC Exceptions at 2–3; OAG Exceptions at 5; XLI Exceptions at 3.

Commission had required Xcel to include detailed information on planned outages in future fuel clause true-up filings.³⁴ XLI requested that the Commission extend this reporting requirement to unplanned outages as well, arguing that there was no principled basis for distinguishing between the two when the purpose of the requirement was to ensure adequate Commission and stakeholder oversight of fuel clause filings. XLI emphasized that information on the timing and energy cost impacts of unplanned outages is critical to protecting customers from future replacement power costs resulting from Xcel's imprudence.

V. STAFF ANALYSIS

Subsequent to the ALJ's Report, Xcel agreed to refund \$40.6 million to customers, with interest, as a full and final resolution of this matter. This amount is consistent with the ALJ's recommended refund based on the locational marginal price (LMP) methodology. As a result, the primary dispute in this proceeding is no longer contested.

The Commission has long required that refunds of imprudently incurred costs include interest to fully compensate ratepayers. In prior forced-outage and fuel clause adjustment proceedings, the Commission has applied interest at the U.S. Federal Reserve prime rate, compounded monthly, recognizing that returning only the principal amount does not make customers whole.³⁵ Consistent with this established practice, interest on the \$40.6 million replacement power cost amount, should be calculated at the U.S. Federal Reserve prime rate and compounded monthly until repayment is complete.

The remaining contested issue is whether to (1) adopt the ALJ Report in full as recommended by the Department, OAG, and XLI (**Decision Option 1**), or (2) strike certain findings and conclusions and replace them with the order language proposed by Xcel (**Decision Options 2 and 8–10**).

³⁴ In the Matter of Xcel Energy's Petition for Approval of its 2023 Annual Fuel Forecast and Monthly Fuel Cost Charges, Docket No. E-002/AA-22-179, Order Approving 2023 Fuel-Clause True-Up Report, Requiring Additional Filings, Finding Imprudence, and Notice of and Order for Hearing at 11 (Nov. 15, 2024)

³⁵ See In re Review of the July 2018–December 2019 Annual Automatic Adjustment Reports, Docket No. E-999/AA20-171, ORDER ADOPTING ADMINISTRATIVE LAW JUDGE REPORT AS MODIFIED AND REQUIRING REFUND at 5 (Feb. 25, 2022) (including interest at Prime Rate for refund for forced-outage costs related to hot reheat line failure at Minnesota Power's Boswell facility); Docket Nos. E-002/GR-15-826 et al, ORDER at 2 (Oct. 21, 2020) (adopting Department comments as order to include interest at Prime Rate, compounded monthly, for Xcel's incentive compensation refund); In re Application by CenterPoint Energy Res. Corp., d/b/a CenterPoint Energy Minn. Gas for Authority to Increase Nat. Gas Rates in Minn., G-008/GR-17-285, ORDER ACCEPTING REPORT, REQUIRING STI REFUND, AND ALLOWING STI REFUND TO BE INCLUDED AS PART OF INTERIM RATE REFUND IN DOCKET NO. G008/GR-19-524 at 4 (Apr. 6, 2021) (ordering gas utility to refund \$147,212 of over collected short-term incentive compensation (STI) to ratepayers plus interest). In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota, Docket No. E-002/GR-12-961, Order Authorizing Refund Method at 3 (April 16, 2025) (confirming that interest accrues at the prime rate through completion of the refund and authorizing a single-month distribution of the full \$48 million refund inclusive of interest through March 31, 2025).

When considering whether to modify or reject portions of the ALJ Report, the Commission should consider the Minn. Stat. § 14.62, subd. 1, requirement that the Commission include in its order the reasons for each rejection or modification. It should also consider the requirement under the same subdivision that the written order include the agency's findings of fact and conclusions on all material issues. Additionally, if the Commission does not adopt the ALJ's findings and conclusions, it should consider whether its decision on the merits is supported by substantial evidence and not arbitrary or capricious.

VI. DECISION OPTIONS

Adoption of ALJ Report

1. Adopt in full the Administrative Law Judge's March 11, 2026 Findings of Fact, Conclusions of Law, and Recommendations, without modification. [Department, OAG, CUB, XLI]

[OR]

2. Adopt the Administrative Law Judge's March 11, 2026 Findings of Fact, Conclusions of Law, and Recommendations, with the following modifications: [Xcel]
 - A. Reject Findings 74–203
 - B. Reject Conclusions 1–18

Refund and Cost Recovery

Decision Options 3 – 7 are consistent with the ALJ's Recommendations and need not be selected if the Commission adopts the ALJ Report in full.

3. Adopt Locational Marginal Price (LMP) methodology to estimate replacement power costs resulting from the October 2023 outage at the Prairie Island Nuclear Generating Plant and require Xcel to refund a baseline amount of \$40.6 million, plus applicable interest at prime rate, to Minnesota ratepayers. [ALJ, Department, OAG, CUB, XLI]
4. Deny Xcel's request to offset the replacement power refund based on alleged avoided 2029 outage costs, supplemental or pulled-forward work performed during the outage, and the historical performance of the Prairie Island Nuclear Generating Plant. [ALJ, Department, OAG, CUB, XLI]
5. Prohibit Xcel from recovering from ratepayers the costs of this contested case litigation. [ALJ, Department, OAG, CUB, XLI]
6. Require Xcel to file a compliance filing listing all internal and external litigation costs and to exclude those costs from any future rate case or cost-recovery proceeding. [ALJ, Department, OAG, CUB, XLI]
7. Require Xcel, in any future rate case or cost-recovery proceeding that relies on actual cost data, to show that the internal and external costs for this contested case have been adjusted out of the test year(s) or otherwise removed. [ALJ, Department, OAG, CUB, XLI]

Decision Options 8 – 10 reflect Xcel's requested departures from the ALJ's recommended actions

8. Accept Xcel's proposal to refund customers \$40.6 million plus interest at the prime rate, compounded monthly until the refund is fully paid. [Xcel]

9. Accept Xcel's proposal not to seek recovery of outside expert and legal costs associated with this proceeding, and require the Company to provide testimony or other evidence in its next rate proceeding demonstrating compliance with this proposal. [Xcel]
10. Reject the ALJ's recommendation that Xcel, in any future rate case or cost-recovery proceeding that relies on actual cost data, show that the internal and external costs for this contested case have been adjusted out of the test year(s) or otherwise removed. [Xcel]

Additional Reporting

11. Require Xcel in future fuel-clause true-up petitions to include the following information for unplanned outages in addition to planned outages: unit, outage category, primary reason for planned outage, outage start and end dates, duration in days, reason for planned outage, description of actions taken during outage, and change in energy costs due to outage. [XLI]
12. Require Xcel to work cooperatively with the other parties in this docket to explore developing an agreed-upon methodology for calculating replacement power costs in future outage-related proceedings and to file a report with the Commission on the status or resolution of such efforts within 90 days of the date of the Commission order. [Xcel]
13. Require Xcel to make a compliance filing no later than 30 days from the date of the Commission's order. The compliance filing shall set forth the full refund amount, including interest, as well as the anticipated refund date. [Xcel]