

BEFORE THE MINNESOTA COURT OF ADMINISTRATIVE HEARINGS

**600 North Robert Street
Saint Paul, Minnesota 55101**

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

**121 Seventh Place East, Suite 350
Saint Paul, Minnesota 55101-2147**

**IN THE MATTER OF THE PETITION OF
THE CITY OF SLAYTON FOR THE
DETERMINATION OF COMPENSATION FOR CITY
ACQUISITION OF XCEL ENERGY ELECTRIC SERVICE TERRITORY**

**CAH Docket No. 22-2500-40870
MPUC Docket No. E-002, PT-7157/SA-25-129**

**INITIAL BRIEF OF
NORTHERN STATES POWER COMPANY, D/B/A XCEL ENERGY**

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INTRODUCTION

Northern States Power Company, doing business as Xcel Energy, (Xcel Energy or the Company) respectfully submits this Initial Brief.

Xcel Energy has provided electric service in the City of Slayton (City or Slayton) for over 70 years. During this time, Xcel Energy has planned, designed, and invested in its system with the reasonable expectation that it would continue to provide safe, affordable, and increasingly clean electricity to Slayton in the future. In this case, though, Slayton proposes to exit Xcel Energy's system and purchase the distribution facilities located inside Slayton city limits.

Slayton's proposal would result in a government entity taking Xcel Energy's property, customers, and service territory, including all future revenues related to providing service to those customers. Minnesota law allows municipalities to purchase utility equipment inside municipal boundaries in some situations, but also requires that the municipality pay just compensation before doing so. That just compensation is critical to protect Xcel Energy's other customers.

The customers in Slayton, like all utility customers, contribute to the shared costs of the system. If Slayton leaves, the Slayton customers will no longer contribute to shared costs and that cost burden will be shifted to Xcel Energy's other customers. The purpose of just compensation is to protect other customers from the impact of this cost-shift. In furtherance of this purpose, the Company has committed that any just compensation it receives from Slayton will be credited to other customers. Just compensation should be set at the level recommended by the Company to ensure that Xcel Energy's other customers

are protected. If it is set too low, as recommended by Slayton, other customers will see rate impacts.

This case is a matter of first impression and presents novel issue of fact and policy. The Commission has never established a methodology to calculate just compensation for an entire community of more than 1,000 customers or even considered the issue. In this proceeding, the Company has provided a transparent methodology for calculating just compensation and a clear, well-supported explanation for each data point and assumption. The Company's methodology results in just compensation that is consistent with the law, and will protect other customers from rate impacts.

In contrast, Slayton's recommendation is unreasonable and unreliable. It is based on conclusory analysis, misunderstandings of utility planning and ratemaking, and, in some cases, wishful thinking about the impact on system-wide costs and the engineering required for Slayton to exit the system. If Slayton's recommendation is followed, it will cause rate impacts for Xcel Energy's other customers. It is not consistent with Minnesota law to permit Slayton's decision to cause rate impacts for other customers, so Slayton's recommendation must be rejected.

Xcel Energy has provided safe, reliable, and increasingly clean energy to Slayton for decades and is prepared to continue doing so for many years into the future. If Slayton exits the Company's system, however, it must pay just compensation as required by the law. The record demonstrates that the Company's recommendation for calculating just compensation is the most reasonable.

I. Background

A. Procedural History

The City of Slayton is seeking to acquire Xcel Energy's electric distribution facilities within city limits and form a municipal electric utility pursuant to Minnesota Statutes § 216B.45.

On February 25, 2025, the City filed a petition with the Commission requesting a proceeding under Minn. Stat. § 216B.45.¹ The Commission granted this request, and referred the matter to what is now the Court of Administrative Hearings.^{2,3} To determine just compensation, the Commission directed the Court of Administrative Hearings to consider the original cost of the property less depreciation, loss of revenue to Xcel Energy, expenses resulting from integration of facilities and other appropriate factors.⁴

B. History of the Relationship between Xcel Energy and Slayton

The City of Slayton is located in Murray County, in southwest Minnesota. The City currently has a population of approximately 2,000 people.⁵ Xcel Energy has provided electric service to the City and to the surrounding community for over 70 years,⁶ and

¹ Ex. Slayton-100, Petition.

² At the time of the referral, the Court of Administrative Hearings was called the Office of Administrative Hearings.

³ *In the Matter of the Petition of the City of Slayton for the Determination of Compensation for City Acquisition of Xcel Energy Electric Service Territory*, Docket No. E-002, PT-7157/SA-25-129, NOTICE OF AND ORDER FOR HEARING at 2 (June 2, 2025).

⁴ *Id.* at 2-3.

⁵ Ex. Slayton-110, Malchow Rebuttal at 3:16-17.

⁶ Ex. Xcel Energy-214, Marshall Direct at 2:12-13.

currently provides electric service to approximately 1,235 customer accounts within city limits.⁷ Beyond providing electric service, Xcel Energy is an active member of the community.⁸

1. Coordination with Slayton and Investments in the Community

For over a decade, Xcel Energy's Community Relations Manager has worked closely with City Administration. This has involved coordination on a variety of issues, including projects to address the City's concerns.⁹ For instance, in September 2021, the City requested that Xcel Energy investigate two outages affecting several residences along Linden Avenue and Maple Avenue.¹⁰ In response, Xcel Energy conducted an investigation which showed that, while the outages were caused by vegetation, replacement of the existing infrastructure would improve service quality in this area.¹¹ In the fall of 2022, the Company replaced 15 poles, 5 overhead transformers, 4,009 feet of overhead primary/neutral wire and 1,510 feet of overhead secondary wire and performed tree trimming throughout the entire project area.¹² This is an example of close coordination that successfully resolved an issue identified by the City.

⁷ Ex. Xcel Energy-204, Peterson Direct at 36:7-9.

⁸ Company witness Marshall provided a summary of the local events Xcel Energy is involved in, and Xcel Energy's historical contributions to the community. Ex. Xcel Energy-214, Marshall Direct at 2:17-21.

⁹ Ex. Xcel Energy-214, Marshall Direct at 3:1-4.

¹⁰ *Id.* at 3:4-6.

¹¹ *Id.* at 3:8-10.

¹² *Id.* at 3:14-17.

The Company has continued to make many investments in the Slayton area over the years to ensure that it continues to provide safe and reliable electric service to the City of Slayton and the surrounding community.

The Company monitors the status of infrastructure in Slayton and makes pro-active investments when repairs are necessary. Based on testing performed in the Slayton area, the Company invested more than \$1.6 million to replace 198 poles in Slayton in 2024.¹³ The Company identified additional repairs and replacements using a new drone inspection program. This program identified an additional 126 poles that were replaced in 2024 and 2025, representing an investment of over \$2.2 million.¹⁴

Xcel Energy is also investing in the transmission system in the area. The Company is in the process of rebuilding 46 miles of the 69 kV transmission line that serves Slayton for an anticipated cost of \$39.2 million.¹⁵ The transmission line originates at the Pipestone Substation, runs east, and eventually terminates at the Tracy Switching Station. This extensive project involves installing 900 new power poles and upgrading powerlines.¹⁶ The first phase and second phases of the project were completed in 2023 and 2024. The final phase is expected to be completed by the end of 2026.¹⁷

¹³ Ex. Xcel Energy-214, Marshall Direct at 17:14-22.

¹⁴ *Id.* at 17:25-18:2.

¹⁵ *Id.* at 18:19-19:9.

¹⁶ *Id.* at 18:6-9.

¹⁷ *Id.* at 18:19-27.

Xcel Energy has invested heavily in maintaining and improving the reliability of electric service the Company provides to its customers located within Slayton city limits.

2. Municipalization

In late 2021, Xcel Energy became aware that Slayton hired a consultant to evaluate the formation of a municipal utility.¹⁸ Xcel Energy, nonetheless, remained engaged and committed to serving its customers in Slayton, and began regular meetings with the City to share information and discuss issues of interest.¹⁹

Despite the collaboration between Xcel Energy and the City, the City opted to continue to pursue municipalization. On May 14, 2024, the residents of the City voted that the City could acquire Xcel Energy's electric distribution facilities within city limits and form a municipal electric utility, but only for a purchase price of less than \$7 million.²⁰

3. Drivers for Slayton

In its Petition, Slayton states that the drivers for exploring municipalization were dissatisfaction with the reliability of electric service and the response time for repair crews to reach Slayton from Sioux Falls, South Dakota.²¹ The Company respectfully disagrees with these concerns, because data indicates that Slayton's service has been reliable.

¹⁸ Ex. Xcel Energy-214, Marshall Direct at 4:1-2.

¹⁹ *Id.* at 4:2-20.

²⁰ Ex. Slayton-100, Petition at 6.

²¹ *Id.* at 2.

First, the Company notes that it does not rely on service crews from Sioux Falls for repairs needed in Slayton. The primary service center for Slayton is located in Pipestone, just 30 miles west of Slayton along Highway 30. The technicians based out of the Pipestone Service Center are responsible for Slayton and perform a variety of maintenance tasks, including responding to specific customer requests, performing ongoing maintenance, vegetation management, replacing equipment, performing upgrades and pivoting to emergency response.²² If additional help is needed, for example because of a large storm, Xcel Energy's scale allows it to bring in crews from Sioux Falls or other areas.²³

Second, historical data shows that the reliability of electric service in the Slayton area is equally reliable or better than the reliability for the Southeast Work Center or Xcel Energy's Minnesota service territory as a whole.

As a regulated electric utility, Xcel Energy is required to measure and annually report its service quality to the Commission using three metrics: system average interruption duration index (SAIDI), system average interruption frequency index (SAIFI), and customer average interruption duration index (CAIDI).²⁴ The storm-normalized annual results for these metrics are provided in Tables 1, 2, and 3.

²² Ex. Xcel Energy-214, Marshall Direct at 13:3-14:2.

²³ *Id.* at 14:4-15.

²⁴ *Id.* at 7:19-24.

Table 1
SAIDI²⁵

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Minnesota	90.0	90.5	75.0	96.1	81.0	98.9	88.8	90.0	86.4	110.0
Southeast	86.5	110.2	96.3	118.8	129.1	105.1	79.8	111.8	87.3	121.5
Slayton	99.1	44.9	27.4	123.4	78.5	197.9	62.7	120.1	53.3	182.6

Table 2
SAIFI²⁶

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Minnesota	0.83	0.83	0.74	0.89	0.75	0.99	0.92	0.86	0.85	1.08
Southeast	0.75	0.85	0.84	0.92	0.93	0.87	0.76	0.91	0.71	0.92
Slayton	1.09	0.10	0.17	1.43	1.11	2.44	0.28	0.62	0.33	2.32

Table 3
CAIDI²⁷

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Minnesota	108	109	101	107	108	100	96	104	102	102
Southeast	115	130	115	130	139	120	105	123	122	132
Slayton	91	468	163	86	71	81	222	194	162	79

The service quality data demonstrates that Xcel Energy provides reliable service to Slayton that is consistent with service provided elsewhere in Xcel Energy’s Minnesota service territory. While certain years reflect elevated service quality metrics, these deviations are due to specific, isolated events and, in some years, reflect outages associated with system improvements. For example, the following isolated incidents had significant impacts on reliability metrics in the Slayton area:

²⁵ Ex. Xcel Energy-214, Marshall Direct at 9:15-17.

²⁶ *Id.* at 10:7-9.

²⁷ *Id.* at 11:1-3.

- The CAIDI numbers in 2016 and 2021 were impacted by issues related to vegetation and underground cable which typically take longer to restore. Underground outages tend to be lengthier because lines and circuits need to be located underground before they can be repaired.²⁸
- In 2018, two events contributed 92.6 of the 123.4 minutes for SAIDI and 1.09 of the 1.43 minutes for SAIFI. One of these was a severe weather event that caused extensive damage to overhead equipment. The other event involved repairs at the Slayton substation which required Xcel Energy to shut off power for a period of time. Although inconvenient, the substation repairs were necessary and performed to improve overall reliability.²⁹
- In 2020, there were two transmission level outages that substantially contributed to the elevated SAIDI and SAIFI metrics for the year. The rebuild of the 69 kV transmission line that serves Slayton, discussed more below, is expected to improve the resiliency and, as a result, the reliability of this critical transmission line.³⁰ In 2022, a single, isolated event contributed 73.6 minutes of the 120.1 SAIDI minutes total for the year.³¹
- In 2024, SAIDI numbers were elevated by 122.4 due to planned outages associated with the 69 kV transmission line rebuild and replacement of distribution poles.³²

These incidents do not indicate any systemic problem with reliability, but that there have been a few years where reliability impacts were caused by isolated events. Slayton's reliability metrics have been below average half of the time, and above average half of the time, exactly as would be expected. Importantly, as discussed above, Xcel Energy has invested millions of dollars in the Slayton area in the last few years to improve reliability.

²⁸ Ex. Xcel Energy-214, Marshall Direct at 11:10-17.

²⁹ *Id.* at 11:20-24.

³⁰ *Id.* at 12:3-8.

³¹ *Id.* at 12:11-12.

³² *Id.* at 12:14-17.

While the Company respects Slayton's views, the concerns it has raised about reliability should have no bearing on this proceeding or on the calculation of just compensation.³³

4. Impact on Current Xcel Energy Customers in Slayton

If Slayton exits the system, the people living inside the City limits would no longer be customers of Xcel Energy and would receive electricity from another utility. This means the customers would lose access to Xcel Energy programs, including low-income programs, conservation programs, and programs related to distributed energy resources like Solar*Rewards and Renewable*Connect.³⁴

There could be some challenges related to losing access to DER programs. Customers who have installed rooftop solar will lose access to the programs they relied on to make investment decisions.³⁵ This could involve the loss of certain credits or incentives that customers were counting on to make their investments cost-effective.³⁶ It could also involve Xcel Energy losing access to renewable energy credits that were part of the original program design.³⁷

There will also be challenges related to Community Solar Gardens (CSGs). The Company's records indicate that 221 customers in Slayton, approximately 1/5th of the City,

³³ This Company provides this information to ensure that the record is complete following the statements in the City's petition, but even if there were valid concerns with reliability they are not a valid consideration pursuant to Minn. Stat. § 216B.45.

³⁴ Ex. Xcel Energy-204, Peterson Direct at 39:4-8.

³⁵ *Id.* at 38:19-40:3.

³⁶ *Id.*

³⁷ *Id.*

are subscribers to CSGs.³⁸ But only Xcel Energy customers can subscribe to CSGs, and if Slayton exits the system these customers will no longer be able to receive CSG bill credits.³⁹ It is possible that customers will be able to cancel their contracts with CSG developers, but that will depend on the specific language of their contracts, to which Xcel Energy is not a party.⁴⁰

If Slayton exits the system, customers will lose access to the Xcel Energy programs they rely on.

C. Commission Decisions under Minn. Stat. § 216B.44

This case is the first proceeding determining just compensation under Minn. Stat. § 216B.45, meaning that this is the first time the Commission will determine compensation under the statutory framework established in this section.⁴¹ The Commission has considered other cases under a similar statute, Minn. Stat. § 216B.44, which was enacted along with section 216B.45 as part of the Minnesota Public Utilities Act.⁴² Sections 216B.45 and 216B.44 both allow a municipality to purchase the property of a utility operating within its boundaries, but under different circumstance. Minn. Stat. § 216B.44 allows a municipality that “owns and operates an electric utility” to purchase the facilities of the electric utility serving within its corporate boundaries. In contrast, Minn.

³⁸ Ex. Xcel Energy-204, Peterson Direct at 35:15-36:23.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Ex. Slayton 100, Petition at 7; Ex. Xcel Energy-202, Krug Direct at 5:8-13.

⁴² Laws of Minnesota 1974, Ch. 429, sec. 44, 45.

Stat. § 216B.45, allows a municipality to form a new municipal utility by taking over the exclusive service territory of an electric utility.

Section 216B.44 and 216B.45 both require that the Commission determine compensation due to the displaced electric utility. Although the two statutes use different terms to refer to total compensation,⁴³ both require that Commission determine compensation using the same four factors: (1) “the original cost of the property, less depreciation,” (2) “loss of revenue to the utility formerly serving the area,” (3) “expenses resulting from integration of facilities,” and (4) “other appropriate factors.”⁴⁴

While the section 216B.44 cases may be persuasive, they are not controlling. In fact, these cases show that determining just compensation is a fact-specific analysis that must be evaluated based on the specific facts in each case.⁴⁵ Where the facts are different from prior decisions, it is reasonable to reach different results. Some of the major facts in this

⁴³ Minn. Stat. § 216B.44 requires the Commission to determine “the appropriate value of the property”, whereas, Minn. Stat. § 216B.45 requires the Commission to determine “just compensation” for the property.

⁴⁴ Minn. Stat. § 216B.44(b).

⁴⁵ *E.g., In the Matter of the Application of the City of Buffalo to Extend its Assigned Service Area into the Area Presently Assigned to Wright-Hennepin Cooperative Electric Association*, Docket No. E-221, 148/SA-03-989, ORDER DETERMINING COMPENSATION AND REQUIRING COMPLIANCE FILING at 8 (April 1, 2005) (“To calculate the expenses the displaced utility will avoid by not serving the area, the Commission conducts a factual analysis of the utility’s existing system, projected future growth, and plans for future system expansion.”); *In the Matter of the Application of the City of Redwood Falls to Extend its Assigned Service Area into the Area Presently Served by Redwood Electric Cooperative*, Docket No. E-135, 298/SA-05-1274, ORDER DETERMINING COMPENSATION at 4 (June 27, 2007) (describing the lost revenue analysis being based on the following facts “the gross revenues the utility would have received if it were serving the area”, number of customers, usage per customer, utility’s rates, billing determinants, and avoided costs).

case are different from all prior cases under section 216B.44. First, none of the cases under section 216B.44 involved the transfer of an entire town from one utility to another. Instead, they primarily involved small areas and even areas that were undeveloped.⁴⁶ Further, none of the section 216B.44 cases involved large numbers of customers.⁴⁷ The number of customers in this case is several times larger. Further, all prior cases involved municipalities taking the property of cooperative utilities, which primarily provide distribution service.⁴⁸ In contrast, Xcel Energy is a vertically integrated utility that provides distribution, generation, and transmission service. Because of these significant differences, the cases decided under Minn. Stat. § 216B.44 cannot resolve many of the disputed issues in this case.

II. Legal Standard

Minn. Stat. § 216B.45 permits municipalities, in some circumstances, to purchase the utility infrastructure of a public utility operating within its borders. When an eligible municipality does so, it is required to pay just compensation.

In determining just compensation, the Commission is required to consider four factors: (1) “the original cost of the property less depreciation”, (2) “loss of revenue to the utility”, (3) “expenses resulting from integration of facilities”, and (4) “other appropriate factors”.⁴⁹ The Commission has previously explained, in a different but related context,

⁴⁶ Ex. Xcel Energy-206, Peterson Rebuttal at 4:1-6:2.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Minn. Stat. § 216B.45.

that the purpose of the lost revenue factor is to “put the displaced utility in the same position it would have occupied had the acquisition not occurred.”⁵⁰

Slayton bears the burden of proof to demonstrate by a preponderance of the evidence that its proposed just compensation is reasonable and consistent with the law. In an administrative law proceeding, like this one, “[t]he party proposing that certain action be taken must prove the facts at issue by a preponderance of the evidence, unless the substantive law provides a different burden or standard.”⁵¹ Minn. Stat. § 216B.45 does not provide a different burden or standard. Slayton is the party proposing to change the status quo by exiting the Company’s system,⁵² and seeking to take Xcel Energy’s property,⁵³ and as a result it bears the burden of proof to show that its calculation of just compensation is reasonable by a preponderance of the evidence.

This burden is particularly important when evaluating lost revenues. As discussed in more detail below, the purpose of lost revenues is to ensure that other utility customers are not harmed when a municipality leaves the system. Consistent with this policy of protecting customers from negative impacts, Minnesota law makes clear that any doubt as

⁵⁰ *In the Matter of the Complaint Regarding the Annexation of a Portion of the Service Territory of People's Cooperative Power Association by the City of Rochester (North Park Additions)*, Docket No. E132, 299/SA-88-270, ORDER DETERMINING COMPENSATION at 11 (July 11, 1990).

⁵¹ Minn. R. 1400.7300, subd. 5.

⁵² *See Matter of Yanez*, 983 N.W.2d 89, 94-95 (Minn. App. 2022).

⁵³ *Application of City of White Bear Lake*, 247 N.W.2d 901, 904 (Minn. 1976) (“In this state the burden of proof generally rests on the one who seeks to show he is entitled to the benefits of a statutory provision.”).

to reasonableness must be resolved in favor of customers.⁵⁴ Because the lost revenue factor is intended to make Xcel Energy's other customers whole, any doubts should be resolved in favor of those customers. In this context, that means resolving doubt in favor of a just compensation determination that protects Xcel Energy's other customers from a rate increase.

This application of the burden of proof is consistent with the Department's analysis. Department witness Ngo explained, for example, that O&M expenses should only be excluded from the lost revenue calculation when they "can be shown to decrease when Slayton leaves."⁵⁵ He also explained that reductions in customer service or billing costs should only be incorporated if they are "demonstrable," and that fixed costs should not be excluded from lost revenues "unless the City can show that these costs will actually decline as a result of Slayton's departure."⁵⁶ The Department is right.

III. Eligibility

Xcel Energy recognizes the right of the City of Slayton to purchase its property inside the City to form a municipal utility, but the record in this case raises some questions about whether that is really what is happening. The facts in the record suggest the neighboring cooperative, Nobles Cooperative Electric (Nobles), has been pushing Slayton to leave Xcel Energy's system for many years, and that after the transfer customers in

⁵⁴ Minn. Stat. § 216B.03.

⁵⁵ Ex. DOC-301, Ngo Rebuttal at 9:17-18.

⁵⁶ *Id.* at 10:1-6.

Slayton would effectively receive service from Nobles. Minnesota law does not permit this type of competition for customers between electric utilities, and the Company requests that the ALJ and Commission confirm whether the Company is legally required to sell its property, and give up customers it has served for decades, in this situation.

A. Legal Analysis

The clear purpose of Minn. Stat. § 216B.45 is to permit a municipality to force a public utility to sell its property for a public purpose – the formation of a municipal utility. A different entity could not force this kind of sale. Minn. Stat. § 216B.45 is very clear that the purchase is permitted only “by the municipality”. That is consistent with the common understanding of the taking of private property. Private individuals and businesses cannot take the property of another business, but the government can do so when it is to serve a public purpose.⁵⁷

As the United States Supreme Court explained:

[I]t has long been accepted that the sovereign may not take the property of A for the sole purpose of transferring it to another private party B, even though A is paid just compensation. On the other hand, it is equally clear that a State may transfer property from one private party to another if future ‘use by the public’ is the purpose of the taking; the condemnation of land for a railroad with common-carrier duties is a familiar example. . . .

[T]he City would no doubt be forbidden from taking petitioners’ land for the purpose of conferring a private benefit on a particular private party. Nor would the City be allowed to take property under the mere pretext of a public purpose, when its actual purpose was to bestow a private benefit.⁵⁸

⁵⁷ Minn. Const. Art I § 13; U.S. Const. amend. V.

⁵⁸ *Kelo v. City of New London, Conn.*, 545 U.S. 469, 477-78 (2005).

One legitimate public purpose would be to form a municipal utility consistent with section 216B.45. The situation here is less certain. It is not clear whether forming a municipal utility that exists only on paper, and turning over all responsibilities for providing utility service to a different utility, satisfies these requirements or the requirements of Minn. Stat. § 216B.45.

B. The Proposed Purchase Appears to be a Pretext for Allowing Nobles to Provide Electric Service to Slayton instead of Xcel Energy

The record indicates that the Slayton “utility” will exist mostly on paper. If Slayton exits Xcel Energy’s system, it will not have and does not intend to develop the capacity to provide electric service. Instead, it will contract with a different utility, Nobles, to provide all the functions of utility service. The record reflects these facts:

- Slayton does not have any employees who would work at the Slayton electric utility, and does not plan to hire any employees to do so;⁵⁹
- The City plans for Nobles to acquire electricity for the City;⁶⁰
- The City plans for Nobles to operate and maintain the distribution system in Slayton;⁶¹

⁵⁹ Ex. Xcel Energy-202, Krug Direct, Schedule 5.

⁶⁰ *Id.* Schedule 2.

⁶¹ *Id.* Schedule 3.

- The City plans for Nobles to read meters, bill customers, and collect payments from customers;⁶²
- The City plans for Nobles to handle legally required disconnection notices and disconnections;⁶³
- The City plans that retail customers receiving service from the “Slayton municipal utility” would be eligible for conservation and energy management programs, rebates, incentives, and load management programs offered by Nobles to retail customers of Nobles, and there is no indication that the City would offer any similar programs of its own;⁶⁴
- The City plans for, or has at least discussed, that Nobles would purchase the bond that the City requires to finance its purchase of the Company’s property, indicating that the money to complete the transaction would come from Nobles;⁶⁵ and
- The City plans that customers of the “Slayton municipal utility” would take service from the transmission system using a substation owned by Nobles, not the City, which means that the City would not have the physical capability to provide service to customers in the City without Nobles.⁶⁶

⁶² Ex. Xcel Energy-202, Krug Direct, Schedule 4.

⁶³ *Id.* Schedule 4.

⁶⁴ *Id.* Schedule 2 at 4.

⁶⁵ *Id.* Schedule 7.

⁶⁶ *Id.* Schedule 8.

These facts suggest that the “Slayton municipal utility” would exist on paper and in name only. Nobles would provide all the functions of an electric utility for customers in Slayton, and Slayton could not provide electric service without Nobles.

Slayton argues that purpose of its effort is to ensure local control,⁶⁷ and that it “absolutely intends to own and operate a municipal utility.”⁶⁸ These statements do not change the fact that the Slayton municipal utility would not be capable of providing service, and that all the information in the record suggests that every function required to provide service would be carried out by Nobles.

Slayton also suggests that it is standard for municipal utilities to contract with other utilities for services.⁶⁹ That may be the case, but it is not relevant to this situation. An existing municipal utility may well choose to contract with another utility for some services related to the utility property that it already owns. The situation here is different, as this case is about the government taking the property of Xcel Energy, a private business. The crux of the analysis is whether Slayton’s plan to take Xcel Energy’s property but have Nobles provide service is consistent with Minn. Stat. § 216B.45 and jurisprudence about when the government can take property from a private business.

The record also demonstrates that Nobles has actively pursued this transfer. The Chief Executive Officer of Nobles has been working since at least 2021 to convince Slayton to make this change. In October 2021, the CEO of Nobles emailed Slayton with a

⁶⁷ Ex. Slayton-110, Malchow Rebuttal at 8:20-25.

⁶⁸ *Id.* at 4:23.

⁶⁹ Ex. Slayton-105, Berg Rebuttal at 44:20-46:18.

list of questions and information he wanted about Xcel Energy’s customers located in Slayton, and asked for a meeting.⁷⁰ There were further emails about a sale in March 2022.⁷¹ Further emails were exchanged in October 2022.⁷²

Nobles has discussed with its own bank whether it could loan money to Slayton. In April 2023, the Nobles CEO sent an email to the City confirming that its bank could make a loan to municipals.⁷³

Nobles has emailed the City about various arguments it could make to justify its effort to exit Xcel Energy’s system. In 2023, the Nobles CEO emailed the City to suggest that Xcel Energy’s rates are too high because of its investments in wind and solar, based on an article published by the Center for the American Experiment.⁷⁴ In November 2023, Nobles and other cooperative entities “investigated” Xcel Energy’s annual reporting to the Commission, provided the results of that analysis to the City, and requested a meeting to discuss it.⁷⁵ In December 2023, the Nobles CEO emailed the City to share an article about municipalization efforts in New York.⁷⁶ In February 2024, Nobles emailed the City to suggest that changes to Community Solar Bill credits would be “good news” for Nobles’ plan to have Slayton “buyout” Xcel Energy’s property.⁷⁷

⁷⁰ Ex. Xcel Energy-202, Krug Direct, Schedule 9 at 15-16.

⁷¹ *Id.* Schedule 9 at 1.

⁷² *Id.* Schedule 9 at 2.

⁷³ *Id.* Schedule 9 at 11.

⁷⁴ *Id.* Schedule 6.

⁷⁵ *Id.* Schedule 9 at 3-7.

⁷⁶ *Id.* Schedule 9 at 10.

⁷⁷ *Id.* Schedule 9 at 9.

Nobles has also completed work and prepared documents to help convince Slayton to exit Xcel Energy's system. Around the end of 2023, employees of Nobles built a website for a Slayton municipal utility and met with the City to get feedback.⁷⁸ Nobles also designed an information brochure and mailer for the City,⁷⁹ and offered to split the cost of having them printed with the City.⁸⁰

Nobles also reached out to Slayton and recommended that Slayton begin this litigation before the Commission. In December 2024, Nobles emailed the City to provide strategic advice about Xcel Energy's need to update the meters in the City and advocated that "[i]t may be time to play the PUC intervention card."⁸¹

Nobles has been actively pursuing this transaction for a long time, at the highest levels of its organization. While Nobles is a non-profit cooperative, it is still a private business owned by its members. It would be beneficial for Nobles to expand and recover its fixed costs of providing service from a larger customer base. If Nobles can provide service to customers in Slayton, it would be a private benefit for that private (albeit cooperative) business.

Forming a municipal utility that would provide service to customers would be a public use, and Minn. Stat. § 216B.45 permits Slayton to purchase Xcel Energy's property to do so. Taking private property in order to construct utility facilities would be a public

⁷⁸ Ex. Xcel Energy-202, Krug Direct, Schedule 9 at 19-24.

⁷⁹ *Id.* Schedule 9 at 25-26.

⁸⁰ *Id.*

⁸¹ *Id.* Schedule 9 at 12.

use.⁸² Taking Xcel Energy’s property so that customers in Slayton can receive service from Nobles instead of Xcel Energy is not a public use. Forming a municipal utility that cannot actually provide service as a pretext for receiving service from Nobles instead of Xcel Energy is also not a public use.⁸³ That appears to be what is happening here. Based on the information in the record, Nobles would provide every utility function necessary to provide service in Slayton, and Slayton’s “utility” will not have the capability or even the physical possibility of providing service without Nobles.

Further, Minnesota law does not permit customers to choose their service provider except in very limited circumstances that do not apply here. Instead, utilities are assigned exclusive service territory along with the right and obligation to provide service to all customers in that service territory.⁸⁴ Utilities are not permitted to compete against each other to take each other’s service territory and customers. There is no legitimate public use or public purpose in taking Xcel Energy’s property so that Nobles provides service to the customers in Slayton instead of Xcel Energy.

There is also no public use in transferring customers from a public utility in order to avoid compliance with the State’s policy preferences. In one email to the City, the CEO

⁸² Minn. Stat. § 117.025, subd. 11.

⁸³ *See Kelo v. City of New London, Conn.*, 545 U.S. 469, 477-78 (2005) (“Nor would the City be allowed to take property under the mere pretext of a public purpose, when its actual purpose was to bestow a private benefit.”).

⁸⁴ Minn. Stat. § 216B.37 (“It is hereby declared to be in the public interest that . . . the state of Minnesota shall be divided into geographic service areas within which a specified electric utility shall provide electric service to customers on an exclusive basis.”).

of Nobles suggested that one benefit to Slayton would be avoiding the cost of Xcel Energy's investments in wind and solar energy.⁸⁵ This interest was further demonstrated during the evidentiary hearing when the City's counsel asked whether Slayton customers would have to pay for the renewable energy transition if they stay on Xcel Energy's system.⁸⁶ Xcel Energy is well along the path of complying with state law to provide 80 percent of its energy from carbon free sources by 2030.⁸⁷ Nobles, in contrast, does not have to comply with the same timelines and could provide energy that is more carbon intensive than Xcel Energy.⁸⁸ Regardless of the policy opinions of Nobles or the City, there is no public purpose served by transferring customers from one utility to another in order to avoid compliance with the Carbon Free Standard.

Based on these facts, Slayton's proposal to purchase Xcel Energy's property so that it can receive service from Nobles instead of Xcel Energy is not consistent with the law. Xcel Energy requests that the ALJ and the Commission determine whether the Company is legally required to permit its property to be taken by the City.

⁸⁵ Ex. Xcel Energy-202, Krug Direct, Schedule 6.

⁸⁶ Tr. Evid. Hearing at 140 (Peterson) ("Q: To return to my question, if Slayton stays on the system they'll have to pay for the increases in generation costs related to the renewable transition, right? A: Yes. Just like all of our other customers will.").

⁸⁷ Minn. Stat. § 216B.1691, subd. 2g.

⁸⁸ *Id.* (establishing a 2030 goal of 80 percent carbon-free goal for public utilities, but only 60 percent for other utilities like Nobles).

IV. Just Compensation

If Slayton purchases the Company's property inside City limits, the City is required by law to pay just compensation to the Company.⁸⁹ The Commission is required to consider four factors: (1) "the original cost of the property less depreciation", (2) "loss of revenue to the utility", (3) "expenses resulting from integration of facilities", and (4) "other appropriate factors".⁹⁰

Based on these factors, the Company recommends a just compensation determination as follows:

Table 4
Xcel Energy Surrebuttal Just Compensation Recommendation⁹¹

Value of Property	\$3,220,653
Loss of Revenue*	\$34,710,977
Meter Integration Expense	Actual Cost, Est. \$140,000
Continued Service Integration Expense	Actual Cost, Est. \$15,000
Customer DER Integration Expense	Actual Cost, To Be Identified
Engineering Studies and Upgrades Integration Expense	Actual Cost, To Be Identified
MN DIP Impact Integration Expense	Actual Cost, To Be Identified
Stranded Slayton West Substation	\$1,131,354
Total	\$39,217,984

*or \$3,153,021 per year for twenty years

⁸⁹ Minn. Stat. § 216B.45.

⁹⁰ *Id.*

⁹¹ See Ex. Xcel Energy-208, Peterson Surrebuttal at 45:1-3, Table 1. This table has been adjusted to clarify the distinction between some categories of integration expense.

A. Value of Property

The first factor to be considered in determining just compensation is “the original cost of the property, less depreciation,” referred to in this case as the “value of property.”⁹² The parties do not dispute the value of the property.⁹³ The Company calculated that the original cost of the distribution infrastructure located inside City limits is \$4,714,674, and when accounting for depreciation the current value of the property is \$3,220,653.⁹⁴

The parties also agree that the final amount for the value of property should be updated at the time of a future transaction, if one takes place. As explained by Company witness Peterson, “The final value of property will need to be updated to reflect additional depreciation for the equipment currently installed, and the possibility that new equipment will be needed to continue to provide safe and reliable service to Slayton customers while the purchase is pending.”⁹⁵ For that reason, the Company recommended that the Commission approve the methodology used by the Company to calculate the current value of property, and the current estimate of approximately \$3.2 million, with the final cost to be calculated at the time of transfer.⁹⁶ The City agreed.⁹⁷

⁹² Ex. Xcel Energy-204, Peterson Direct at 4:23-24.

⁹³ Ex. Slayton-105, Berg Rebuttal at 2:21-22.

⁹⁴ Ex. Xcel Energy-204, Peterson Direct at 10:12-26. Detailed information about the property is included at Ex. Xcel-205, Peterson Trade Secret Direct, Schedule 1.

⁹⁵ Ex. Xcel Energy-204, Peterson Direct at 11:8-12.

⁹⁶ *Id.* at 11:16-17.

⁹⁷ Ex. Slayton-105, Berg Rebuttal at 3:16-19.

B. Lost Revenue

The second factor to be considered in determining just compensation is “loss of revenue to the utility.”⁹⁸ The purpose of the lost revenue factor is to protect the utility’s other customers from any negative cost impacts when a municipality decides to exit the system.⁹⁹ Without this protection, a municipality’s decision to leave the system would increase costs for other customers because of the nature of utility ratemaking.

Xcel Energy is subject to cost of service ratemaking in Minnesota.¹⁰⁰ In general, utility rates are designed so that the revenue being recovered is equal to the cost of providing service, including a reasonable return (referred to as the revenue requirement).¹⁰¹ Customers in Slayton are currently contributing approximately \$3 million in revenue to the revenue requirement each year.¹⁰² If Slayton exits the system, the Company will no longer receive this \$3 million in revenue. The Company would then need to increase rates for other customers to recover an additional \$3 million in revenue, unless Slayton’s exit reduces the shared costs of the system. These concepts are not in dispute. City witness Berg

⁹⁸ Minn. Stat. § 216B.45.

⁹⁹ Ex. Xcel Energy-202, Krug Direct at 8:2-15; *see also In the Matter of the Application of the City of Olivia to Extend its Municipal Electric Service Area into an Area Served by Renville-Sibley Cooperative Power Association*, Docket No. E288, 136/SA-85-93, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER SETTING COMPENSATION FOR SERVICE EXTENSION at 8, 13 (June 27, 1986) (adopting the ALJ’s recommendation that “the remaining members of the [utility] should not experience a rate increase as a result of this acquisition proceeding” and establishing loss of revenue “[t]o prevent a rate increase for those [remaining] member-consumers as a result of the acquisition”).

¹⁰⁰ Minn. Stat. § 216B.16.

¹⁰¹ *Id.*

¹⁰² Ex. Xcel Energy-204, Peterson Direct at 20:1-4.

admitted during the evidentiary hearing that this is how utility ratemaking works in this context.¹⁰³

As described below, the Company has carefully evaluated whether Slayton's exit will reduce costs, and concluded that approximately 30 percent of the costs can be avoided, while the other 70 percent cannot and must be treated as lost revenue. The Company's analysis demonstrates that over the next twenty years the Company will suffer \$64 million in lost revenues if Slayton exits the system.¹⁰⁴ If these lost revenues are not recovered from Slayton, they will cause a rate increase for other customers.

Despite clear Minnesota law requiring Slayton to pay for lost revenues, the City argues, incredibly, that it should be responsible for only 2.8 percent of the revenues per year, and only for five years.¹⁰⁵ As explained below, Slayton has produced little evidence to support its argument. The City has not identified what specific costs will be reduced, by how much, or what actions it thinks the Company should take to cause those reductions. The City has failed to demonstrate that its analysis is supported by a preponderance of the evidence, and it must be rejected.

Slayton's position is also troubling because this is the first case under Minn. Stat. § 216B.45. It is possible that the methodologies approved in this case will set expectations for how lost revenues will be calculated in the future. Slayton's methodology could result in a \$60 million rate impact for other customers when applied to a city with a population

¹⁰³ Tr. Evid. Hearing at 74-76 (Berg).

¹⁰⁴ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 1.

¹⁰⁵ Tr. Evid. Hearing at 29:7-30:1 (Berg).

of around 2,000. The Company serves cities with populations many times larger, and applying Slayton's methodology to one of those communities could cause rate impacts that are many times greater.

Slayton's methodology should be rejected. Not just because it produces an unreasonable result, but because it is not supported by the evidence in this case. Lost revenues should be set using the Company's methodology, which is transparent, scalable, and supported by clear evidence and analysis.

1. Lost Revenue Methodology

To calculate lost revenues, the Company performed several steps: (1) determine the relevant time period to be evaluated for lost revenue; (2) determine the amount of revenue from Slayton customers during the relevant time period; (3) determine the amount of that revenue that is "lost"; (4) determine the amount of lost revenue during each year of the relevant period; and (5) adjust the lost revenue as needed to account for the method of recovery.¹⁰⁶ The Company provided a clear and transparent schedule documenting these steps.¹⁰⁷

¹⁰⁶ Ex. Xcel Energy-204, Peterson Direct at 12:1-7. This methodology is consistent with the "net revenue loss" method described by the Commission in *In the Matter of the Application of the City of Redwood Falls to Extend its Assigned Service Area into the Area Presently Served by Redwood Electric Cooperative*, Docket No. E-135,298/SA-05-1275, ORDER DETERMINING COMPENSATION at 4 (June 27, 2007).

¹⁰⁷ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1.

2. Lost Revenue Time Period

Minn. Stat. § 216B.45 provides that lost revenue must include “loss of revenue to the utility,” without any limitation on the time that should be evaluated. The Company is currently recovering revenue from customers living in Slayton each year. If Slayton exits the system, the Company will lose that revenue forever.

In this case, the Company is not proposing to recover lost revenues in perpetuity. Instead, the Company proposes a lost revenue time period of 20 years based on evaluation of the time horizon for the Company’s planning processes, and the expected life of the investments that make up the costs Slayton’s revenues are paying for.

a. Utility Planning Horizons

The Company’s planning horizon is relevant because the Commission has previously relied on the utility’s planning horizon when setting lost revenue time periods under Minn. Stat. § 216B.44. For example, in the *North Park Additions* case, the Commission established a ten-year time period because “ten years is a standard planning horizon for rural electric co-operatives for the construction of basic utility facilities such as substations and major feeders.”¹⁰⁸

¹⁰⁸ *In the Matter of the Complaint Regarding the Annexation of a Portion of the Service Territory of People’s Power Association by the City of Rochester (North Park Additions)*, Docket No. E-132,299/SA-88-270 ORDER DETERMINING COMPENSATION at 13 (July 11, 1990); see also *In the Matter of the Application of the City of Olivia to Extend its Municipal Electric Service Area into an Area Served by Renville-Sibley Cooperative Power Association*, Docket No. E288, 136/SA-85-93, FINDINGS OF FACT, CONCLUSIONS OF LAW,

A similar analysis is conducted by the Federal Energy Regulatory Commission (FERC). Pursuant to FERC Order 888, when a retail customer becomes a wholesale customer, for example because of a municipalization, and there are stranded costs, the utility is permitted to seek recovery of stranded costs through an action under the Federal Power Act.¹⁰⁹ The FERC has decided two cases under this rule, and in each case it based the lost revenue recovery period on the planning period of the utility. In the *City of Las Cruces* case, the FERC concluded that El Paso Electric Company had used a 20-year planning horizon to select the investments at issue, that the utility had a reasonable expectation of continuing to provide service to the city during that 20-year time period, and established a 20 year lost revenue time period.¹¹⁰ In the *City of Alma* case, the FERC confirmed that the lost revenue time period should be based on the utility's actual planning horizon.¹¹¹ In that case, the record demonstrated that the relevant planning period was 15 years, so the FERC established a lost revenue time period of 15 years.¹¹²

The Department suggests that the lost revenue time period should be ten years because that is what the Commission has done in previous cases under section 216B.44.¹¹³

AND ORDER SETTING COMPENSATION FOR SERVICE EXTENSION at 15 (June 27, 1986) (establishing the lost revenue time period based in part on the cooperative's use of "a ten-year period for planning purposes.").

¹⁰⁹ 18 C.F.R. § 35.26.

¹¹⁰ *City of Las Cruces, New Mexico v. El Paso Electric Company*, 87 FERC ¶ 61,201, 61,750 (May 26, 1999).

¹¹¹ *City of Alma, Michigan*, 96 FERC ¶ 61,163, 61,714 (July 30, 2001).

¹¹² *Id.*

¹¹³ Ex. DOC-301, Ngo Rebuttal at 8:3-10.

While these cases are relevant, the Department misapplies their reasoning. The key holding from these decisions was not that the lost revenue time period should always be ten years; it was that establishing the lost revenue time period required a fact-based evaluation of the record at hand, based on the utility's planning horizon. In this case, the Company provided specific evidence that its planning horizon is 30 years for generation resources and 10 years for distribution.

(i) Generation Planning Horizon

Company witness Dr. Bixuan Sun is the Director of Resource Planning and Bidding and, as such, has a deep understanding of the Company's planning horizons.¹¹⁴ Dr. Sun provided testimony about the planning horizons and how they should be understood in relation to lost revenues. The Company has a different planning horizon for generation and distribution resources.¹¹⁵

For generation planning, Dr. Sun explained that the Company conducts resource planning in Integrated Resource Plans (IRP), using a modeling software called EnCompass.¹¹⁶ The time horizon for EnCompass modeling runs is 30 years.¹¹⁷ The 30-year timeline stems from regulatory requirements. Xcel Energy's generation resources in Minnesota are part of its Upper Midwest system, which includes Minnesota, North Dakota,

¹¹⁴ Ex. Xcel Energy-210, Sun Direct at 1, Schedule 1.

¹¹⁵ Company witness Sun provided testimony regarding transmission planning horizons, but since the Company now agrees that transmission costs are avoidable the transmission planning horizon is not relevant here.

¹¹⁶ Ex. Xcel Energy-210, Sun Direct at 3:5-20.

¹¹⁷ *Id.*

South Dakota, Wisconsin, and Michigan.¹¹⁸ The Public Service Commission of Wisconsin requires that capacity expansion modeling use a 30-year evaluation period.¹¹⁹ Because the Company conducts unified planning for the entire Upper Midwest system, the 30-year requirement applies to all states that are part of that system.

Slayton argues that its consultants understand Xcel Energy's IRP better than Dr. Sun, the PhD economist who is responsible for preparing them.¹²⁰ Slayton witness Berg argues that the planning horizon is actually 15 years, not 30 years.¹²¹ Slayton witness Berg is incorrect. While the IRP does involve consideration of a variety of time-periods, it is an undisputed fact that the Company is required by Wisconsin regulations to conduct its IRP modeling using a 30-year modeling horizon.

Slayton witness Berg argues that the IRP planning horizon is not relevant at all.¹²² The Commission, the ALJs who evaluated prior cases under section 216B.44, and the FERC obviously disagree. These prior decisions make clear that the planning horizon is a relevant fact, and Slayton's suggestion to ignore it entirely is unreasonable.

Slayton witness Berg also argues that the IRP is not relevant because the Company can change its plans to account for Slayton in the future.¹²³ As discussed below, the City fails to identify what adjustments it thinks the Company should make. It also fails to

¹¹⁸ Ex. Xcel Energy-210, Sun Direct at 3:5-20.

¹¹⁹ *Id.* at 3, n.2.

¹²⁰ Ex. Slayton-105, Berg Rebuttal at 37:21-39:12-21.

¹²¹ *Id.*

¹²² *Id.* at 37:19-21.

¹²³ *Id.* at 37.

explain how adjusting future planning would impact the cost of investments the Company has already made.¹²⁴ Because the lost revenue calculation is based on the current revenue requirement, changes to future resources procurements would not have any impact on the lost revenue calculation.¹²⁵ City witness Berg admitted this fact during the evidentiary hearing.¹²⁶ The Company made those investments decisions based on the reasonable assumption that Slayton would continue to contribute to the costs, and the fact that future plans can be adjusted will not change the costs that have already been incurred.

The Commission has previously confirmed that the Company's analysis is the right one. In the *North Park Additions* case, several parties argued that the utility's long-term planning horizon was not the right frame of reference because actual construction takes place in shorter-term intervals. The Commission disagreed, explaining:

Construction plans implement the requirements of long range plans, however. They are not the result of comprehensive re-examination of the service needs of a utility's assigned service area. Furthermore, once facilities are installed pursuant to long range plans, they remain in place, whether or not anticipated loads materialize.¹²⁷

Once projects are constructed, they are in the ground, and their costs will not disappear just because one community exits the system. Because those projects are selected using long-

¹²⁴ Ex. Xcel Energy-208, Peterson Surrebuttal at 28, n29.

¹²⁵ Tr. Evid. Hearing at 42-45 (Berg).

¹²⁶ Tr. Evid. Hearing at 39:4-23 (Berg).

¹²⁷ *In the Matter of the Complaint Regarding the Annexation of a Portion of the Service Territory of People's Cooperative Power Association by the City of Rochester (North Park Addition)*, Docket No. E-132,299/SA-88-270, ORDER DETERMINING COMPENSATION at 13-14 (July 11, 1990).

term planning, it is reasonable to rely on the long-term planning horizon to determine the lost revenue time period.

(ii) Distribution Planning Horizon

For distribution planning, Dr. Sun explained that the Company's main planning process is the Integrated Distribution Plan (IDP).¹²⁸ The Commission requires Xcel Energy to file an IDP every two years with a 10-year planning horizon, including a 10-year Long-Term Plan.¹²⁹ Paragraph 1 of the Distribution System Plan Process established by the Commission provides that Xcel must "file annually with the Commission beginning on November 1, 2018, and biennially starting Nov. 1, 2021 an Integrated Distribution Plan (MN-IDP or IDP) for *the 10-year period following the submittal.*"¹³⁰

Slayton argues that, despite the Commission's requirements to provide a 10-year plan, the IDP is actually a 5-year plan.¹³¹ Because the IDP includes a 5-year capital plan, the City suggests that the distribution planning horizon is 5 years, rather than ten. The IDP filing requirements indicate that Slayton is incorrect. While there is a 5-year action plan, the Commission's filing requirements state that "Xcel shall provide a 5-year Action Plan

¹²⁸ Ex. Xcel Energy-210, Sun Direct at 4.

¹²⁹ *In the Matter of Xcel Energy's 2023 Integrated Distribution Plan*, Docket No. E002/M-23-452, MINNESOTA INTEGRATED DISTRIBUTION PLANNING REQUIREMENTS FOR XCEL ENERGY at 2 (Sept. 16, 2024). The distribution planning requirements for Xcel Energy are attached to the Commission's September 16, 2023 Order Accepting 2023 Integrated Distribution Plan and Modifying Reporting Requirements in Docket 23-452.

¹³⁰ *Id.* (emphasis added).

¹³¹ Ex. Slayton-105, Berg Rebuttal at 40.

as part of a 10-year long term plan.”¹³² The Commission requires that the 10-year Long-Term Plan must “address long-term assumptions (including load growth assumptions), the long-term impact of the 5-year Action Plan investments, what changes are necessary to incorporate DER into future planning processes based on the DER futures analysis, and any other types of changes that may need to take place in the tools and processes Xcel is currently using.”¹³³ Further, the IDP includes evaluation of longer, 30-year forecasting as well as the specific 5- and 10-year planning.¹³⁴ While the IDP does include 5-year plans, they are included within the 10-year planning horizon, which is the focus for determining the long-term investments that the distribution system needs going forward, and the process involves longer planning considerations as well.

The facts in this record demonstrate that the Company’s planning horizons are at least 10 years for distribution planning and 30 years for generation planning.

b. Expected Life

It is also reasonable to consider the expected life of the Company’s investments. As explained by Company witness Peterson, the Company is subject to cost-based ratemaking which means the revenues Slayton customers pay are based on the cost of providing

¹³² *In the Matter of Xcel Energy’s 2023 Integrated Distribution Plan*, Docket No. E002/M-23-452, MINNESOTA INTEGRATED DISTRIBUTION PLANNING REQUIREMENTS FOR XCEL ENERGY at 8 (Sept. 16, 2024).

¹³³ *Id.* at 9.

¹³⁴ *In the Matter of Xcel Energy’s 2025 Integrated Distribution Plan*, Docket No. E002/M-25-142, Integrated Distribution Plan at Chapter 1, page 74, Figure 1-29 (Oct. 31, 2025).

service.¹³⁵ These investments were planned and constructed with the expectation that customers in Slayton would pay their fair share of the costs for the entire life of the investments. For that reason, it is relevant to analyze how long Slayton customers were expected to contribute to the costs at the time the investments were made.

As explained below, production and distribution costs should be included in the lost revenue calculation. The expected lives of distribution assets are evaluated routinely in five-year depreciation studies. The most recent study to be approved was in Docket No. E,G002/D-22-299, where the Commission approved an expected useful life of 44 years for distribution poles, towers, and fixtures.¹³⁶ The expected useful life of overhead and underground conductors is 37 and 67 years, respectively.¹³⁷ That means that when the Company invests in distribution projects, it expects to recover the costs of those projects over a time period between 37 and 67 years.

The remaining life of generation units is more specific for each individual unit. Company witness Peterson explained that the most recently constructed wind resources have an expected life of greater than 30 years, and recent solar projects have expected lives of 35 years.¹³⁸ The Company's natural gas power plants have remaining lives of between 20 and 30 years.¹³⁹ The Company's nuclear plants were constructed in the 1970s and are

¹³⁵ Ex. Xcel Energy-204, Peterson Direct at 13.

¹³⁶ *Id.* at 14:13-15.

¹³⁷ *Id.* at 14:15-16.

¹³⁸ *Id.* at 14:19-22.

¹³⁹ *Id.* at 14:22-15:1.

licensed to operate until 2030 and 2050, suggesting a remaining life of many decades.¹⁴⁰ When the Company invests in generation units, it expects to recover the cost of those investments over a time period longer than 20 years.

c. Recommendation on Time Period

Xcel Energy's planning horizon for distribution and generation is 10 years and 30 years, respectively. The investments made in these planning processes have expected lives of between 20 and 67 years. Of these data points, the generation planning horizon and expected lives are the most important because 70 percent of total revenue requirements are related to fixed and variable production costs.¹⁴¹ Because most of the revenues at issue are related to generation, the generation planning horizon and expected lives should be given substantial weight in determining the lost revenue time period. Based on these factors, the lost revenue time period of 20 years is reasonable.

3. Slayton Revenue

The Company's revenue is collected from customer bills, which are based on rates and on how much energy customers consume. As explained by Company witness Peterson, it is not possible to precisely know how much energy will be used by each customer in Slayton or what rates will be each year in the future.¹⁴² Instead, the Company estimated the

¹⁴⁰ Ex. Xcel Energy-204, Peterson Direct at 15:1-4.

¹⁴¹ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 6.

¹⁴² Ex. Xcel Energy-204, Peterson Direct at 17:9-17.

amount of revenue that would be collected based on historical data and reasonable assumptions about how the data would change going forward.

a. Estimating Slayton Revenue in the First Year

The lost revenue calculation assumes that customers in Slayton will consume an average amount of energy, based on historical averages for their customer class located in Slayton using a three year average.¹⁴³ The Company applied these average consumption amounts to (1) the number of customers currently in Slayton, and (2) current rates approved by the Commission.¹⁴⁴ This calculation estimates that the amount of revenue from all customers in Slayton would be \$2,914,221 in 2025.¹⁴⁵

The City approaches this calculation using a slightly different methodology, but reaches a similar result. According to City witness Berg, the annual revenue requirement attributable to customers in Slayton is “approximately \$3.0 million.”¹⁴⁶

b. Estimating Slayton Revenue in Future Years

To determine the amount of revenues from Slayton customers in future years, the Company established a reasonable growth rate for three key data points: (1) the number of

¹⁴³ Ex. Xcel Energy-204, Peterson Direct at 18:4-5.

¹⁴⁴ *Id.* at 19:10-13 (“For the first year of the lost revenue period, the calculation uses rates as of November 1, 2025.”).

¹⁴⁵ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1.

¹⁴⁶ Ex. Slayton-114, Berg Surrebuttal at 10:8-10.

customers in Slayton; (2) the amount of energy consumed by an average customer in Slayton; and (3) the rates that customers in Slayton would pay in the future.¹⁴⁷

(i) Growth in Customers and Use Per Customer

The growth rates for the number of customers in Slayton and the amount of energy consumed by an average customer in Slayton were taken from the sales forecast used in Xcel Energy's currently-pending rate case.¹⁴⁸

Slayton argues that the customer count growth rates are “not appropriate for Slayton” because (1) Slayton does not expect any increase in the number of customers or use per customer in Slayton;¹⁴⁹ (2) annual sales in 2024 were 5.4 percent lower than the total sales in 2015;¹⁵⁰ and (3) data from the U.S. Census Bureau indicates that population in Murray County, where Slayton is located, decreased from 2010 to 2020, while the statewide population increased.¹⁵¹ These arguments are unpersuasive for several reasons.

First, City witness Berg's unverified claim that there will be no growth in customers or use per customer in the future is not supported by evidence. The opinion of the City's utility consultant is not reliable evidence of what customer growth will happen in the future.

Second, the City's argument that sales in Slayton have decreased over time is overstated. While it is true that sales in 2024 were lower than sales in 2015, that is not the

¹⁴⁷ Ex. Xcel Energy-204, Peterson Direct at 17:16-19:17.

¹⁴⁸ Ex. Xcel Energy-208, Peterson Surrebuttal at 13:14-16.

¹⁴⁹ Ex. Slayton-105, Berg Rebuttal at 7:3-9.

¹⁵⁰ *Id.* at 7:7-8.

¹⁵¹ *Id.* at 7:12-8:1.

result of a consistent trend. Sales in 2018, 2019, 2020, 2022, and 2023 were *higher* than sales in 2015.¹⁵² The fact that the last year of the sample happened to have lower sales does not indicate a downward trend – if anything, it suggests that 2024 was an outlier to an overall trend of increased sales, consistent with the Company’s assumptions.

Third, while the City has pointed out historical data showing population decline in Slayton from 2010 to 2020, it has not introduced any evidence to suggest that historical trends will continue in the future. There is no evidentiary support for the City’s assumption that this pattern will continue.

Fourth, Slayton focuses on population counts, without recognizing that the critical data for this analysis are sales. As noted above, sales in Slayton have been relatively flat even though it has experienced population decline.¹⁵³ As explained by Company witness Peterson, the Company experienced declining sales from 2015 to 2024 system-wide (including Slayton).¹⁵⁴ But the Company has produced evidence, in the form of its sales forecast from the pending rate case, that sales will increase in the future as a result of factors including electrification of transportation and heating.¹⁵⁵ This evidence demonstrates that

¹⁵² Ex. Slayton-105, Berg Rebuttal, Slayton Information Request No. 81. The pages of City witness Berg’s Rebuttal Testimony are not paginated, but IR No. 81 is located on page 71 of the electronic PDF and is the final page of the document.

¹⁵³ *Id.*

¹⁵⁴ Ex. Xcel Energy-208, Peterson Surrebuttal at 14:16-15:13.

¹⁵⁵ Ex. Xcel Energy-204, Peterson Direct at 19:6-8 (citing *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in Minnesota*, Docket No. E002/GR-24-320, Rebuttal Testimony of Benjamin S. Levine (Oct. 10, 2025)).

even if Slayton had seen sales decreases in the past (which, as noted above, is uncertain at best), there is reason to believe there will be sales increases in the future. The Company also pointed to specific evidence of potential economic development in the Slayton area, which could drive growth in customers counts.¹⁵⁶

The evidence in the record demonstrates that the Company's growth rates for customers and use per customer are reasonable.

(ii) Growth in Rates

The Company also applied a growth rate to estimate the rates that will be set in the future. The Company established a growth rate based on historical data from the Energy Information Administration from 2014 to 2024.¹⁵⁷ The lost revenue calculation assumes that rates will continue to change at the same rate going forward. The City did not dispute the reasonableness of the rate growth factor. Based on the evidence in the record, the growth rate for rates is reasonable.

c. Conclusion on Slayton Revenue

The Company has provided a clear and transparent methodology, supported by evidence, for estimating the revenues from Slayton in both the first year and in all future years. The Company estimates that revenues from Slayton in the first year would be \$2.9 million, and that total revenues over the lost revenue period would be approximately \$92.5

¹⁵⁶ Ex. Xcel Energy-206, Peterson Rebuttal at 13, n.28.

¹⁵⁷ Ex. Xcel Energy-204, Peterson Direct at 19, n.13.

million.¹⁵⁸ The City’s arguments to the contrary are conclusory and unsupported. The ALJ and the Commission should approve the Company’s method for estimating the revenues from Slayton.

There is also a timing component for the lost revenue calculation. The calculations prepared by Company witness Peterson assumed that the first year of the lost revenue time period would be 2025. If Slayton does exit the system, the first year of lost revenues will certainly not be 2025, because it has passed. The calculations will need to be updated based on changes in customer counts, average consumption, rates, and growth rates based on the timing of when Slayton exits the system.

4. Avoided Costs

Having determined the amount of revenue that would be paid by Slayton customers in each year, the next step of the Company’s lost revenue model is to determine how much of that revenue is “lost”. When Slayton exits the system, the Company anticipates that it will be able to reduce certain costs, which will no longer be incurred. The Company may also be able to obtain additional revenue from new revenue streams, offsetting lost revenues from Slayton. Costs that can be reduced or offset costs are referred to as “avoidable” and are removed from the lost revenue calculation.

The City and the Company disagree about how to evaluate what costs are avoidable. As explained in this section, the Company carefully analyzed categories of costs to see

¹⁵⁸ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 1.

what costs might be avoidable, and locate areas where new revenue streams could offset lost revenue. In contrast, the City relies almost entirely on conclusory statements how the Company can make adjustments to avoid costs. Department witness Ngo is generally aligned with the Company's analysis, explaining that "avoided costs must be based on the costs the [utility] 'will actually shed' due to the loss of the customers at issue."¹⁵⁹ He explained that avoided costs should include (1) fuel costs that vary directly with Slayton's load, (2) "clearly variable" O&M expenses that can be shown to decrease when Slayton leaves; and (3) "demonstrable reductions" in customer service or billing costs.¹⁶⁰ Department witness Ngo further explained that "[f]ixed costs, such as most production plants, . . . general plant, and shared administrative overhead, are not immediately avoidable and should not be treated as avoided unless the City can show that these costs will actually decline as a result of Slayton's departure."¹⁶¹

The Company agrees that avoided costs must be identified based on actual evidence. They should be clear and demonstrable, and based on real-world facts and evidence – not wishful thinking and generalized statements about avoiding some set of unidentified costs using unexplained methods. The Department's framework is also consistent with the burden of proof in this case. As explained above, Slayton is the moving party who proposes to change the status quo, and so bears the burden to prove by a preponderance of the evidence that its recommendations are reasonable. Slayton fails that burden.

¹⁵⁹ Ex. DOC-301, Ngo Rebuttal at 9:11-13.

¹⁶⁰ *Id.* at 9:16-10:2.

¹⁶¹ *Id.* at 10:3-6.

In contrast, the Company did the hard work of evaluating what costs could be avoidable and provided a clear, transparent explanation for its conclusions. To guide this analysis, the Company evaluated five core categories of costs, based on the Class Cost of Service Study that is used to set rates in a rate case proceeding, as displayed in Table 5:

Table 5
Cost Components¹⁶²

Cost Component
Fixed Production
Variable Production
Transmission
Distribution
Customer Costs

The Company worked through each cost category to determine which costs could be reduced after Slayton's exit, or whether alternative revenue streams could be identified. That process included giving reasonable consideration to Slayton's arguments that more or different types of costs should be treated as avoidable. The Company considered Slayton's arguments carefully and, in some cases, agreed that the City had identified additional avoided costs. On most issues, the Company concluded that Slayton has not provided a reasonable argument or evidence to support its position and did not adopt the City's recommendation.

¹⁶² Ex. Xcel Energy-204, Peterson Direct at 21, Table 3.

As explained in the following sub-sections, the Company concluded that a portion of variable production costs, distribution costs, and customer costs are avoidable. The Company also agreed with the City that transmission costs are entirely avoidable. All of these avoidable costs are excluded from the Company's lost revenue calculation. Slayton's unsupported arguments that more costs can be avoided should be rejected because the City has not demonstrated by a preponderance of the evidence that its recommendations are reasonable.

a. Resolved Avoided Cost Issues - Transmission Costs

While the Company initially recommended that transmission costs be treated as unavoidable, the Company reviewed the arguments Slayton presented on the issue and changed its position. The Company agrees that transmission costs should be treated as fully avoidable because the lost revenues from customers in Slayton will be offset by increased revenues from wholesale transmission customers.¹⁶³

This change reduces the lost revenue calculation by more than \$5 million. It is a clear example of the Company's commitment to careful evaluation of how just compensation should be calculated. Where Slayton provided clear explanations and evidence to support its argument that costs are avoidable, the Company has been willing to change its position.¹⁶⁴ On the remaining issues, where Slayton has failed to make reasonable arguments or support its positions with evidence, the Company does not agree.

¹⁶³ Ex. Xcel Energy-208, Peterson Surrebuttal at 24:7-13.

¹⁶⁴ Slayton, in contrast, has made no adjustments to its initial recommendations.

b. Slayton's Argument about Adjustments

As a threshold issue, many of Slayton's arguments related to lost revenues are based on its belief that the Company can "adjust" its operations to reduce costs after Slayton leaves. For example, the City argues that customer costs are fully avoidable because the Company can "adjust its operations to adjust customer systems for the loss of Slayton customers."¹⁶⁵ The City suggests that there is some unidentified set of assets being used only in Slayton, which can be adjusted to be used elsewhere.¹⁶⁶ The City seems to think that the Company can use future resource planning proceedings to "adjust quickly for [the] change in generating resources."¹⁶⁷ The City also suggests that the Company can "adjust" away all of the costs for serving Slayton because Slayton is small compared to the whole system.¹⁶⁸

But Slayton never identifies what adjustments it thinks the Company should make. The City made clear that it is not suggesting that the Company should lay off employees.¹⁶⁹ Presumably the City is not suggesting that the Company should reduce the level of services it provides to its other customers. Throughout all three rounds of testimony, the City does not quantify a single adjustment or explain how much money it thinks the adjustment could

¹⁶⁵ Ex. Slayton-105, Berg Rebuttal at 18:3-4.

¹⁶⁶ *Id.* at 9:8-12.

¹⁶⁷ *Id.* at 21:14-15.

¹⁶⁸ *Id.* at 18:3-5, 29:1-6.

¹⁶⁹ Ex. Slayton-114, Berg Surrebuttal at 9:18.

save. The Company's own witness admitted as much during the evidentiary hearing.¹⁷⁰ The City's analysis is based on wishful thinking and the entirely unfounded belief that the Company can "adjust" its way out of the many investments it has made to provide service. That is not the case. And, under the law, if this record does not demonstrate Slayton's exit will lead to reduced costs or offsetting new revenue, then the revenues must be treated as lost and included in just compensation.¹⁷¹

c. Fixed Production

Fixed production costs represent the generation units Xcel Energy uses to create electricity. The "fixed" portion is the cost that does not change based on energy usage.¹⁷² Around 25 percent of the revenue requirement is related to fixed production costs,¹⁷³ which means that around 25 percent of the revenues customers in Slayton pay are related to fixed production costs. These costs are not avoidable.¹⁷⁴

(i) Fixed Production Costs are Not Avoidable

The power plants that make up fixed production costs are selected and constructed based on long-term planning processes. As noted above, the Company conducts IRPs with a 30-year modeling horizon to evaluate the optimal plan to meet customer demand for

¹⁷⁰ Tr. Evid. Hearing at 65:18-22 (Berg) ("Q: Can you please point me to where in your testimony you have identified a specific adjustment and a specific dollar amount that you think the Company can adjust? A: I have not relative to the dollar amounts.").

¹⁷¹ Minn. Stat. § 216B.45.

¹⁷² Ex. Xcel Energy-204, Peterson Direct at 24:5-6.

¹⁷³ Ex. Xcel Energy-208, Peterson Surrebuttal at Schedule 1 at 6 (893,802/3,713,015).

¹⁷⁴ Ex. Xcel Energy-204, Peterson Direct at 24:11.

electricity.¹⁷⁵ The IRP modeling is typically followed by resource procurement procedures, where the Company solicits bids for specific generation projects. The Commission reviews and approves the Company's selection, and then the long-term investments are constructed. For many years, these planning processes have assumed that Slayton will continue to be part of Xcel Energy's system, and that customers in Slayton will continue to pay their fair share of generation costs.

Those costs cannot be reduced just because Slayton leaves. As explained by Company witness Peterson, "While we will adjust our future planning to account for the loss of Slayton customers, our existing power plants are already constructed and operating, and their costs cannot be avoided."¹⁷⁶ Company witness Dr. Sun, the Director of Resource Planning, testified that the Company "does not anticipate any changes to its generation portfolio, or any material impacts on fixed production cost."¹⁷⁷ The cost of the Company's power plants will not change if Slayton exits the system. The only thing that will change is that Slayton will no longer contribute to the fixed costs of those plants.

Consider a hypothetical example where the Company operates a power plant that costs \$1,000 each year, and customers in Slayton contribute \$10 towards that total cost. The power plant will not suddenly cost less if Slayton leaves, but the Company would only be recovering \$990 of the cost. In a future rate proceeding, rates would need to be increased

¹⁷⁵ Ex. Xcel Energy-210, Sun Direct at 3:5-20.

¹⁷⁶ Ex. Xcel Energy-204, Peterson Direct at 24:16-19.

¹⁷⁷ Ex. Xcel Energy-211, Sun Direct at 6:4-5.

so that Slayton's \$10 share is recovered from other customers instead. The lost revenue factor is intended to avoid these cost impacts on other customers.¹⁷⁸

The Company's analysis is consistent with the Department's. Department witness Ngo testified that fixed costs "such as most production plants" are "not immediately avoidable and should not be treated as avoided" in the absence of specific evidence (which does not exist in this record).¹⁷⁹ Under this reasoning, fixed production costs must be treated as unavoidable and included in the lost revenue calculation.

(ii) Slayton's Share of Fixed Production Cost will Not Reduce Costs in the Future

Slayton presents two arguments for its position that fixed production costs are fully avoidable. Slayton's first argument is that Xcel Energy can make use of its capacity to serve other customers, avoiding the need to obtain more capacity in the future.¹⁸⁰ That is incorrect for several reasons. First, the "revenues" at issue in this case are related to the Company's current revenue requirement. The baseline starting point for the Company's lost revenue calculation is the current revenue requirement based on the generation units

¹⁷⁸ Ex. Xcel Energy-202, Krug Direct at 8:2-15; *see also In the Matter of the Application of the City of Olivia to Extend its Municipal Electric Service Area into an Area Served by Renville-Sibley Cooperative Power Association*, Docket No. E288, 136/SA-85-93, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER SETTING COMPENSATION FOR SERVICE EXTENSION at 8, 13 (June 27, 1986) (adopting the ALJ's recommendation that "the remaining members of the [utility] should not experience a rate increase as a result of this acquisition proceeding" and establishing loss of revenue "[t]o prevent a rate increase for those [remaining] member-consumers as a result of the acquisition").

¹⁷⁹ Ex. DOC-301, Ngo Rebuttal at 10:3-6.

¹⁸⁰ Ex. Slayton-103, Berg Direct at 26:11-20.

that exist today. Even if City witness Berg were correct and future procurements could be less, that would not change any of the numbers in the lost revenue requirement because they are based on the current revenue requirement.¹⁸¹ City witness Berg admitted as much during the evidentiary hearing:

Q: Mr. Berg, just to tie this all up, you understand that this page, page 6 of Ms. Peterson's class cost model, is the foundation for her lost revenue analysis. The starting point is this revenue requirement; right?

A: I understand that, yes. . .

Q: You understand, Mr. Berg, that if these numbers don't change, the numbers in the other parts of the loss of revenue model also don't change; right? . . .

A. Well, yeah, if you don't change the numbers the numbers in her model won't change. I have to agree with that."¹⁸²

...

Q: [Y]ou've confirmed that Ms. Peterson's numbers were based on a historical revenue requirement. Yours are based on a revenue requirement from the pending rate case; right?

A: Yes.

Q: But you'd have to agree, Mr. Berg, that even if there could be cost savings in some procurement down the line, that isn't going to change the numbers either in the historical revenue requirement or the revenue requirement that you're using for this schedule, right?

A: Yeah, you can't change history.¹⁸³

¹⁸¹ Ex. Xcel Energy-208, Peterson Surrebuttal at 17:11-19.

¹⁸² Tr. Evid. Hearing at 42.

¹⁸³ Tr. Evid. Hearing at 44-45.

The fixed production investments the Company has already made are history, and cannot be changed.

Second, Slayton's capacity share is not large enough to impact the size, type, or timing of future generation additions.¹⁸⁴ As explained by Company witness Dr. Sun,

It is unlikely any bids in future resource procurement will be changed because of Slayton's 4 MW of capacity. For example, combustion turbines are typically sized based on the size of turbines available on the market. Bidders will likely select the same turbines after Slayton exits, because it is unlikely that the market will offer 4-MW-smaller turbines. And the size of wind farms proposed by third-party developers will likely be determined primarily based on the developer's preference and how many wind turbines can be sited on the land under the developer's control, not whether or not Slayton is on our system. The Company will then select from available bids, and having 4 MW lower demand from Slayton is unlikely to change how many bids are selected or how much they cost.¹⁸⁵

This means that Slayton's exit will not change the cost of the current fixed production costs, or the future fixed production costs.

(iii) MISO Markets Will Not Produce Revenue to Offset Slayton's Share of Fixed Production Costs

Slayton's second argument is that Xcel Energy should be able to sell Slayton's share of excess power plant capacity into the wholesale market to generate offsetting revenue.¹⁸⁶ This is also incorrect. Company witness Dr. Sun performed an analysis and concluded that selling Slayton's capacity into the MISO market would not reliably offset the amount that Slayton customers contribute towards fixed production costs.

¹⁸⁴ Ex. Xcel Energy-206, Peterson Rebuttal at 112:5-16.

¹⁸⁵ Ex. Xcel Energy-213, Sun Surrebuttal at 5:4-19.

¹⁸⁶ Ex. Slayton-103, Berg Direct at 27:3-19.

Slayton argues that the MISO market will produce additional revenue in two ways after Slayton's exit, but neither will offset the lost revenues.

(a) Increased Revenue from Selling Slayton's Share of Capacity Will Not Offset Increased Costs for Xcel Energy's Other Customers

First, Slayton argues that the Company will generate increased PRA revenue due to the lower obligation to serve resulting from Slayton's departure. City witness Berg calculated that the Company could receive \$217 per MW-day from the MISO capacity auction,¹⁸⁷ which would result in \$316,820 in new revenue from selling Slayton's 4 MW of capacity for an entire year.¹⁸⁸ This argument is fatally flawed because even if City witness Berg were correct, it does not offset the lost revenues related to fixed production costs, which are approximately \$700,000.¹⁸⁹ This analysis does not support the City's argument that fixed production costs should be treated as fully avoidable.

It is also flawed because it is based on a series of unreasonable assumptions. City witness Berg assumed that the MISO market prices would be \$666.50/MW-day in the summer and \$217/MW-day annually.¹⁹⁰ These prices are incorrect. As explained by Company witness Dr. Sun, "MISO made a material error in calculating the clearing price of the 2025/2026 capacity auction. . . . According to a September 3, 2025 presentation from

¹⁸⁷ The Company explained that it would be unreasonable to assume any revenue from the MISO energy markets, Ex. Xcel Energy-210, Sun Direct at 9:9-10:3, and the City did not dispute this conclusion.

¹⁸⁸ Ex. Slayton-105, Berg Rebuttal at 41:24-26.

¹⁸⁹ Ex. Xcel Energy-210, Sun Direct at 8:18-20.

¹⁹⁰ Ex. Slayton-105, Berg Rebuttal at 40:20-26, 41:24-26.

MISO, . . . the summer clearing price would have been \$459.10/MW-day, 30 percent lower than the figures City witness Berg relies on.”¹⁹¹

Further, even that corrected value is the highest MISO market price ever recorded by far.¹⁹² The summer clearing price in the 2023-2024 planning year was \$30.00/MW-day, and just \$10.00/MW-day in the 2022-2023 planning year – a fraction of the City’s assumption.¹⁹³ The City has produced no evidence to justify its assumption that the MISO market will have clearing prices that are higher than the highest price ever recorded, in every season, in every year for the entirety of the lost revenue time period. Slayton’s consultant admitted as much during the evidentiary hearing:

Q: Mr. Berg, can you give a guarantee that the MISO market clearing price will continue to be the highest that it’s ever been every year going forward?

A: No, of course I can’t give a guarantee.¹⁹⁴

The City’s analysis also assumes that Slayton’s “share” of capacity would be 4 MW in every year in the future, because that is its highest peak load historically.¹⁹⁵ During the evidentiary hearing, though, Slayton witness Berg admitted that there have been many seasons where Slayton’s usage was lower than 4 MW, and, in fact that Slayton’s usage had never had a peak of 4 MW during the winter, spring, or summer, in any year.¹⁹⁶ Slayton’s assumption is that MW can be sold every day all year is wrong.

¹⁹¹ Ex. Xcel Energy-212, Sun Surrebuttal at 14:10-18.

¹⁹² *Id.* at 14:21-15:2.

¹⁹³ *Id.* at 12:17-18.

¹⁹⁴ Tr. Evid. Hearing at 72:20-24 (Berg).

¹⁹⁵ Tr. Evid. Hearing at 73:1-4 (Berg).

¹⁹⁶ Tr. Evid. Hearing at 73:12-24 (Berg).

Instead of relying on unreasonable assumptions, the Company combined actual billing data from Slayton with actual MISO clearing prices to identify how much revenue could have been obtained in prior years. This analysis is presented in Trade Secret Schedule 2 of Company witness Dr. Sun's Surrebuttal Testimony. As explained by Dr. Sun, "[T]he amount of revenue would not have offset [the lost revenues] in any year. In most years, the amount of revenue would have been only a few thousand dollars, and it would have resulted in significant revenue only a few times."¹⁹⁷ Dr. Sun also explained that there is no way to predict what the MISO auction clearing price will be in any future year, which means there is no reliable or accurate basis to assume the amount of revenues that could be received in any given year in the future.¹⁹⁸

Further, all of this analysis assumes that Slayton's of capacity clears the market – and there is no basis on this record to support that assumption. As explained by Company witness Dr. Sun, bids offered higher than the clearing price of the MISO auction do not clear, are not selected, and the Company does not receive revenue for these uncleared resources.¹⁹⁹ The Company produced evidence showing that Xcel Energy's capacity resources bid into the MISO auction do not always clear.²⁰⁰ That means that marginal

¹⁹⁷ Ex. Xcel Energy-212, Sun Surrebuttal at 13:12-14:1; Ex. Xcel Energy-213, Sun Trade Secret Surrebuttal at 13:12-14:1, Schedule 2.

¹⁹⁸ Ex. Xcel Energy-212, Sun Surrebuttal at 15:9-12.

¹⁹⁹ *Id.* at 11:15-23.

²⁰⁰ Ex. Xcel Energy-211, Sun Trade Secret Direct, Schedule 1.

capacity, which is what Slayton's 4 MW would represent, has no guarantee of generating any revenue at all, because it may not clear the auction.

The Company has produced substantial evidence demonstrating that it is highly unlikely that increased auction revenues would offset the lost fixed production revenue.

**(b) Increased Auction Revenues Will Not Offset
Increased Costs for Xcel Energy's Other
Customers**

Slayton also argues that the Company could generate new revenue by re-allocating Slayton's current share of net auction revenue to its other customers.²⁰¹ In other words, Slayton argues that other customers will receive credit for slightly more revenue from MISO auctions after Slayton leaves. Company witness Dr. Sun performed an analysis to evaluate whether this revenue could offset the lost fixed production revenues from Slayton. The potential historical revenue is displayed in the column Share of Net Revenue in Schedule 1 to Dr. Sun's Trade Secret Direct Testimony, and it is far less than the approximately \$700,000 in fixed production costs in every year. Dr. Sun concluded that, "These estimated net capacity auction revenues are negligible and do not appropriately compensate the Company for the lost retail sales revenues allocated to recovering fixed production costs".²⁰² The City's suggestion is not supported by the evidence or analysis in the record.

²⁰¹ Ex. Slayton-105, Berg Direct at 41.

²⁰² Ex. Xcel Energy-210, Sun Direct at 10:22-25.

Dr. Sun also evaluated whether it would be possible for this revenue to offset fixed production costs if capacity auction prices increased dramatically in the future. The maximum possible price for the MISO capacity auction is four times the Cost of New Entry (CONE), which would be \$1,399.67/MW-day in the 2025-2026 planning year, assuming the price cap is reached in every single season of the year.²⁰³ Dr. Sun's analysis demonstrated that in order for these MISO auction revenues to offset fixed production costs, the auction clearing prices would need to be 1000 percent higher than the maximum legal price.²⁰⁴

Based on this evidence and analysis, the MISO wholesale market will not offset the fixed production costs. In comparison, the City's arguments are based on unfounded assumptions and calculations using implausible, incorrect figures. The record demonstrates that fixed production costs are not avoidable, and they should be included in the lost revenue calculation.

d. Variable Production Costs

Variable production costs include fuel, purchased power, sales and economic development, administrative and general expenses, conservation improvement program expenses, amortizations, payroll taxes, non-plant related deferred income taxes, and other expenses.²⁰⁵ Variable production costs make up around 45 percent of the total revenues.²⁰⁶

²⁰³ Ex. Xcel Energy-210, Sun Direct at 12:15-22.

²⁰⁴ *Id.*

²⁰⁵ Ex. Xcel Energy-204, Peterson Direct at 21:11-18.

²⁰⁶ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 6.

Fuel costs will be avoided. The Company will burn slightly less fuel to produce electricity after Slayton exits the system, and so the Company has treated the fuel costs as avoidable.²⁰⁷ Fuel makes up approximately 36.4 percent of variable production costs, so 36.4 percent of those costs are treated as avoidable.²⁰⁸

Slayton argued that three additional cost items should be treated as avoidable: Conservation Improvement Program (CIP) expense, purchased power costs, and costs that the City referred to as “energy allocator” costs.²⁰⁹ After reviewing the City’s testimony, the Company re-evaluated each of these cost items and concluded that a portion of CIP expense would be avoidable. As explained by Company witness Peterson, the CIP program includes rebates to encourage customers to conserve energy.²¹⁰ The Company determined that it had provided an average of \$18,700 annually in CIP rebates to customers in Slayton from 2016 to 2025.²¹¹ If Slayton exits the system, those rebates would no longer be paid, so the Company determined they should be treated as avoidable. The Company concluded that Slayton’s exit from the system would not otherwise alter CIP program design, so the remaining CIP costs are not avoidable.²¹²

Slayton’s other arguments are wrong. Purchased power costs refer to the costs of contracts by which Xcel Energy buys energy and capacity from independent power

²⁰⁷ Ex. Xcel Energy-204, Peterson Direct at 21:11-18.

²⁰⁸ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 6.

²⁰⁹ Ex. Slayton-105, Berg Rebuttal at 11:25-13:7.

²¹⁰ Ex. Xcel Energy-208, Peterson Surrebuttal at 21:1-8.

²¹¹ *Id.* at 21:12-22:2.

²¹² *Id.*

generators, referred to as Power Purchase Agreements (PPAs).²¹³ PPAs are legal contracts. In general, the Company is required to purchase, and pay for, capacity from PPAs in every season, for the duration of the PPA contract.²¹⁴ Similarly, the Company is required to purchase energy produced by the generator for the duration of the PPA contract.²¹⁵ MISO, not the Company, determines when the generators run.²¹⁶

Despite its arguments, Slayton has not identified any basis that would permit Xcel Energy to breach its PPA contracts. In fact, City witness Berg admitted during the evidentiary hearing that he was aware that Xcel Energy would not get the right to break its PPA contracts because Slayton leaves the system.²¹⁷ City witness Berg provided unexplained testimony suggesting that the Company could somehow purchase less power than required by the PPA contracts after Slayton exist the system, but admitted at the same time that he had not reviewed the contracts and was not familiar with their terms.²¹⁸ Department witness Ngo also testified during the hearing that Xcel Energy's PPAs are legally binding contracts.²¹⁹

Slayton has not identified any legal basis by which the Company could be excused from its contractual obligations. Because Xcel Energy is obligated to pay for the costs

²¹³ Ex. Xcel Energy-208, Peterson Surrebuttal at 19:22-20:24.

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ Tr. Evid. Hearing at 45:7-46:6 (Berg).

²¹⁸ Tr. Evid. Hearing at 76:9-80:6 (Berg).

²¹⁹ Tr. Evid. Hearing at 200:7-18 (Ngo).

under its PPAs, and cannot change the PPAs because Slayton is leaving, costs related to PPAs are not avoidable.

Further, the City's argument for "energy allocator" costs is unsupported. At the outset, the City has not even identified what specific costs it thinks would be reduced, how that would be accomplished, or how much money would be saved. Instead, the City presents a blanket argument that costs allocated using the E8760 allocator in the CCOSS should be treated as avoidable.²²⁰

Costs in a CCOSS are allocated using an energy allocator when they vary based on the amount of energy consumed, and City witness Berg argues that these costs are avoidable based only on this allocation.²²¹ The Commission has explicitly rejected this argument in the past when deciding cases under Minn. Stat. § 216B.44:

Allocating costs among classes of customers who are actually on a utility's system, contributing to the system's fixed costs through their monthly bills, is fundamentally different from determining what costs a utility will avoid – that is, will stop incurring – if it loses particular customers.²²²

In one case the Commission explained that "the issue is not how the [utility] allocates and reflects [costs] in its rate schedule, but how the loss of actual customers to the City will

²²⁰ Ex. Slayton-105, Berg Rebuttal at 12:26-13:7.

²²¹ *Id.*

²²² *In the Matter of the Application of the Grand Rapids Public Utilities Commission to Extend its Assigned Service Area into the Area Presently Served by Lake Country Power*, Docket No. E243, 106/SA-03-896, ORDER DETERMINING COMPENSATION at 15 (Sept. 29, 2005), affirmed 731 N.W.2d 866 (Minn. Ct. App. 2007); *In the Matter of the Application of the City of Redwood Falls to Extend its Assigned Service Area into the Area Presently Served by Redwood Electric Cooperative*, Docket No. E135, 298/SA-05-1274, ORDER DETERMINING COMPENSATION at 13 (June 27, 2007).

actually affect its [costs].”²²³ In other words, for purposes of calculating lost revenue it does not matter how costs are allocated in the CCOSS, and the analysis should focus on whether costs will actually be reduced. City witness Berg should be very familiar with these decisions – it was his recommendations that the Commission rejected²²⁴ – but he selectively ignores them. Ultimately, the Commission has clearly rejected this argument and made clear that costs will not be treated as avoidable on the basis of allocators alone. The City has identified no other basis to treat these costs as avoidable and its argument must be rejected.

The City has failed to demonstrate by a preponderance of the evidence that variable production costs, other than those related to fuel and CIP rebates, are avoidable. The record demonstrates that those costs are not avoidable, and they should be included in just compensation.

e. Distribution Costs

Distribution costs include the costs of distribution lines, poles, substations, related equipment, and the cost to maintain them.²²⁵ Distribution costs make up around 9 percent

²²³ *In the Matter of the Application of the City of Redwood Falls to Extend its Assigned Service Area into the Area Presently Served by Redwood Electric Cooperative*, Docket No. E135, 298/SA-05-1274, ORDER DETERMINING COMPENSATION at 12 (June 27, 2007).

²²⁴ *Id.* (rejecting the Administrative Law Judge’s recommendation to adopt the City’s composite purchased power figure recommended by City witness David Berg) (referencing Docket No. E135, 298/SA-05-1274, FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDED ORDER at 16-17 (Jan. 5, 2007) and Direct Testimony of David Berg on behalf of the City of Redwood Falls (Aug. 09, 2006)).

²²⁵ Ex. Xcel Energy-204, Peterson Direct at 23:3-8.

of the total revenues.²²⁶ A portion of the distribution cost is avoidable because the distribution system will be slightly smaller after Slayton exits the system. Company witness Peterson removed the costs of the distribution system which Slayton will purchase, and the Slayton West substation (SLW), discussed below, from overall Distribution Plant (separate from depreciation).²²⁷ These costs are treated as avoidable.

Slayton argues that the entire distribution system should be treated as avoidable, but there is no logical or evidentiary basis for this claim. According to the City's consultants, the entire cost of the distribution system can be avoided because Slayton is purchasing the distribution system in Slayton.²²⁸ This argument is misplaced and demonstrates a fundamental misunderstanding of how utility ratemaking works.

The revenues currently paid by customers in Slayton are not directly related to the distribution system in Slayton. They represent Slayton's share of the shared cost of the statewide distribution system. This includes distribution poles, lines, and substations in every community the Company serves from Slayton to St. Paul and beyond. The costs of these investments and the expense to maintain them make up the distribution revenue requirement. All customers pay a share of these costs, including the customers in Slayton.²²⁹ The Commission acknowledged this in the *City of Redwood Falls* case:

²²⁶ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 6.

²²⁷ *Id.* at 23; *see also* Ex. Xcel Energy-206, Peterson Rebuttal at 28-29.

²²⁸ Ex. Slayton-105, Berg Rebuttal at 16:8-17:2.

²²⁹ Ex. Xcel Energy-206, Peterson Rebuttal at 28:13-20.

Rates are set to recover costs, but neither individual rates nor individual rate components are set to recover each customer's precise cost of service. Rather, they are set to recover the utility's total, system-wide cost of service on a fair and equitable basis.²³⁰

The City also acknowledges that this is true, even though it fails to implement this concept in its analysis, as its witness Mitchell testified that “[a] customer in Minneapolis would pay a portion of the cost of lines serving Slayton and a customer in Slayton would pay a portion of the cost of lines serving Minneapolis.”²³¹

If buying the distribution system meant that no distribution lost revenues could be recovered, then the lost revenue factor would have no purpose or application for a distribution-only utility such as a cooperative.²³² But the Commission has approved lost revenues for several distribution-only cooperatives in the past.²³³ In fact, the Commission has explicitly determined that the first just compensation factor, the value of property, is distinct from the lost revenue factor. In the *City of Olivia* case, one party argued that the lost revenue factor was duplicative of the value of property factor. The Commission rejected that argument and explained:

²³⁰ Ex. Xcel Energy-206, Peterson Rebuttal at 28:13-20; *see also In the Matter of the Application of the City of Redwood Falls to Extend its Assigned Service Area into the Area Presently Served by Redwood Electric Cooperative*, Docket No. E135, 298/SA-05-1274, ORDER DETERMINING COMPENSATION at 12 (June 27, 2007).

²³¹ Ex. Slayton-116, Mitchell Rebuttal at 10:14-16.

²³² *See* Minn. Stat. § 645.17(2) (providing that “the legislature intends the entire statute to be effective and certain”).

²³³ Ex. Xcel Energy-206, Peterson Rebuttal at 3-4, Table 1.

[T]he argument that the loss of revenue factor duplicates original cost, less depreciation, does not recognize the severance damage to the utility. . . . That impact is clear and substantial. The Commission concludes that the loss of revenue factor is geared precisely for consideration of that effect. If the Legislature would have meant to provide compensation for physical facilities only, it would not have included the loss of revenue factor. Instead, four factors are laid out, each of which must be given consideration of its own, under any fair reading of the language.²³⁴

The City's argument that there are no distribution lost revenues because the City is buying the distribution system is the same type of argument the Commission rejected in the *City of Olivia* case.

If Slayton leaves the system, the cost of the Company's distribution system will be largely the same, except that customers in Slayton will no longer contribute towards it. The only material change is that the distribution system will be slightly smaller because the poles and lines in Slayton will no longer be part of the system. The Company has accounted for that change in its methodology by removing the costs for the Slayton distribution system.²³⁵ Other than that, there will be no reduction in the cost of the distribution system, and the primary change is that the revenues Slayton is currently paying towards the shared cost will be lost.

Slayton has not identified any other cost reductions or new revenues streams related to distribution costs, and has failed to meet its burden of proof. The record demonstrates

²³⁴ *In the Matter of the Application of the City of Olivia to Extend its Municipal Electric Service Area into an Area Served by Renville-Sibley Cooperative Power Association*, Docket No. E-288, 136/SA-85-93, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER SETTING COMPENSATION FOR SERVICE EXTENSION at 10 (June 27, 1986).

²³⁵ Ex. Xcel Energy-204, Peterson Direct at 23:19-24.

that distribution costs should be included in just compensation as recommended by the Company.

f. Customer Costs

Customer costs include costs related to service drops, meters, meter reading, customer service, back-office support, and portions of distribution lines and conductors.²³⁶ Customer costs represent around 10 percent of revenue requirements.²³⁷

Similar to the distribution costs discussed above, the Company determined that customer costs related to meters and service drops would be avoided.²³⁸ These costs represent 27.1 percent of the customer costs, which are treated as avoided.²³⁹

The other costs are not avoidable. The additional distribution costs in this category are not avoidable for the same reasons that the other distribution costs are not avoidable.²⁴⁰ For the administrative costs, the Company does not expect to reduce budgets for customer service or back-office support. The Company does not expect to lay off any employees, reduce its software costs, or reduce the level of service it provides to customers. Company witness Peterson explained that the Company would continue to incur the same amount of costs, and they would not be reduced because of Slayton's exit.²⁴¹

²³⁶ Ex. Xcel Energy-204, Peterson Direct at 22:9-11.

²³⁷ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 6.

²³⁸ Ex. Xcel Energy-204, Peterson Direct at 22:14-16.

²³⁹ *Id.* at 22:20-27.

²⁴⁰ There are distribution costs in the customer cost category because in the Class Cost of Service Study, distribution costs are separated into a customer component and a demand component. Together, they make up the total distribution system costs.

²⁴¹ Ex. Xcel Energy-204, Peterson Direct at 22:20-27.

Slayton argues that customer costs should be treated as fully avoidable because “it can easily adjust its operations to adjust customer systems for the loss of Slayton customers.”²⁴² But Slayton has failed entirely to identify any adjustments it thinks the Company should make, or what costs would be reduced if the Company did so.²⁴³ The City’s argument is not supported by any evidence, and should be rejected.

The Company carefully evaluated customer costs and identified the costs that can be avoided. For the remaining costs, they must be treated as unavoidable and included in the lost revenue calculation.

5. Slayton’s Adjustments are Unreasonable

Slayton suggests the possibility for two additional adjustments related to the lost revenue calculation. They should not be included for two reasons. First, even though Slayton provided extensive testimony about these adjustments, Slayton confirmed that they were not incorporated into its recommendation.²⁴⁴ For that reason alone, these adjustments should not be considered.

They should also be excluded because they are wrong.

²⁴² Ex. Slayton-105, Berg Rebuttal at 18:3-4.

²⁴³ Tr. Evid. Hearing at 65 (Berg).

²⁴⁴ Tr. Evid. Hearing at 62 (Berg) (“A: But I think it’s also fair to point out that neither the density issue nor the employee issue actually are utilized in my recommendation on loss of revenue.”).

a. Adjustment for a Dedicated Employee

Slayton's first calculation is that there should be a downward adjustment to lost revenues because Slayton believes that there is an employee "dedicated" to dealing with issues in Slayton, who will no longer be needed after Slayton exits the system.²⁴⁵ Slayton is simply wrong. As explained by Company witness Krug, the Company does not have an employee "dedicated" to Slayton.²⁴⁶ The employee the City is referring to is the District Representative that is responsible for approximately 708 square miles of Xcel Energy's service territory, including Slayton and other nearby communities.²⁴⁷ The District Representative is not assigned to Slayton, but coincidentally happens to live there.²⁴⁸ Company witness Krug confirmed that if Slayton exits the system, this position would still be needed, and that if this employee retires, the Company would intend to re-hire for that position.²⁴⁹ In short, there is no basis for any adjustment because there will be no reduction in costs related to this employee.

Company witness Krug also noted that Slayton's calculation was inexplicably high. Slayton recommended that the entire lost revenue amount should be 4.2 mills per year, but that the loss of a single employee could cause a downward adjustment of 5.6 mills per year. As noted by Company witness Krug, "The argument that the potential cost savings of a single employee could be greater than the lost revenues of an entire community is not

²⁴⁵ Ex. Slayton-103, Berg Direct at 35:3-19.

²⁴⁶ Ex. Xcel Energy-203, Krug Rebuttal at 3:7-19.

²⁴⁷ *Id.* at 3:22-4:13.

²⁴⁸ *Id.*

²⁴⁹ *Id.*

reasonable.”²⁵⁰ The implausible outcome of the City’s analysis further demonstrates that its overall recommendations on lost revenue are unreasonable.

b. Adjustment for Load Density

Slayton’s second calculation is a downward adjustment because the City believes that Slayton costs less to serve than some other areas of the Company’s service territory. The City’s analysis is riddled with errors. First, the City relies extensively on the idea that “[t]he expense of owning and operating a distribution system is generally measured on a dollars per mile of line basis.”²⁵¹ But the Company, with responsibility for managing hundreds of miles of distribution system, does not use that type of analysis for any of its decision-making.²⁵² Even if this type of analysis had some value, it would be extremely limited because it focuses only on distribution lines. Distribution service requires the use of transformers, poles, substations, and many other costs. The City did not include any of those costs in its load density analysis.²⁵³

Second, even if City witness Berg had done the analysis correctly, measuring load density in sales per mile of line does not actually provide any useful information about how much it costs to provide service in Slayton. The amount of kWh consumed by people in Slayton does not have anything to do with how much it costs to provide that service, it is related only to how much energy people happen to use. The City’s analysis is based entirely

²⁵⁰ Ex. Xcel Energy-203, Krug Rebuttal at 2:14-16.

²⁵¹ Ex. Slayton-103, Berg Direct at 34:2-3.

²⁵² Ex. Xcel Energy-206, Peterson Rebuttal at 33:1-14.

²⁵³ Tr. Evid. Hearing at 58-59 (Berg).

on the assumption that there is a direct relationship between the amount of sales in Slayton and the cost of providing service, but there is no evidence in the record to support that assumption. During the evidentiary hearing, City witness Berg admitted that he did not have any citations to support his assumption that sales per mile of line were directly related to the cost of providing service in Slayton.²⁵⁴ In order to analyze whether Slayton costs more or less to serve than the rest of the system, it would be necessary to use actual cost data, but City witness Berg also admitted that his analysis was not based on any actual data.²⁵⁵

Third, City witness Berg's analysis of load density contains many calculation errors. For example, City witness Berg compares the miles of distribution line in Slayton to what he believes are the miles of distribution line in the Company's total service territory, but his data set uses different units. For Slayton, Berg's data for Slayton includes the length of primary distribution lines.²⁵⁶ For the total service territory, Berg's analysis used information from the Company's response to Slayton Information Request No. 19, which states "There are 13,000 circuit miles of overhead conductor and 10,500 miles of underground cable."²⁵⁷ The units are different in two ways. The response to IR 19 includes both primary and secondary distribution line, while the City's analysis for Slayton includes

²⁵⁴ Tr. Evid. Hearing at 50-52 (Berg).

²⁵⁵ Tr. Evid. Hearing at 49:19-59:10 (Berg).

²⁵⁶ Ex. Slayton-103, Berg Direct at 34:9-17.

²⁵⁷ Ex. Slayton-103, Berg Direct. The City did not label the attachments to the Berg testimony, but Information Request No. 19 can be found on PDF page 151.

only primary distribution line. In addition, the response to IR 19 refers to circuit miles, while the City's analysis uses miles of conductor. For a three phase line, 1 circuit mile would be 3 miles of conductor, because there are three lines on the circuit. These comparisons are apples-to-orange-to-potatoes, and, as such, the comparison is entirely invalid.

City witness Berg also failed to recognize that there are different types of distribution line, and did not evaluate which types of lines are used in Slayton compared to the rest of the system. During the evidentiary hearing, City witness Berg admitted that there are different types of distribution line; that some cost more while others cost less; and that he had not analyzed the cost of the lines in Slayton compared to the rest of the system.²⁵⁸ City witness Berg also admitted the cost to construct distribution lines would be different in different areas; that lines constructed along county highways or rural areas might cost less; and that his analysis did not compare the cost to construct the lines in Slayton to the cost in the rest of the system.²⁵⁹

The City's analysis related to load density is irreparably flawed and should be ignored.

6. Adjustments for Method of Lost Revenue Compensation

As explained in more detail below, just compensation (including lost revenues) should be paid as a lump sum. If a lump sum is used, there will be timing differences

²⁵⁸ Tr. Evid. Hearing at 57-58 (Berg).

²⁵⁹ Tr. Evid. Hearing at 58 (Berg).

between the time that revenue would have been received and when it is paid and the lost revenue amount should be adjusted using a discount rate.²⁶⁰ The discount rate is used to reflect that future dollars do not have the same value as current dollars, and the discount rate is used to equalize dollars from different time periods. If a lump sum payment is made, as recommended by the Company, a discount rate of 6.51 percent should be applied equal to the weighted average cost of capital approved in the Company's last rate case.²⁶¹ In its written testimony, the City did not raise any concerns about the discount rate proposed by the Company.

7. Conclusion on Lost Revenue

As the first Commission proceeding to calculate lost revenue for a community the size of Slayton, the Company approached this process with an open mind. The Company carefully evaluated every part of the lost revenue methodology to ensure it was supported by reasonable analysis, assumptions supported by evidence, and reliable data. The Company took Slayton's recommendations seriously, and considered whether they should be adopted. In a few places, the Company agreed with Slayton and adopted their recommendations. In particular, changing its position on transmission costs reduced the lump sum lost revenue payment by more than \$6 million, demonstrating the Company's commitment to careful analysis.²⁶²

²⁶⁰ Ex. Xcel Energy-204, Peterson Direct at 27:12-28:16.

²⁶¹ *Id.*

²⁶² *Compare* Ex. Xcel Energy-204, Peterson Direct, Schedule 3 at 1 *with* Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 1.

But the rest of Slayton's arguments are not supported by evidence. The City's argument that the Company will be able to avoid 97.8 percent of the lost revenues does not pass the smell test. Instead of rigorous analysis, the City relies on conclusory statements and vague hopes that the Company would be able to find some way to save costs after Slayton leaves. That analysis does not meet the City's burden to prove by a preponderance of the evidence that its recommendation is reasonable, and it should be rejected.

In contrast, the Company has provided a clearly explained, transparent lost revenue model supported by the testimony of experienced, qualified experts. That model demonstrates that around 70% of revenues are not avoidable and must be included in the lost revenue calculation, which results in lost revenues of approximately \$2 million in the first year – an amount that both intuitively makes sense considering Slayton customers pay approximately \$3 million in revenue per year, and which is supported by substantial evidence on the record. Over the 20 year time period and accounting for growth in customers, customer usage, and rates, that results in a total lost revenue amount of approximately \$64.4 million.²⁶³ Converted to a lump sum payment, as is consistent with Minnesota law, the lost revenues amount is \$34.7 million.²⁶⁴ The Administrative Law Judge and the Commission should establish lost revenues based on this methodology as recommended by the Company.

²⁶³ Ex. Xcel Energy-208, Peterson Surrebuttal, Schedule 1 at 1.

²⁶⁴ *Id.*

C. Integration Expenses

The third factor to be considered in determining just compensation is “expenses resulting from integration of facilities”.²⁶⁵ The Company identified several types of integration expenses, including (1) meter integration expenses; (2) continued service integration expenses; (3) customer distributed energy resource integration expenses; (4) engineering study and system upgrade integration expenses; and (5) integration expenses related to interconnection.

The Department agreed that integration expenses should be included when they are supported by record evidence. In particular, Department witness Ngo testified that, “In this proceeding, Xcel should be compensated for incremental, Slayton-specific integration expenses, such as removal or relocation of equipment, necessary for system reconfiguration, and related engineering – provided these costs are clearly caused by the transfer, reasonably estimated, and not double-counted in net plant or loss-of-revenue calculations.”²⁶⁶ The Company agrees, and has produced substantial evidence to demonstrate that the identified integration costs should be included in just compensation.

1. Meter Integration Expenses

Every customer in Slayton has an electricity meter installed at their premises. It is the Company’s understanding that Slayton does not intend to purchase the Company’s

²⁶⁵ Minn. Stat. § 216B.45.

²⁶⁶ Ex. DOC-302, Ngo Rebuttal at 12:7-11.

meters.²⁶⁷ That means the Company will need to uninstall the meters. Many customers in Slayton also have Company-owned equipment installed on their air conditioners as part of the Saver's Switch program. Through this program, the customer agrees to allow the Company to cycle their air conditioner at certain times and in return the customer receives a rate discount.²⁶⁸ The Company has identified 494 customers in Slayton that have a Saver's Switch installed, and this equipment will also need to be removed if Slayton exits the system.²⁶⁹ Removing meters and Saver's Switches will cost money. These costs are integration expenses that must be included in just compensation.

When an electric meter is removed, customers cannot receive electricity. To avoid outages for customers, it will be necessary to (1) uninstall the Company's meter, and (2) immediately install a Slayton meter, for every meter in city limits.²⁷⁰ It will require close coordination with the City to complete this work for every meter in town without extensive impacts on customers.

The Company cannot accurately guess the cost of this work because the Company has never completed a project like this before.²⁷¹ The Company will likely issue a Request for Pricing for this project. Based on current rates for contractors, the number of meters, and reasonable assumptions about how long it will take to reservice a meter, the Company's

²⁶⁷ Ex. Xcel Energy-204, Peterson Direct at 32:15-17, Schedule 4.

²⁶⁸ Ex. Xcel Energy-208, Peterson Surrebuttal at 33:4-9.

²⁶⁹ *Id.*

²⁷⁰ Ex. Xcel Energy-204, Peterson Direct at 32:20-33:2.

²⁷¹ *Id.* at 33:10-24.

best estimate is that it may cost \$140,000 to complete the required work.²⁷² The Company does not propose to include this estimate in the just compensation amount because it is so preliminary. Instead, the Company proposes that Slayton should pay just compensation based on the actual costs for removing the meters once those costs are known. The Company also committed to work collaboratively with Slayton to complete the work at the lowest reasonable cost.

The City argues that the integration expense should be reduced to “reflect the value of these meters to Xcel.”²⁷³ The full extent of the City’s analysis is a single sentence concluding that the Company will be able to use the meters at other locations in its system.²⁷⁴ The City’s analysis is incorrect. The City is required by law to pay for “expenses resulting from integration of facilities.”²⁷⁵ The Company will incur expenses to remove meters and Saver’s Switches because of — and only because of — Slayton’s decision to exit the system.²⁷⁶ The fact that the Company will continue to own the meters will have no impact on the expense required to uninstall them.

²⁷² Ex. Xcel Energy-204, Peterson Direct at 33:10-34:3. Reservicing is the process to prepare a used meter to be used again.

²⁷³ Ex. Slayton-105, Berg Rebuttal at 30:7-8.

²⁷⁴ *Id.* at 30:8-9.

²⁷⁵ Minn. Stat. § 216B.45.

²⁷⁶ The Company will have to uninstall the meters because Slayton does not want to purchase them, not because the Company wants the meters or has any specific use for them. Ex. Xcel Energy-208, Peterson Surrebuttal at 32:19-24.

Further, the fact that the Company will continue to own the meters is not relevant to just compensation. The Company already owns the meters.²⁷⁷ They are already included in the Company's rate base, and the amount of meter-related rate base will not change after Slayton leaves the system.²⁷⁸ As explained by Company witness Peterson, if the City would prefer to purchase the meters then this integration expense could be largely avoided.²⁷⁹

For these reasons, the Company proposes to track integration expenses related to uninstalling meters and Saver's Switches, and to include the actual costs in just compensation.

2. Continued Service Integration Expenses

Pursuant to Minn. Stat. § 216B.45, municipalities are permitted to purchase utility equipment located "in the municipality." While the vast majority of customers in the Slayton area are located inside City limits, there are some customers outside of the City. The customers located outside the City will continue to be customers of Xcel Energy.²⁸⁰ Based on its preliminary analysis, the Company believes that it will need to modify some facilities to ensure that it can continue to provide service to these customers after Slayton leaves.²⁸¹ These preliminary estimates indicate that the cost will be approximately

²⁷⁷ Ex. Xcel Energy-208, Peterson Surrebuttal at 32:19-20.

²⁷⁸ *Id.* at 32:20-21.

²⁷⁹ *Id.* at 32:23-24. The Company may still need to incur some costs to remove Saver's Switches.

²⁸⁰ Ex. Xcel Energy-204, Peterson Direct at 34:7-11.

²⁸¹ *Id.* at 34:14-35:6.

\$15,000.²⁸² Final estimates will not be known until the Company completes detailed engineering work. For that reason, the Company proposes that any expenses required to continue to provide service to Xcel Energy customers should be included in the just compensation amount, with final amounts to be determined at the time of the transfer.²⁸³ The City's witness testified that this amount "does not appear unreasonable," and this issue appears to be resolved.²⁸⁴

3. Customer Distributed Energy Resources Integration Expenses

The Company also identified the possibility for integration expenses related to customers participating in distributed energy resource (DER) programs. The Company operates several DER programs, including the Solar*Rewards program for rooftop solar, and Solar*Rewards Community for community solar gardens (CSGs). These programs are only available to customers of Xcel Energy, which means that any customers in Slayton will lose access to these programs if Slayton exits the system.²⁸⁵

This could create problems for a significant number of customers. Based on existing records, 221 of the 1,235 customer accounts in Slayton are CSG subscribers.²⁸⁶ Typically, these customers have executed contracts with a CSG developer.²⁸⁷ They provide payments to the CSG developer; the CSG produces energy which Xcel Energy purchases; and

²⁸² Ex. Xcel Energy-204, Peterson Direct at 34:14-35:6.

²⁸³ *Id.*

²⁸⁴ Ex. Slayton-105, Berg Rebuttal at 30:12-13.

²⁸⁵ Ex. Xcel Energy-204, Peterson Direct at 36:5-38:25.

²⁸⁶ *Id.* at 36:5-9.

²⁸⁷ *Id.* at 36:13-17.

customers receive bill credits.²⁸⁸ If Slayton exits the system, they will still have a contract, and possibly contractual payments, with the CSG developer but will no longer receive bill credits from the Company. The Company anticipates that it may need to perform outreach and provide assistance and education to customers who will lose the benefit of the CSG bill credits.²⁸⁹ It is also possible that the transition could result in disputes between customers, CSG developers, and the Company. Outreach and dispute resolution could result in costs for the Company, which would be incurred only as a result of Slayton's decision to exit the system.

Other customers in Slayton have invested in rooftop solar DER. Some of these customers likely relied on incentives from Xcel Energy programs in deciding to make their investment, but will no longer be able to receive the incentives.²⁹⁰ Outreach and education efforts may be needed to assist these customers.

Similarly, previous versions of the Solar*Rewards program provided an up-front payment to customers in return for the rights to Renewable Energy Credits (RECs) for 20 years.²⁹¹ If participants in this program are no longer customers of Xcel Energy, it is unclear that the Company can continue to receive these RECs.²⁹² Slayton's exit from the system would deprive the Company of the financial benefit of these RECs.

²⁸⁸ Ex. Xcel Energy-204, Peterson Direct at 36:13-17.

²⁸⁹ *Id.* at 37:6-19.

²⁹⁰ *Id.* at 39:3-8.

²⁹¹ *Id.* at 39:10-16.

²⁹² *Id.*

The Department argues that these expenses, if they arise, should not be included in just compensation for several reasons. First, the Department argues that it will be self-evident to CSG subscribers that they are not eligible for bill credits.²⁹³ Second, the Department argues that it is the responsibility of CSG developers, and not Xcel or the Department, for dealing with problems related to subscribers.²⁹⁴ Finally, the Department argues that the Company can include a line about CSG eligibility in its communications to customers at marginal cost.²⁹⁵

Respectfully, the Company disagrees. If customers do not have problems, or it is very low cost to deal with them, as Department witness Teigland suspects, then the integration expenses for helping them will be low. If, however, the Company needs to expend meaningful effort in assisting affected customers, the expenses will be real and should be included in just compensation. Further, until the transfer is completed, the CSG subscribers living in Slayton are Xcel Energy customers. While it might be more convenient to tell affected customers that it is not the Company's responsibility to help them, that is not consistent with how the Company interacts with its customers.

For that reason, the Company requests authorization to track integration expenses related to customers that lose DER benefits, including costs of outreach, education, assistance, the value of lost RECs, and the cost of resolving any disputes, and that the resulting expenses be included in just compensation.

²⁹³ Ex. DOC-301, Teigland Surrebuttal at 6:2-13.

²⁹⁴ *Id.*

²⁹⁵ *Id.*

4. Engineering Studies and System Upgrade Integration Expenses

If Slayton exits the system, the Company will need to perform engineering studies to ensure that it can continue to provide safe and reliable service to other customers.²⁹⁶ These studies may identify upgrades that are necessary to provide safe and reliable service. Both the cost for the studies and any necessary upgrades caused by Slayton's exit are integration expenses and must be included in just compensation.

Electrical systems are balanced based on electricity load and electricity production.²⁹⁷ One of the places that balance is important is in distribution substations. Currently, customers in Slayton receive service from the SLW substation. SLW is currently balanced based on the consumption of customers in the area and DER production interconnected to the substation. The DER production includes some rooftop solar, but is primarily related to CSGs. At SLW, there are currently two CSGs with permission to operate, with a combined capacity of 2 MW; one CSG in design and construction with a capacity of 0.5 MW; one CSG in the facilities study phase with a capacity of 0.9 MW; and three CSGs on hold (waiting for the sequential engineering studies to be completed) with

²⁹⁶ The Company's analysis regarding the need for engineering studies and possible upgrades was originally combined with its analysis regarding DER impacts on customers. While the Company's analysis on DER issues originally led the Company to considering the need for engineering studies, the issues are separate and are treated separately in this Initial Brief to provide clarity on the Company's recommendations.

²⁹⁷ Ex. Xcel Energy-204, Peterson Direct at 38:2-3.

a combined capacity of approximately 14 MW.²⁹⁸ 98.8 percent of the load served by SLW is from customers inside City limits.²⁹⁹

If Slayton exits the system, 98.8 percent of the load will no longer connect to SLW, and the SLW substation will have far more electricity production than load. This is likely to trigger several types of engineering studies for several reasons. First, the Midcontinent Independent System Operator (MISO) is the Regional Transmission Operator (RTO) that operates the transmission grid in the region, and it has control over Xcel Energy's transmission system. MISO's tariffs and policies provide that when a substation has DER generation that is 1 MW greater than the substation load, an Affected System Study (AFS) is required.³⁰⁰ If Slayton exits the system, the amount of generation at SLW will exceed the load by far more than 1 MW.

Even if an AFS is not triggered, Xcel Energy has its own internal transmission study (ITS). It is almost certain that Slayton's exit would trigger either a MISO AFS or an Xcel Energy ITS.³⁰¹ It is likely that a distribution engineering study will also be required. When needed, Xcel Energy conducts distribution engineering studies to evaluate the risks of

²⁹⁸ Ex. DOC-302, Teigland Surrebuttal at 8, Schedule PT-S-1.

²⁹⁹ Ex. Xcel Energy-204, Peterson Direct at 43:14-21.

³⁰⁰ Ex. Xcel Energy-208, Peterson Surrebuttal at 35, n. 66; *see also* MISO, Generation Interconnection Business Practices Manual at 126 (defining DER Net Injection) and at 131-32 (requiring Transmission Owners (like Xcel Energy) to screen for DER Net Injection exceeding 1 MW for inclusion in the Affected System Study), *available at* <https://www.misoenergy.org/legal/rules-manuals-and-agreements/business-practice-manuals/>.

³⁰¹ Ex. Xcel Energy-208, Peterson Surrebuttal at 35:7-11.

imbalance, power quality, reliability, and equipment overloads.³⁰² The possibility that engineering studies may be needed should not be a surprise. As explained by Company witness Peterson, it is “obvious that disconnecting an entire city from our system would require engineering studies to make sure the disconnection does not cause any problems on the electrical grid.”³⁰³ Running an electrical grid is more complicated than unplugging a lamp, and the Company takes its obligation to provide safe and reliable service seriously.

If engineering studies are needed, they will be caused by Slayton’s decision to exit the system, and the cost of the studies must be included as an integration expense in just compensation. Further, if the studies identify that any system upgrades are needed to maintain transmission and distribution reliability, stability, power quality, or safety, those costs would also be caused by Slayton’s decision to exit the system and need to be included in just compensation. It is not possible to estimate the cost of the engineering studies or what their results would be. As with other integration expenses, the Company proposes to recover actual costs from Slayton. Actual costs for engineering studies will be known when the studies are complete, and actual costs for system upgrades will be known when they are identified and installed.

Slayton argues that engineering studies and upgrades necessary to maintain system reliability should not be included in just compensation. Slayton’s argument is based entirely on the opinion of its witness, Mark S. Mitchell, a retired utility executive.³⁰⁴

³⁰² Ex. Xcel Energy-208, Peterson Surrebuttal at 36:1-5.

³⁰³ *Id.* at 36:15-18.

³⁰⁴ Ex. Slayton-116, Mitchell Rebuttal at 12:12-13:16.

Slayton witness Mitchell concludes, based on one paragraph of analysis, that Slayton's exit will not cause system stability issues and that an engineering study is not required.³⁰⁵ But Mr. Mitchell is not a registered engineer and has not been one for 30 years.³⁰⁶ More importantly, his opinion is not backed by any actual engineering analysis or studies.³⁰⁷ This kind of off-the-cuff analysis cannot be relied upon. It is possible that engineering studies will determine that no upgrades are needed to ensure safety and reliability, but it would be irresponsible to assume that without doing the work required to find out. Xcel Energy cannot just disconnect an entire town from its system and hope things work out for the best. The cost of doing that work, and the cost of any upgrades identified, will be caused by Slayton and must be included in just compensation.

The Company's recommendation is entirely consistent with the analysis of Department witness Ngo, who testified that "Xcel should be compensated for incremental, Slayton-specific integration expenses, such as . . . necessary system reconfiguration, and related engineering – provided these costs are clearly caused by the transfer, reasonably estimated, and not double-counted in net plant or loss-of-revenue calculations."³⁰⁸ Engineering studies and related upgrades will only be needed if Slayton exits the system. The Company does not propose to estimate the costs, but to charge Slayton actual costs once they are known. Finally, the costs are not included in existing loss-of-revenue

³⁰⁵ Ex. Slayton-116, Mitchell Rebuttal at 12:12-13:16.

³⁰⁶ Tr. Evid. Hearing at 17:9-25 (Mitchell).

³⁰⁷ Tr. Evid. Hearing at 18:3-10 (Mitchell).

³⁰⁸ Ex. DOC-301, Ngo Rebuttal at 12:7-11.

calculations because they are new expenses not included in the current cost of service and, if paid for by Slayton, will not be assessed to system customers in future rate proceedings.

5. MN DIP Impact Integration Expenses

The Company has also identified the possibility of integration expenses related to the Minnesota Distribution Energy Resources Interconnection Process (MN DIP).³⁰⁹ As noted above, there are several DER projects currently in the interconnection queue at SLW. Whether Slayton exits the system, and the time at which it does so, could impact the results of engineering studies for these DER applications.³¹⁰

It is the Company's understanding that expenses and upgrades related to interconnection applications will be the responsibility of the applicants,³¹¹ but the Company has not previously encountered a situation of significant loss of load and addition of new DERs at the same substation.³¹² To the extent that there are any expenses caused by Slayton's exit that are not the responsibility of DER applicants under MN DIP, the Company requests that the expenses be tracked and included in just compensation.

³⁰⁹ As with the engineering studies discussed above, the Company initially incorporated the MN DIP Impact analysis into its evaluation of customer-facing DER issues. To improve clarity, they are discussed separately in this Initial Brief as they are related but distinct issues.

³¹⁰ Ex. Xcel Energy-206, Peterson Rebuttal at 40:21-41:16.

³¹¹ *Id.* at 40:21-41:2.

³¹² *Id.* at 39:17-20.

D. Other Appropriate Factors

The fourth factor in Minn. Stat. § 216B.45 is “other appropriate factors.” This factor permits the Commission to evaluate any other factors that are relevant to and should be included in just compensation. Slayton did not identify any other factors that should be incorporated. The Company identified one: the stranded costs related to the SLW substation.

Customers living in Slayton are served from the SLW substation, which is located just outside the southwest corner of Slayton.³¹³ Previously, customers in Slayton received service from an older substation with a voltage of approximately 4 kV and a capacity of 5.25 MVA.³¹⁴ In 2006, the Company determined that more capacity and upgraded voltage were needed.³¹⁵ The old Slayton substation was retired, and SLW was constructed with a voltage of 13.8 kV and a transformer capacity of 14 MVA.³¹⁶ A transformer of 14 MVA was selected because a larger transformer was needed and that was the next standard size of equipment.³¹⁷

If Slayton exits the system, SLW will be a stranded asset because it would not be needed without the customers in Slayton. As explained by Company witness Peterson, SLW was constructed to serve customers in Slayton and with the expectation of continuing

³¹³ Ex. Xcel Energy-204, Peterson Direct at 41:23-24.

³¹⁴ Ex. Xcel Energy-206, Peterson Rebuttal at 44:15-23.

³¹⁵ *Id.*

³¹⁶ Ex. Xcel Energy-206, Peterson Rebuttal at 44.

³¹⁷ *Id.* at 45:1-2.

to serve them.³¹⁸ Further, Company witness Peterson explained that the Company would not have built SLW if it were not serving customers in Slayton, and certainly would not have replaced the old Slayton substation with SLW.³¹⁹ Instead, the Company would have evaluated other methods to extend service to the small number of customers that live in the area outside of Slayton.³²⁰ That makes sense, because 98.8 percent of the load served by SLW is from customers who live in Slayton, and who would no longer make use of SLW if Slayton exits the system.³²¹

Because SLW was constructed to serve customers in Slayton and will not be needed if Slayton exits the system, it would be unreasonable to require Xcel Energy's other customers to pay for the stranded costs of SLW. The current book value of Slayton is \$1,145,319.³²² 98.8 percent of that book value, representing the amount of load that is related to customers located in Slayton, should be treated as a stranded asset and included in just compensation.³²³

Slayton's testimony on this issue is inconsistent. At first, the City's consultant testified that SLW would be a stranded cost – although the City recommended allowing

³¹⁸ Ex. Xcel Energy-204, Peterson Direct at 43:4-9.

³¹⁹ *Id.*

³²⁰ *Id.* at 42:8-21.

³²¹ *Id.* at 43:19-21.

³²² *Id.* at 41:18.

³²³ Ex. Xcel Energy-204, Peterson Direct at 43:12-21.

recovery of only a tiny fraction of its value.³²⁴ After the Company demonstrated that the adjusted book value should be included in just compensation, the City backed away from its sworn testimony that SLW was a stranded cost.³²⁵ Instead, the City argued that SLW would actually not be stranded because the Company had planned the substation for use of solar gardens.³²⁶ The evidence demonstrates that this claim is incorrect. The Company could not possibly have planned for CSGs when SLW was designed and constructed in 2006 and 2007,³²⁷ at least six years before the first CSG legislation was passed.³²⁸

Further, the City’s focus on CSGs is mis-placed. The Company does not have any plan to make use of SLW for CSGs, because the Company does not “plan” for CSGs at all.³²⁹ They are developed and sited by third-party developers. While it is true that several CSGs are interconnected to SLW, that is not relevant to the stranded cost analysis. SLW is included in the Company’s rates, and paid for by all customers, because it was built to provide retail service in Slayton. But distribution infrastructure required for interconnecting DERs is paid for by DER applicants, not retail customers.³³⁰ To the extent

³²⁴ Ex. Slayton-103, Berg Direct at 28:11-14 (“Following acquisition by the City, the City will be transferring its load demand requirements to a different substation owned and operated by a different provider. As such, Xcel will have capacity within the substation that Slayton will no longer utilize. As such, this represents a stranded cost for Xcel . . .”).

³²⁵ Ex. Slayton-105, Berg Rebuttal at 9:13-10:22.

³²⁶ *Id.* at 34:6-35:3.

³²⁷ Ex. Xcel Energy-206, Peterson Rebuttal at 44:15.

³²⁸ Laws of Minnesota 2013, Chapter 85, Art. 10 § 2.

³²⁹ Ex. Xcel Energy-208, Peterson Surrebuttal at 41:6-19.

³³⁰ *Id.* at 41:21-42:14

SLW is not being used to provide retail service, it should not be the responsibility of retail customers to pay for it.

Further, it cannot be ignored that the City's consultant admitted that SLW will be stranded.³³¹ The City's recommendation following this admission is entirely unreasonable. While the City admits that SLW will be stranded, it recommends allowing recovery of only around \$412,000, just 36 percent of its book value.³³² The City has not provided any explanation for why that calculation makes sense, or attempted to relate it in any way to the actual book value of SLW.

It is undisputed on this record that SLW was built to serve customers in Slayton, that SLW would not have been built if the Company were not providing service to Slayton, and that after Slayton exits the system the Company will serve only minimal customer loads through SLW while its other customers continue to bear the burden of this cost. These facts demonstrate that SLW is stranded. The adjusted book value, as calculated by the Company, should be included in just compensation.

E. Method for Just Compensation

The final step in determining just compensation is to determine the method by which just compensation will be paid. The costs related to the value of property, integration expense, and the stranded costs of the SLW substation should be paid as a lump sum before any transfer of Xcel Energy's property.

³³¹ Ex. Slayton-103, Berg Direct at 28:9-16.

³³² *Id.*

This record demonstrates that a lump sum payment should be required for lost revenues for several reasons. First, a lump sum payment is required under Minnesota law. The plain language of Minnesota Statute § 216B.45 indicates that a municipality is not eligible to purchase the utility’s property until it has paid just compensation. The language describes the process for this purchase as “the commission shall, by order, determine the just compensation for the property to be purchased by the municipality”. The future tense of “to be purchased” indicates that the determination of just compensation and the associated payment is a prerequisite required for the purchase of the property. Further, the language of Minn. Stat. § 216B.45, provides that a utility “shall be deemed to have consented to the purchase by the municipality, for just compensation, of its property”. This language suggests that the municipality is not eligible to purchase the utility’s property until it has paid just compensation. The Company’s proposal, that the City provide a lump sum payment for the lost revenues prior to the transfer of property, is consistent with the plain language of Minn. Stat. § 216B.45.³³³

It is also consistent with the Minnesota Constitution. Article 1, Section 13 of the Bill of Rights to the Minnesota Constitution provides, “Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, *first paid or secured.*” The Minnesota Constitution unambiguously requires that just compensation be paid before the taking occurs. And in the context where a municipality takes the private property of a public utility, Minn. Stat. § 216B.45 defines just compensation as including

³³³ Ex. Xcel Energy-204, Peterson Direct at 26:23-24.

each of the four factors, including the value of property, lost revenue, integration expense, and other relevant factors.

Slayton argues that lost revenue should be recovered using a mill rate. A mill rate is a per kWh calculation that would be applied to future usage in Slayton. Slayton is wrong because the use of a mill rate is not consistent with the law as described above. Further, Slayton's reliance on prior orders of the Commission is misplaced. To support its argument for a mill rate, the City relies on the Commission's decision in the case *In the Matter of the Application by the City of Rochester for an Adjustment of its Service Area Boundaries with People's Cooperative Power Association* (hereinafter the *Rochester* case).³³⁴ But the City misapplies the reasoning of that case.

It is true that the Commission used a mill rate in the *Rochester* case, but only for usage related to certain customers. In fact, the Commission ordered a combination of a lump sum payment for some customers and a mill rate for others. In *Rochester*, the City of Rochester sought to extend its assigned service area to land that was largely undeveloped, with only 46 existing customers.³³⁵ Large portions of the annexed areas were expected to

³³⁴ Ex. Slayton-103, Berg Direct at 15:4-11; see *In the Matter of the Application by the City of Rochester for an Adjustment of its Service Area Boundaries with People's Cooperative Power Association*, Docket No. E299, 132/SA-93-498, ORDER DETERMINING COMPENSATION AND DENYING MOTION TO DISMISS (Nov. 30, 1995) (hereinafter "*Rochester* Order").

³³⁵ *In the Matter of the Application by the City of Rochester for an Adjustment of its Service Area Boundaries with People's Cooperative Power Association, Inc.*, Docket No. E299, 132/SA-93-498, FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDED ORDER OF THE ALJ at ¶ 13 (May 31, 1995).

be developed over the next ten years, producing additional electric customers or “future customers.”³³⁶ The Commission used a mill rate to recover lost revenue for the future customers, who did not yet exist and whose consumption was entirely speculative.³³⁷ But the Commission required a lump sum payment for the already-existing customers,³³⁸ and that decision was confirmed by the Commission on reconsideration.³³⁹

The customers in Slayton are far more like the already-existing customers in the *Rochester* case than the future customers. The Company has provided service to the customers in Slayton for decades, and those customers are not speculative like the future customers in the *Rochester* case. The Company used historical usage patterns in Slayton as the basis for the lost revenue calculation, which is specific evidence that distinguishes them from the uncertainty about whether future customers would appear and what their usage patterns would be.

If a lump sum payment is not ordered, a payment schedule would be a superior method compared to a mill rate. The use of a mill rate would introduce significant uncertainty for both the Company and the people living in Slayton. If consumption in

³³⁶ *Id.* at ¶ 15.

³³⁷ *Rochester* Order at 7.

³³⁸ *Id.*

³³⁹ *In the Matter of the Application by the City of Rochester for an Adjustment of its Service Area Boundaries with People’s Cooperative Power Association*, Docket No. E299, 132/SA-93-498, ORDER AFTER RECONSIDERATION at 5–6 (Apr. 24, 1996) (adopting a compensation including a lump sum, representing amounts attributable to current customers, and a mill rate, representing amounts attributable to the loss of future customers).

Slayton is higher or lower than expected, the actual amount of lost revenue payments could be higher or lower than what is ordered by the Commission.³⁴⁰ For example, if customers in Slayton install new behind-the-meter generation, the Company would receive less lost revenue than what is ordered by the Commission.³⁴¹ Alternatively, and perhaps more likely, is that customers in Slayton might pursue building or transportation electrification.³⁴² This would likely increase their usage, requiring the City to pay more lost revenues than the Commission ordered. There is little benefit in this significant uncertainty. If a lump sum is not required, a payment schedule setting out a specific amount to be paid by Slayton on a regular schedule would be a more appropriate method for recovering lost revenues. This would reduce uncertainty and risk for both the Company and the City.

Finally, as described above, the Company has applied a discount rate calculation to the lump sum payment to reflect the time value of money. If a payment schedule or mill rate is applied, then there would be no timing difference between when the lost revenues would have been received and when the Company would receive payment from Slayton – meaning that no discount rate is appropriate.

F. Overall Just Compensation Recommendation

The Company has provided extensive evidence to support its lost revenue calculation, based on testimony and analysis from highly qualified experts. In contrast, Slayton has provided little meaningful evidence, and as a result has failed to satisfy its

³⁴⁰ Ex. Xcel Energy-204, Peterson Direct at 29:15-26.

³⁴¹ *Id.*

³⁴² *Id.*

burden to prove by a preponderance of the evidence that its recommendations are reasonable. The Company recommends that just compensation be set based on its analysis and recommendations, as follows:

Table 6
Xcel Energy Surrebuttal Just Compensation Recommendation³⁴³

Value of Property	\$3,220,653
Loss of Revenue*	\$34,710,977
Meter Integration Expense	Actual Cost, Est. \$140,000
Continued Service Integration Expense	Actual Cost, Est. \$15,000
Customer DER Integration Expense	Actual Cost, To Be Identified
Engineering Studies and Upgrades Integration Expense	Actual Cost, To Be Identified
MN DIP Impact Integration Expense	Actual Cost, To Be Identified
Stranded Slayton West Substation	\$1,131,354
Total	\$39,217,984

*or \$3,153,021 per year for twenty years

Determining just compensation at this level is necessary to protect Xcel Energy's other customers from the rate impacts of Slayton's decision to leave the system. If just compensation is not set at this level, the Company's other customers will be subject to rate impacts in the future, caused entirely and only by Slayton. These impacts can be avoided by establishing just compensation as recommended by the Company.

³⁴³ See Ex. Xcel Energy-208, Peterson Surrebuttal at 45, Table 1. This table has been adjusted to clarify the distinction between some categories of integration expense.

CONCLUSION

For all of the reasons discussed in this Initial Brief, Xcel Energy requests that the Commission establish just compensation at the level recommended by the Company. Just compensation at this amount is supported by the evidence, is reasonable, and is needed to protect Xcel Energy's other customers from rate impacts caused by Slayton's decision to exit the system.

In addition, the Company requests that the Administrative Law Judge and the Commission determine whether the Company is legally required to permit its property to be taken by the City given the facts in this record about the relationship between the City and Nobles.

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