

**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 the Application of Xcel Energy for a Certificate of Need for the Lyon County Generating Station in Lyon County, Minnesota

DOCKET NO. E-002/CN-25-145

**INITIAL 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 Public Utilities Commission’s Notice of Comment Period issued on January 14, 2026. The notice requests comment on the merits of Xcel’s certificate of need (CN) application for its combustion turbine (CT) Lyon County Generating Station (Lyon County).

After repeated increases, the estimated cost of this project is now essentially double the price of Xcel’s original May 2024 bid. This is before factoring in financing costs, which Xcel has not quantified. Xcel has provided very little support for these runaway costs, and what little support it did provide appears contradictory. Moreover, Xcel’s primary justification for this plant is data center demand. Without cost discipline and ratepayer protections, the Commission risks granting Xcel a blank check to benefit from large technology companies at the expense of Minnesota’s residential and small business ratepayers.

If the Commission wishes to approve Lyon County’s CN despite the egregious cost overruns, it must impose stronger cost discipline on the project and order that Xcel assign the majority of Lyon County’s costs to very large customers.

## BACKGROUND

Lyon County was selected as a resource in Xcel’s most recent Integrated Resource Plan (IRP). For the Commission to properly assess this CN application, it is important to review how Lyon County came to be selected and the basis for Lyon County’s claimed need. The OAG also highlights the lack of information supporting Xcel’s repeated cost increases.

### Selection of Lyon County

Xcel’s request for this CN arises from a stipulation among many parties in a resource acquisition process to acquire “up to 800 MW of firm dispatchable generation” and Xcel’s most recent IRP (the Stipulation).<sup>1</sup> The parties to that Stipulation agreed to halt the competitive bidding process before testimony was filed and ask the Commission to approve project bids from all remaining bidders,<sup>2</sup> resulting in acquisition of much more than 800 MW of firm dispatchable resources.<sup>3</sup> The OAG observed that cutting the competitive bidding process short would remove competitive pressure to control generation resource costs.<sup>4</sup> Indeed, as part of the Stipulation, Xcel increased the estimated costs of Lyon County by more than 25 percent over its original bid.<sup>5</sup>

Accordingly, the OAG recommended that Lyon County’s costs be capped at the original bid price unless Xcel showed by clear and convincing evidence that (1) the original bid for Lyon County reasonably accounted for all known costs to Xcel, or that should have been known to Xcel, at the time of submission; (2) any additional costs were caused by events outside of Xcel’s control and otherwise prudent; and (3) selection of Lyon County at its updated costs will result in just and

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<sup>1</sup> Docket No. E-002/CN-23-212, Order Approving Settlement Agreement with Modifications at 6-8 (Apr. 21, 2025).

<sup>2</sup> Docket No. E-002/CN-23-212, Settlement Agreement at 4-5 (Oct. 3, 2024); *see* First Prehearing Order at 4 (May 1, 2024); *see also* Order Suspending Procedural Schedule at 2 (Aug. 27, 2024).

<sup>3</sup> Docket No. E-002/CN-25-145, Initial Filing at 30 (May 9, 2025).

<sup>4</sup> Docket No. E-002/CN-23-212, Initial Comments of the Office of the Attorney General – Residential Utilities Division at 18-23 (Dec. 4, 2024).

<sup>5</sup> Docket No. E-002/CN-24-195, Joint Settlement Agreement, Attach. A (Oct. 3, 2024).

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reasonable rates.<sup>6</sup> Even with such a showing, the OAG recommended that cost recovery be hard-capped at the updated Stipulation price. The OAG also recommended that Xcel’s shareholders be required to bear the cost of any upgrades needed to convert the Lyon County CT to be carbon free in accordance with state law, or else to cover the risks of any abandonment losses from early retirement should upgrades be deemed not feasible.<sup>7</sup>

The Commission instead ordered that costs “be capped at the bid amounts as of October 2, 2024, unless Xcel demonstrates by substantial evidence that additional costs were caused by events outside of Xcel’s control and are otherwise prudent.”<sup>8</sup> The Commission also required that Xcel file the instant petition for approval of its CN, and that “within 6 months of the in service of Lyon County Combustion Turbine or 30 days before the next rate case filing, whichever is sooner, Xcel must file comprehensive substantial evidence in support of the cost recovery of the Lyon County Combustion Turbine” in the resource acquisition and IRP dockets.<sup>9</sup>

*Alleged Need for Lyon County*

Lyon County was originally bid into a competitive resource acquisition that arose from Xcel’s 2019 IRP, in which the Commission found that there was a need for “approximately, but not more than, 800 MW of firm dispatchable resources between 2027 and 2029.”<sup>10</sup> While the contested case for that acquisition proceeded, Xcel filed its 2024 IRP, in which it proposed to add

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<sup>6</sup> Docket No. E-002/CN-23-212, Reply Comments of the Office of the Attorney General – Residential Utilities Division at 16 (Dec. 18, 2024).

<sup>7</sup> *Id.*

<sup>8</sup> Docket No. E-002/CN-23-212, Order Approving Settlement Agreement with Modifications at 21-22.

<sup>9</sup> *Id.* at 22.

<sup>10</sup> Docket No. E002/RP-19-368, Order Approving Plan with Modifications and Establishing requirements for Future Filings at 32, Order Point 3 (Apr. 15, 2022) (2019 IRP Order).

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2248 MW of firm dispatchable resources by 2030, and another 1347 MW by 2040.<sup>11</sup> Xcel stated it needed these resources to meet its projected two percent average annual growth “due, primarily, to forecasted large new data center loads and acceleration in adoption of Electric Vehicles.”<sup>12</sup> Xcel repeated this statement in its support for the Stipulation that resolved both proceedings.<sup>13</sup>

The load forecast for Xcel’s 2024 IRP was conducted in Fall 2023.<sup>14</sup> That forecast indicated that there would be significant demand growth due to data centers, as well as vehicle and other electrification.<sup>15</sup> Xcel later filed a sales forecast indicating less demand growth in its November 2024 rate case filing.<sup>16</sup> Xcel relied only on the older Fall 2023 forecast in the IRP proceedings,<sup>17</sup> and Xcel was the only party to discuss the forecast after the Stipulation was entered into because the Department of Commerce did not have access to the forecast files at that time.<sup>18</sup> Xcel originally requested that the Commission rely on the Fall 2023 forecast in this CN proceeding, but after opposition from the OAG, the Commission ordered Xcel to file its Spring 2025 forecast in this docket.<sup>19</sup>

Xcel now attributes the need primarily to data centers only, without mentioning electric vehicles or beneficial electrification as drivers. In both the Fall 2024 and the Spring 2025 forecasts, states that its energy requirements are “primarily driven by new load from data center

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<sup>11</sup> Docket No. E-002/RP-24-67, Upper Midwest Resource Plan 2024-2040, Ch. 4 at 2 (Feb. 1, 2024).

<sup>12</sup> *Id.*, Ch. 3 at 4.

<sup>13</sup> Docket No. E-002/RP-24-67, Comments in Support of Settlement Agreement at 24 (Oct. 25, 2024)

<sup>14</sup> February 18, 2025 Agenda Meeting at 3:44:30 – 3:45:27.

<sup>15</sup> Docket No. E002/RP-24-67, Initial Filing, Appendix E at 2 (February 1, 2024).

<sup>16</sup> Docket No. E002/GR-24-320, Levine Direct at 32 (Nov. 1, 2025).

<sup>17</sup> February 18, 2025 Agenda Meeting at 3:18:54 – 3:19:15, 3:44:07 – 3:45:27.

<sup>18</sup> *Id.* at 3:43:15 – 3:44:05.

<sup>19</sup> Docket No. E-002/CN-25-145, Order at 1 (May 8, 2025).

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customers.”<sup>20</sup> Xcel also states that the primary driver for the differences between its Fall 2023, Fall 2024, and Spring 2025 forecasts is its data center assumptions.<sup>21</sup> After Xcel filed its Spring 2025 forecast, the federal government passed the One Big Beautiful Bill Act, which eliminated federal incentives for electric vehicles and beneficial electrification measures such as heat pumps.<sup>22</sup> The OAG is not aware of a sales forecast for Xcel’s system that has been filed in a Commission docket since this major legislative act.

In addition to the data center need, Xcel states that Lyon County is necessary to support the Minnesota Energy Connection transmission line “because the Project also serves the function of two synchronous condensers providing needed energy stability to MNEC.”<sup>23</sup> If Lyon County is not built, Xcel states that two standalone synchronous condensers would need to be constructed to support the MNEC.<sup>24</sup> These would only cost approximately [NOT PUBLIC DATA BEGINS ■ NOT PUBLIC DATA ENDS] percent of the cost of Lyon County.<sup>25</sup>

*Paucity of Cost Information*

Xcel asserts that the costs of Lyon County will now be over 50 percent higher than when the Commission issued its IRP order. This is the third cost increase since Lyon County was first bid into the 800 MW acquisition docket in January 2024 at a price of [NOT PUBLIC DATA BEGINS ■ NOT PUBLIC DATA ENDS].<sup>26</sup> That price was reaffirmed in May of 2024, though it may have been artificially low because it is not clear whether it included Allowance

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<sup>20</sup> Docket No. E-002/CN-25-145, Initial Filing, App. L at 1; *id.*, Compliance Filing – Updated Sales and Demand Forecast, Attach. A at 1 (Jul. 1, 2025).

<sup>21</sup> *Id.* at 3.

<sup>22</sup> One Big, Beautiful Bill Act, Pub. L. No. 119-21, § 70505, 139 Stat. 72, 251 (2025)

<sup>23</sup> Xcel Comments in Support of Certificate of Need at 3 (Feb. 4, 2026) (Xcel Feb. 4 Comments).

<sup>24</sup> *Id.* at 7.

<sup>25</sup> *Id.*

<sup>26</sup> Docket No. E-002/CN-23-212, Xcel Lyon County Generating Station Proposal (Jan. 22, 2024).

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for Funds Used During Construction (AFUDC).<sup>27</sup> Five months later, Xcel increased the estimated costs of the Lyon County Generating Station to the Stipulation price of [NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS] increase.<sup>28</sup> Again, there was no mention of AFUDC, meaning Xcel might not have disclosed that the actual price may be higher.

When Xcel filed its CN application in May 2025, it increased the price estimate to [NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS] increase.<sup>29</sup> In its CN filing, Xcel admitted that the full price would actually be higher, as the cost with AFUDC was [NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS].<sup>30</sup>

Now, in its initial comments on the CN, Xcel has increased the price estimate to [NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS] increase.<sup>31</sup> Xcel states that this price does not include AFUDC, so the final cost will be millions more. The total cost (without AFUDC) is now [NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS] percent higher than the price was in the Stipulation and [NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS] percent higher than Xcel's original bid—very nearly double.

There is very little information about the basis for any of these costs in the record. When Xcel submitted its original bid, it provided only the base cost.<sup>32</sup> Because Xcel entered a Stipulation

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<sup>27</sup> Docket No. E-002/CN-24-195, Xcel Lyon County Generating Station Proposal, App. B (May 24, 2024).

<sup>28</sup> Docket No. E-002/CN-24-195, Joint Settlement Agreement, Attach. A (Oct. 3, 2024).

<sup>29</sup> Docket No. E-002/CN-25-145, Initial Filing, App. K (May 9, 2025).

<sup>30</sup> *Id.*

<sup>31</sup> Xcel Feb. 4 Comments at 7.

<sup>32</sup> Docket No. E-002/CN-24-195, Xcel Lyon County Generating Station Proposal, App. B (May 24, 2024).

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with other parties before any testimony was filed about the bids, there is no further breakdown of or information about this cost. Then, along with the Stipulation, Xcel filed a mostly-blank page that stated simply “Lyon Co Price Change: [NOT PUBLIC DATA BEGINS ██████████ NOT PUBLIC DATA ENDS].”<sup>33</sup> Then, when Xcel filed its CN application, Xcel provided the new total price and capacity costs along with just a statement that “Increasing Engineering, Procurement, and Construction costs and turbine prices – driven by increased labor rates and recruitment challenges, market pressures on equipment, and uncertainty related to Federal tariffs – are significantly impacting the overall Project cost.”<sup>34</sup> There was no cost breakdown in support of this statement, although this was the one time that Xcel provided the total cost both with and without AFUDC.<sup>35</sup>

In the most recent price hike, Xcel again provided the total price and capacity costs without financing costs or a cost breakdown.<sup>36</sup> Xcel did provide a narrative explanation for the cost increase, pointing to: continued escalation of equipment costs since 2022 (two years before Xcel submitted the Lyon County bid); the development of a “clutch design” for the CTs to act as synchronous condensers; increased labor cost assumptions due to the location of Lyon County; site-specific geotechnical findings; and other adjustments to the plant layout and design.<sup>37</sup> Xcel

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<sup>33</sup> Docket No. E-002/CN-24-195, Joint Settlement Agreement, Attach. A (Oct. 3, 2024).

<sup>34</sup> Docket No. E-002/CN-25-145, Initial Filing at 16.

<sup>35</sup> *Id.*, App. K.

<sup>36</sup> The OAG requested a cost breakdown of the costs listed in Xcel’s initial CN filing. That breakdown is attached to these comments as Attachment 1. When Xcel filed its initial comments, it should have updated the response to the OAG’s information request. Minn. Stat. 26.05(a); Minn. R. 1400.6700. Xcel did not provide any update. However, the OAG’s IR also instructed Xcel to update its cost breakdown on a quarterly basis, so the OAG expects Xcel to provide an update on February 13, after these comments are filed. In addition to providing the OAG with this information on February 13, Xcel may wish to include it in its reply comments on February 18, along with further evidence supporting why each individual cost category has increased.

<sup>37</sup> Xcel Feb. 4 Comments at 7-8.

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failed to quantify any of these alleged cost drivers. However, the price for the turbines themselves appears [NOT PUBLIC DATA BEGINS ██████████ NOT PUBLIC DATA ENDS] since before Xcel filed its CN proposal.<sup>38</sup> Additionally, the use of the CTs as synchronous condensers has been contemplated since at least the Stipulation.<sup>39</sup> How any of the other listed factors actually resulted in the latest price increase remains unknown.

**ANALYSIS**

**I. THE COSTS OF LYON COUNTY HAVE UNREASONABLY SPIKED AND THE COMMISSION MUST ACT TO PROTECT RATEPAYERS.**

Coming out of the Stipulation, the Commission ordered that Xcel would need to prove a single cost increase when Xcel petitioned for cost recovery of Lyon County. Now, Xcel has increased its cost estimate for Lyon County three times in roughly a year and a half with very little evidence in support. When Xcel’s petition for cost recovery comes before the Commission at the end of the decade, the Commission will likely have a constrained ability to assess the reasonableness and prudence of Lyon County’s effective doubling in price because much of the evidence will be gone and Lyon County will already be built. Lyon County will contribute to the growing affordability crisis for Xcel’s ratepayers unless the Commission intervenes now to give ratepayers greater protection. However, the Commission can impose reasonable conditions on Lyon County’s CN to encourage some level of cost discipline before the money is spent.

**A. Lyon County’s Costs Continue to Increase from the Stipulation Price Without Justification.**

The OAG objected to the Stipulation that selected Lyon County chiefly because it placed “substantial risks of escalating costs onto Minnesota ratepayers” and there were “warning signs in

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<sup>38</sup> Compare Xcel Feb. 4 Comments at 7 to Attachment 1 at PDF page 6.

<sup>39</sup> Docket No. E-002/CN-23-212, Comments in Support of Settlement Agreement at 50 (Oct. 25, 2024).

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the Stipulation of the potential for price escalations and rate increases.”<sup>40</sup> In particular, because the cost control function of the competitive bidding process was circumvented, the OAG was concerned that Xcel would have an incentive to increase costs, and once Lyon County was built, the Commission would feel pressured to accept any and all price increases.<sup>41</sup>

To protect ratepayers from such price increases, the OAG requested that the Commission cap Lyon County’s costs at its original bid level unless Xcel made a particularly strong showing that it was reasonable for ratepayers to bear the increased costs.<sup>42</sup> Even with such a showing, the OAG recommended a hard cap at Lyon County’s increased Stipulation price.<sup>43</sup> The Commission instead adopted a soft cap, ordering that Xcel prove by “substantial evidence” that cost increases above the original Lyon County bid price were caused by events outside of Xcel’s control and otherwise prudent, and that Xcel provide “comprehensive substantial evidence” in support of its request for cost recovery after Lyon County is in service.<sup>44</sup> Xcel has now responded to the Commission’s soft cap with a doubling of Lyon County’s cost estimate with minimal evidence.

In its defense, Xcel states that Lyon County’s cost is “within the range of other recently proposed projects on a \$/kW basis.”<sup>45</sup> The table Xcel provides in support (reproduced below as Table 1), however, raises concerns that the “range” Xcel is referring to has been cherry-picked to make Lyon County appear better than it actually is. As an initial matter, Lyon County’s actual

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<sup>40</sup> Docket No. E-002/CN-23-212, Initial Comments of the Office of the Attorney General – Residential Utilities Division at 26, 28 (Dec. 4, 2024).

<sup>41</sup> *Id.* at 29-30.

<sup>42</sup> Docket No. E-002/CN-23-212, Reply Comments of the Office of the Attorney General – Residential Utilities Division at 16 (Dec. 18, 2024).

<sup>43</sup> *Id.*

<sup>44</sup> Docket No. E-002/CN-23-212, Order Approving Settlement Agreement with Modifications at 21-22, Order Points 1(b) and 1(c).

<sup>45</sup> Docket No. E-002/CN-25-145, Initial Filing at 8.

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\$/kW price is higher than listed in the table because Xcel has not disclosed its financing costs and not included them in that price.

**Table 1: Recent Natural Gas Projects Listed in Xcel’s Comments<sup>46</sup>**

Project Name	Utility	Nameplate Capacity (MW)	Estimated In-Service Date	\$/kW
				<b>[NOT PUBLIC DATA BEGINS]</b>
South Oak Creek	Wisconsin Electric Power Company	1,100 MW	2027/2028	[REDACTED]
Chesterfield Energy Reliability Center	Virginia Electric and Power Company	944 MW	2029	[REDACTED]
Red Oak Ridge Energy Center	Invenergy	1125 MW	2029	[REDACTED]
R. M. Schahfer Generating Station	Northern Indiana Public Service Co.	400 MW	2027	[REDACTED]
NIPSCo RM Schahfer – CT Project	Northern Indiana Public Service Co.	400 MW	2026	[REDACTED]
Lyon County Generating Station	Xcel Energy	420 MW	2028	[REDACTED]
Urquhart Replacement Unit	Dominion Energy South Carolina	200 MW	2028	[REDACTED]
Cayuga Combined Cycle Siebrecht Project	Duke Energy NorthWestern Energy	1476 MW 131.2 MW	2029/2030 2030	[REDACTED]
Paris RICE	Wisconsin Electric Power Company	128 MW	2026	[REDACTED]
Toronto Power Plant Project	Western Minn. Munic. Power Agenc	145 MW	2028	[REDACTED]
				<b>NOT PUBLIC DATA ENDS]</b>

While there are an equal number of projects in Xcel’s chart that are less expensive and more expensive than Lyon County on a dollar-per-kilowatt basis, the projects that are more expensive appear not to be comparable to Lyon County. One of them is not a simple CT project but a combined cycle. The other four more expensive projects will each produce less than half of

<sup>46</sup> Xcel Feb. 4 Comments, Attach. A.



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may not have changed in cost. But the record is largely devoid of any information about that other than the mention of labor costs, and even there, there is no indication how much of the recent cost increase that actually accounts for. The record also contains no information about actual efforts on Xcel's part to control costs, such as how Xcel solicited EPC bids, how many bids there were, when the prices increased, how much they increased, or why they increased. These are all important issues to examine because the information to assess them may no longer be available several years from now when the Commission reviews Xcel's request for cost recovery.

Meanwhile, there are more costs for Lyon County that are guaranteed to arise but that are not included in the current cost estimate. In addition to the possibility that Xcel will fail even further to discipline its costs for the initial construction, Lyon County is a natural gas combustion turbine – it is not a carbon-free resource.<sup>50</sup> As part of approving the Stipulation with modifications, the Commission ordered Xcel to conduct a feasibility study after Lyon County's in-service date to determine ways to convert Lyon County to 100-percent carbon-free by 2040, just over a decade after it is in service.<sup>51</sup> This study will cost money, but those costs do not appear to be included in Lyon County's current price. Neither are the costs of converting Lyon County to be carbon-free or purchasing carbon offsets if conversion proves impossible. Xcel has provided no information to determine what either the study or the carbon-free efforts will cost, but it is reasonable to assume that a wholesale conversion of Lyon County or purchasing carbon offsets for these two new CTs would cost ratepayers millions more.

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<sup>50</sup> Xcel touts Lyon County's ability to co-combust up to 30 percent hydrogen. Initial Filing at 77.

<sup>51</sup> Docket No. E-002/CN-24-195, Joint Settlement Agreement at 4; Docket No. E-002/CN-23-212, Order Approving Settlement Agreement with Modifications at 23.

**B. The Commission Should Condition Lyon County's CN on Greater Cost Discipline or on a Limit on Xcel's Return for the Project.**

Because Xcel has not shown that it is controlling its costs and Lyon County has become a nearly-[NOT PUBLIC DATA BEGINS ██████████ NOT PUBLIC DATA ENDS]-dollar investment on which Xcel would earn a return despite significant cost overruns, the OAG urges the Commission to condition Lyon County's CN on stronger ratepayer protection measures. Xcel is a regulated monopoly, meaning the costs that would normally be controlled by the competitive market can only be controlled by the Commission. Either the Commission should condition the CN on a final, hard cost cap at the [NOT PUBLIC DATA BEGINS ██████████ ██████████ NOT PUBLIC DATA ENDS] price alleged in Xcel's initial CN filing, or the Commission should disallow Xcel a return on equity for the costs of Lyon County beyond the Stipulation price, instead allowing Xcel to only recover the cost of debt on the egregious cost overruns beyond that price.

**1. The Commission is the only entity that can incentivize Xcel to control its costs.**

The Commission should impose ratepayer protection conditions on the Lyon County CN to align the utility incentives inherent in the regulatory construct with the public interest. Because a utility earns a return on all capital expenditures, it has an incentive to allow capital cost overruns. The only countervailing pressure to this incentive is the risk that recovery of some portion of a capital expenditure might be disallowed, but once an asset is built and in service, regulators may feel forced to allow cost recovery because the money has already been spent. Evidence regarding costs also can become stale when a recovery proceeding occurs years after approval, making it difficult for regulators to assess the reasonableness of cost overruns after the fact. Thus, the incentive of the utility is to increase capital expenditures.

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This directly contrasts with the way other capital-intensive businesses typically operate. Businesses in competitive markets must control their costs to protect shareholder value, but a regulated utility operating without a cost cap has an incentive to allow, or even encourage, cost overruns because ratepayers will be required to compensate the utility for those overruns. If ratepayers act as a backstop for cost overruns, one oft-stated goal of regulation—to encourage monopoly utilities to operate comparatively to businesses in competitive markets<sup>52</sup>—fails. More importantly, the return that a utility earns exists to compensate the utility’s shareholders for the use of their capital, and crucially, for the risks of their investment. If there is no limit to recovery for new capital expenditures, Xcel’s shareholders receive a return despite there being no investment risk. In fact, not only is there no risk—cost overruns become a windfall to shareholders at ratepayers’ expense.

Public utilities commissions exist to ensure that utility ratepayers receive safe and reliable service at just and reasonable rates. As part of that function, they may place conditions on certificates of need for new resources. These conditions function to alter utility incentives and align them with the public interest. In this case, the utility incentive that must be altered is the incentive to maximize capital expenditures without limit.

**2. Ratepayer Protection Option number 1: Change Lyon County’s soft cap to a hard cap.**

The first option for the Commission to protect ratepayers would be to condition Lyon County’s CN on a hard cost cap, replacing the Commission’s soft cap order that Xcel “file comprehensive substantial evidence in support of the cost recovery of the Lyon County

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<sup>52</sup> Karl Rabago and Radina Valova, *Revisiting Bonbright’s principles of public utility rates in a DER world*, 31 *The Electricity Journal* 9, 10 (2018), available at <https://www.sciencedirect.com/science/article/abs/pii/S1040619018302276?via%3Dihub>.



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need.<sup>54</sup> As the Commission has stated, “[h]olding the Company to its initial estimate is an important tool to enforce fiscal discipline.”<sup>55</sup> The Commission has also recognized that such caps “protect[] the integrity of the certificate of need process, in which it is critical that the cost estimates for the alternatives being compared are as reliable as possible.”<sup>56</sup> Notably, the cost estimates in the current certificate of need proceeding lack nearly any of the normal detail because Lyon County was part of the Stipulation, which cut short the contested case that was intended to build a record, vet the bidders’ cost estimates, and select the most cost-effective resources. In other words, the Commission selected Lyon County at one price, and Xcel now proposes to build it at double that price without any record. Thus, as the Commission has stated, holding Xcel to its initial estimate is one way to enforce fiscal discipline.

**3. Ratepayer Protection Option number 2: Cap Xcel’s return on equity, allowing only the cost of debt beyond the stipulation price.**

The Commission’s other option would be to allow Xcel to recover its return on equity only up to the [NOT PUBLIC DATA BEGINS ██████████ NOT PUBLIC DATA ENDS] Stipulation price, which is the price that Lyon County’s IRP selection was based on. Xcel would recover only the cost of debt for any Lyon County costs beyond that level. Because the utility would still be able to recover any actual costs incurred other than the shareholder premium, the Stipulation price is the more appropriate anchor for this condition, as that was the price that was the basis for the Commission selecting Lyon County in the first place.

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<sup>54</sup> See *In re Otter Tail Power Co.’s Request for Approval of a Transmission Cost Recovery Rider Including the Proposed Transmission Factor for the Recovery Period from May 2, 2013 to Apr. 30, 2014*, Docket No. E-017/M-13-103, Order Capping Costs, Denying Rider Recovery of Excess Costs, and Requiring Inclusion of All MISO Schedule 26 Costs and Revenues in TCR Rider at 3-4, 10 (Mar. 10, 2014)

<sup>55</sup> *Id.* at 4.

<sup>56</sup> *Id.* at 5.

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Like the hard cap, this protection addresses the utility’s capital bias—Xcel would not have an incentive to increase its costs just to receive an extra return on equity because the extra return on equity would not be allowed in rates. However, unlike the hard cap, this would allow Xcel to still recover the cost overruns that Xcel estimated in its February 4 initial comments on the CN and pay for the debt it uses to build Lyon County. The result is a sophisticated balancing of shareholder and ratepayer interests: shareholders still receive a return on equity on the [NOT PUBLIC DATA BEGINS ██████████ NOT PUBLIC DATA ENDS] that this CN proceeding was originally predicated on and still receive the insulation from risk they are accustomed to with utility investments, while ratepayers are protected from the utility’s capital bias and opportunistic capital cost increases.

The OAG strongly urges the Commission to adopt one of the above ratepayer protection options so that Lyon County does not become a major detriment to Xcel’s existing ratepayers. Even with adoption of one of the above conditions, Lyon County is poised to be a major boon to Xcel and its shareholders, as its need appears to be primarily driven by massive new sales Xcel will make to data centers. Accordingly, in addition to adopting one of these ratepayer protection options, the OAG also urges the Commission to assign the incremental costs of Lyon County to very large customers, as discussed next.

**II. COSTS SHOULD BE ASSIGNED TO DATA CENTERS SINCE THEY ARE DRIVING THE NEED**

The Commission should also order that the incremental costs of Lyon County be assigned to very large customers.<sup>57</sup> By Xcel’s own admission, the need for Lyon County is primarily driven

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<sup>57</sup> The OAG recognizes that a very large customer class or subclass has not yet been established by the Commission. However, Minn. Stat. § 216B.1622 requires that the Commission establish a class or subclass for very large customers before December 15, 2026. The OAG has argued that incremental costs of capacity built or procured to serve very large customers should be assigned to the very large customer class in docket no. E-002/M-25-289. *See* Docket No. E-002/M-25-289, Supp. Comments of the OAG at 49 (Dec. 5, 2025).

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by data centers. The forecast that indicates Xcel needs this greater capacity is dominated by data centers. Since they are driving the need for this expensive, non-carbon-free resource, they should pay for it.

It is clear that the alleged need for Lyon County is primarily being driven by data centers. In Xcel's 2019 IRP, the order for which issued in 2022, the Commission found that Xcel would need up to 800 MW of firm dispatchable resources.<sup>58</sup> In that order, the Commission did not mention data centers at all. Then, when Xcel filed its next IRP in February 2024 using its Fall 2023 forecast, it suddenly forecasted a massive new need for firm dispatchable resources.<sup>59</sup> It originally attributed this need to data centers, electric vehicles, and beneficial electrification.<sup>60</sup> However, in its Fall 2024 forecast, Xcel began attributing the need "primarily" to data centers, without mentioning electric vehicles, and it repeated this attribution in its spring 2025 forecast.<sup>61</sup> This change happened *before* the federal government eliminated incentives for electric vehicles and beneficial electrification measures such as heat pumps—it can only be assumed that the impact of electric vehicles and electrification of appliances on Xcel's system will be even less now. Thus, the change in need between Xcel's 2019 IRP and now must be driven significantly by data centers.

At the same time, the need from the 2019 IRP has been filled. That order found a need for up to 800 MW of firm dispatchable resources, and it specifically refrained from making a finding of need for a Lyon County CT plant.<sup>62</sup> The Stipulation that accepted nearly every bid in the 800

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<sup>58</sup> 2019 IRP Order at 32, Order Point 3.

<sup>59</sup> Docket No. E-002/RP-24-67, Upper Midwest Resource Plan 2024-2040, Ch. 4 at 2 (Feb. 1, 2024).

<sup>60</sup> *Id.*, Ch. 3 at 4.

<sup>61</sup> Initial Filing, App. L at 1; Compliance Filing – Updated Sales and Demand Forecast, Attach. A at 1 (Jul. 1, 2025).

<sup>62</sup> 2019 IRP Order at 14.

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MW bidding process resulted in acquisition of 1143 MW of capacity, excluding Lyon County.<sup>63</sup> Of this, 732 MW is from natural gas plant PPAs.<sup>64</sup> While these were renewals of existing PPAs, Xcel's need forecast was based on the assumption that these PPAs would not exist, so they directly filled Xcel's forecasted need.<sup>65</sup> Additionally, Xcel has petitioned for approval of another 80 MW battery energy storage system as part of the Stipulation even though it was not a part of the Stipulation.<sup>66</sup> Xcel has now more than filled its non-data-center-based firm dispatchable need from the 2019 IRP. Thus, the current need must only be that which has appeared after the 2019 IRP, which is now predominantly driven by data centers.

Xcel may argue that it also needs Lyon County to support the MNEC transmission line. However, it has also stated that the need is based on Lyon County's ability to replace two of the four synchronous condensers the MNEC line requires. It provided a cost estimate for synchronous condensers of [NOT PUBLIC DATA BEGINS ██████████ NOT PUBLIC DATA ENDS], far below the cost of Lyon County.<sup>67</sup> Given that Lyon County is replacing synchronous condensers that could otherwise be added to the system, it is not accurate to say that the need for synchronous condensers drives the need for Lyon County.

The best way to protect the rest of Xcel's ratepayers from subsidizing data centers is to assign the incremental costs of Lyon County—all costs above the cost of the two synchronous condensers Lyon County is replacing—to very large customers. If the Commission grants the CN

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<sup>63</sup> Initial Filing at 30. This amount excludes the Lake Wilson and Plum Creek bids because Plum Creek's developers dropped their bid, and Xcel and Lake Wilson's developers are currently in a dispute. If the Commission orders Xcel to continue negotiations over Lake Wilson, the total will increase to 1388 MW.

<sup>64</sup> Initial Filing at 30.

<sup>65</sup> Docket No. E-002/RP-24-67, Upper Midwest Resource Plan 2024-2040, Ch. 1 at 3; *Id.*, Ch. 5 at 3.

<sup>66</sup> Docket No. E-002/CN-23-212, Petition Supplement – Cottage Grove BESS (Dec. 5, 2025).

<sup>67</sup> Initial Filing at 7.

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for Lyon County, it should condition approval on Xcel assigning the costs of Lyon County to very large customers, as it has become clear that data centers are the primary reason Xcel wants to build Lyon County.

**CONCLUSION**

The OAG recommends that the Commission protect residential and small business ratepayers from Lyon County's out-of-control costs using the following measures:

1. The Commission should order one of the following Ratepayer Protection Options:
  - a. Condition the Lyon County CN on a hard cost cap of **[NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS]**. Any costs above that level will not be recoverable from ratepayers; or
  - b. Condition the Lyon County CN on Xcel recovering its return on equity only for the costs up to **[NOT PUBLIC DATA BEGINS [REDACTED] NOT PUBLIC DATA ENDS]**. Any costs above that level will only be recoverable using Xcel's cost of debt; and
2. The Commission should condition the CN on Xcel assigning the incremental costs of Lyon County to very large customers in any cost recovery proceedings.

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Dated: February 11, 2026

Respectfully submitted,

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/s/ **Joey Cherney**

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ATTORNEYS FOR MINNESOTA  
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Xcel Energy Information Request No. 2  
Docket No.: E002/CN-25-145  
Response To: Minnesota Office of the Attorney General  
Requestor: Joey Cherney  
Date Received: November 3, 2025

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Question:

Reference: Appendix K, Operational and Cost Detail

- A. Provide a breakdown of all costs attributable to the Lyon County Generating Station project at the time of the Initial Filing in this docket by the following categories:
1. Planning
  2. Permitting
  3. Design
  4. Procurement
  5. Construction
  6. Financing
- B. For each cost listed in response to Part A, provide a breakdown of the cost in each month by functional class (production, transmission, distribution, general plant, etc.) and by FERC Account.
- C. For each cost listed in response to Part B:
1. Provide the calculation of that cost and explain the basis and assumptions used.
  2. Provide all documentation supporting that cost, including but not limited to invoices, contracts, memoranda, and communications (internal to the company and with external entities).
- D. For any cost reported in response to Part B that Xcel believes is no longer accurate:
1. Provide Xcel's latest cost forecast by month and explain why Xcel believes the original cost estimate is no longer accurate.

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2. Provide all documentation supporting Xcel’s belief that the cost has changed, including but not limited to invoices, contracts, memoranda, and communications (internal to the company and with external entities).

This request is ongoing through the completion of any construction of the Lyon County Generating Station – provide supplemental responses quarterly. For any responses that include non-PDF file formats, include these files in their unlocked native format with all formulas and links intact.

Response:

Xcel Energy objects to this Information Request, in part, as overly broad, unduly burdensome, seeking information that is not relevant to the legal criteria to be applied by the Commission, and beyond the scope of discovery allowed in this proceeding. Xcel Energy further objects to the extent that this Information Request seeks documents subject to attorney-client privilege. Subject to and without waiving those objections, Xcel Energy provides the following responses:

- A. Please see Not-Public Attachment A to this response, provided in live Excel spreadsheet format, for the requested information. The project was not planned and estimated in the categories requested; therefore, we provide the costs in the following categories:

Category	Description
1	Owner Provided Equipment and Land
2	EPC Contractor
3	Transmission & Substation
4	Gas Supply
5	Xcel Energy Staff, Support Labor & Owners Engineering
6	Unallocated Contingency & Overheads - Project Total (No Financing)
7	Financing - Project Total (With Financing)

- B. Please see the response to Part A. above.
- C.1. Please see the response to Part A. above.
- C.2. Xcel Energy objects to this request as overly broad, unduly burdensome, seeking irrelevant information, and seeking information beyond the scope of discovery allowed in this proceeding with respect to the request for “all documentation” and internal communications. Without waiving that objection,

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Xcel Energy provides the following documents supporting the cost estimate reflected in the Application:

- a. Attachment A: Summary of estimate and breakdown of calculations.
- b. Attachment B:
  - 01: Pricing letter
  - 02: Target price form, indicative pricing for EPC services
  - 03: Land purchase price
  - 04: Substation construction costs
  - 05: Gas pipeline interconnection costs

- D. Xcel Energy objects to the scope of this request as continuing through Project construction and to the request to provide supplemental quarterly responses. Such requests are overly broad, unduly burdensome, and beyond the scope of discovery allowed in this proceeding.

With respect to the request for updated costs, Xcel Energy is currently in the process of analyzing and reviewing Project costs and anticipates providing updated cost analysis in its January 2026 Direct Testimony.

Attachments A and B to this response are designated as “Not-Public” because they include information considered to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). This data includes confidential pricing and other contract terms and vendor information. The information has independent economic value, from not being generally known to, and not being readily ascertainable by other parties, who could obtain economic value from its disclosure or use. The disclosure of this information could adversely impact contract negotiations, potentially increasing costs for these services for our customers. Thus, Xcel Energy maintains this information as a trade secret pursuant to Minn. Rule 7829.0500.

Attachments A and B provided with the Trade Secret version of this response are marked as “Not-Public” in their entirety. Pursuant to Minn. R. 7829.0500, subp. 3, the Company provides the following description of the excised material:

1. **Nature of the Material:** Attachment A is an Excel spreadsheet containing cost breakdowns by category for the project. Attachment B contains PDF copies of documentation supporting project cost proposals.
2. **Authors:** Attachment A was drafted by Company project management personnel. The documents included in Attachment B were drafted by vendor and Company project management personnel.

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3. **Importance:** Attachments A and B include confidential contract and pricing terms and vendor information Xcel Energy maintains as trade secret.
4. **Date the Information was Prepared:** Attachment A was created for purposes of this response. See individual documents in Attachment B for creation dates.

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Date: November 13, 2025

## PUBLIC DOCUMENT—NOT-PUBLIC DATA HAS BEEN EXCISED

Northern States Power Company

Docket No. E002/CN-25-145  
OAG Information Request No. 2  
Attachments A and B

Attachments A and B to this response are designated as “Not-Public” because they include information considered to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). This data includes confidential pricing and other contract terms and vendor information. The information has independent economic value, from not being generally known to, and not being readily ascertainable by other parties, who could obtain economic value from its disclosure or use. The disclosure of this information could adversely impact contract negotiations, potentially increasing costs for these services for our customers. Thus, Xcel Energy maintains this information as a trade secret pursuant to Minn. Rule 7829.0500.

Attachments A and B provided with the Trade Secret version of this response are marked as “Not-Public” in their entirety. Pursuant to Minn. R. 7829.0500, subp. 3, the Company provides the following description of the excised material:

1. **Nature of the Material:** Attachment A is an Excel spreadsheet containing cost breakdowns by category for the project. Attachment B contains PDF copies of documentation supporting project cost proposals.
2. **Authors:** Attachment A was drafted by Company project management personnel. The documents included in Attachment B were drafted by vendor and Company project management personnel.
3. **Importance:** Attachments A and B include confidential contract and pricing terms and vendor information Xcel Energy maintains as trade secret.
4. **Date the Information was Prepared:** Attachment A was created for purposes of this response. See individual documents in Attachment B for creation dates.

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Xcel Energy Information Request No. 3  
Docket No.: E002/CN-25-145  
Response To: Minnesota Office of the Attorney General  
Requestor: Joey Cherney  
Date Received: November 3, 2025

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Question:

Reference: Appendix K, Operational and Cost Detail

- A. For each element of Xcel’s Estimated Tariff Impacts:
1. Explain the basis for the Estimated Impact, including both the cause for the increased cost and the calculation of the amount.
  2. Explain whether the causes have occurred, and if not, whether Xcel still expects them to and the timing for when they will occur.
  3. Provide all documentation supporting each Estimated Tariff Impact, including but not limited to invoices, contracts, memoranda, and communications (internal to the company and with external entities).

Response:

- A.1. a. **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** on the CT contract:
- The basis for this estimate was the difference in pricing between the submitted quote from December 13, 2024 of **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** for the two units and the quote submitted on April, 17 2025 of **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**.
- A detailed pricing breakdown was not provided at the time, and Xcel Energy attributed **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** increase to be due to concerns of rapidly changing tariffs and the remaining **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** to be due to escalation of equipment pricing. The basis of the GE CTG proposal was revised after submitting the CN application with **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** of tariffs for the equipment.

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- b. **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]** for balance of plant equipment:

On the basis of EPC contractor’s September 10, 2024 pricing for engineered equipment and pricing of owner provided equipment, we assumed **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]** of materials to be at risk of unknown tariff increases. We assumed **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]** increase in the price of those materials could be at risk due to tariff changes to get **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]**. Our EPC contract remains in negotiations. It is not currently known if there has been a change in this category.

- c. **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]** for substation and transmission equipment

The estimate had **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]** in substation and transmission equipment costs. We assumed **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]** of that amount to be at tariff risk to get **[PROTECTED DATA BEGINS** **PROTECTED DATA ENDS]**. Contracts have not been secured for these items. It is not currently known if there has been a change in this category.

A.2. Please see the responses to part A.1. above.

A.3. Xcel Energy objects to this request as overly broad, unduly burdensome, seeking irrelevant information, and seeking information beyond the scope of discovery allowed in this proceeding with respect to the request for “all documentation” and internal communications. Subject to and without waiving that objection, in Attachment A to this response, Xcel Energy is providing the following documents regarding the Estimated Tariff Impacts reflected in the Application:

- 01: Pricing letter
- 02: Quote letter for combustion turbines
- 03: Tariff table from final contract
- 04: Target price form for EPC services

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Portions of this response and Attachment A are designated as “Not-Public” because they include information considered to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). This data includes confidential pricing and other contract terms and vendor information. The information has independent economic value, from not being generally known to, and not being readily ascertainable by other parties, who could obtain economic value from its disclosure or use. The disclosure of this information could adversely impact contract negotiations, potentially increasing costs for these services for our customers. Thus, Xcel Energy maintains this information as a trade secret pursuant to Minn. Rule 7829.0500.

Attachment A provided with the Trade Secret version of this response is marked as “Not-Public” in its entirety. Pursuant to Minn. R. 7829.0500, subp. 3, the Company provides the following description of the excised material:

1. **Nature of the Material:** Attachment A contains PDF copies of documentation supporting estimated tariff impacts on project costs.
2. **Authors:** The documents included in Attachment A were drafted by vendor personnel.
3. **Importance:** Attachment A includes confidential contract and pricing terms and vendor information Xcel Energy maintains as trade secret.
4. **Date the Information was Prepared:** See individual documents in Attachment A for creation dates.

---

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Date: November 13, 2025

## PUBLIC DOCUMENT—NOT-PUBLIC DATA HAS BEEN EXCISED

Northern States Power Company

Docket No. E002/CN-25-145  
OAG Information Request No. 3  
Attachment A

Attachment A to this response is designated as “Not-Public” because it includes information considered to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). This data includes confidential pricing and other contract terms and vendor information. The information has independent economic value, from not being generally known to, and not being readily ascertainable by other parties, who could obtain economic value from its disclosure or use. The disclosure of this information could adversely impact contract negotiations, potentially increasing costs for these services for our customers. Thus, Xcel Energy maintains this information as a trade secret pursuant to Minn. Rule 7829.0500.

Attachment A provided with the Trade Secret version of this response is marked as “Not-Public” in its entirety. Pursuant to Minn. R. 7829.0500, subp. 3, the Company provides the following description of the excised material:

1. **Nature of the Material:** Attachment A contains PDF copies of documentation supporting estimated tariff impacts on project costs.
2. **Authors:** The documents included in Attachment A were drafted by vendor personnel.
3. **Importance:** Attachment A includes confidential contract and pricing terms and vendor information Xcel Energy maintains as trade secret.
4. **Date the Information was Prepared:** See individual documents in Attachment A for creation dates.

[PROTECTED DATA BEGINS

PROTECTED DATA ENDS]

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 Public Document

Xcel Energy Information Request No. 4  
Docket No.: E002/CN-25-145  
Response To: Minnesota Office of the Attorney General  
Requestor: Joey Cherney  
Date Received: November 3, 2025

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Question:

Reference: Initial Filing at 4: “The Project includes two natural gas F-class CT generators.”

- A. Describe the steps Xcel has taken to procure the turbines.
- B. Provide the timeline on which Xcel expects to procure the turbines.
- C. State the estimated cost of the turbines when the CN application was filed and the current estimated cost of the turbines, and explain any variances.

Response:

- A. Xcel Energy has taken the following steps to procure the two F-class Combustion Turbines for the Lyon County generation project:
  - Initial technical proposal issued April 2, 2024.
  - Manufacturing slots were reserved October 25, 2024.
  - Specification conformance and contract negotiations took place January through May 2025.
  - Contract signed June 4, 2025.
- B. Please see the response to Part A above.
- C. The cost used for the turbine contract was **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** based on an April 17, 2025 proposal update. The final contract was signed June 4, 2025 at a price of **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**. The primary difference in the two prices was an agreement on a baseline for tariffs for the project as well as the agreement that a change in tariffs would be handled contractually as a change in law.

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With respect to the current estimated cost and any variances, Xcel Energy is currently in the process of analyzing and reviewing Project costs, including turbine costs, and anticipates providing updated cost analysis in its January 2026 Direct Testimony.

Portions of this response are marked “Not-Public” as they contain information the Company considers to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). This data includes confidential pricing terms. The information has independent economic value from not being generally known to, and not being readily ascertainable by, other parties who could obtain economic value from its disclosure or use. Therefore, the Company protects it as a trade secret.

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