

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

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Audrey Partridge	Commissioner
John Tuma	Commissioner

*In re Northern States Power Co., d/b/a
Xcel Energy, Petition for Approval of
Capacity*Connect, a Distributed Capacity
Procurement (DCP) Program*

DOCKET NO. E-002/M-25-378

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

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following supplemental comments in response to Xcel’s reply comments of January 9, 2026 regarding its “Capacity*Connect” (C*C) Distributed Capacity Procurement (DCP) program.¹ Many parties submitted initial comments with recommendations ranging from significant program design changes² to more robust evaluation metrics and reporting³ to the OAG’s simple request that Xcel provide more information in reply.⁴ Xcel largely rejected commenters’ recommendations and requests, save for agreeing to some additional reporting, some additional analysis in its next IDP, and, potentially, shrinking the program somewhat.⁵ Overall, Xcel asks the Commission for approval of essentially the C*C program that it originally proposed.⁶

¹ Xcel Reply Comments (Jan. 9, 2026).

² *E.g.*, Department of Commerce Initial Comments at 26-27 (Dec. 10, 2025); Joint Solar Parties Initial Comments at 10 (Dec. 10, 2025).

³ *E.g.*, Department of Commerce Initial Comments at 27; Fresh Energy Initial Comments at 9 (Dec. 10, 2025).

⁴ OAG Initial Comments at 9, 14 (Dec. 10, 2025); Joint Solar Parties Initial Comments at 18.

⁵ Xcel Reply Comments at 5.

⁶ Xcel Reply Comments at 2.

Commenters have been working together to develop a slate of alternative recommendations (Consensus Recommendations) to Xcel's proposal. The OAG is filing these comments separately to offer slight modifications to certain of the Consensus Recommendations:

- 1) The OAG recommends adoption of the Department's 3-Archetype Pilot proposal (Consensus Recommendation 1), but recommends the Commission order the pilot be limited to 50-60 MW of capacity and a price cap of \$3.04 million per MW of capacity.
- 2) The OAG recommends that the report resulting from the 2-year/20-MW Comprehensive Third-Party Evaluation (Consensus Recommendation 11) be subject to a 90-day negative checkoff comment period so that the Commission can evaluate how and whether to proceed with C*C beyond that point.
- 3) The OAG recommends that, if Xcel is not able to demonstrate that its contract with Sparkfund is the same price or cheaper than Xcel would have obtained using a competitive RFP process (Consensus Recommendation 3), the Commission disallow recovery of the costs in excess of what the RFP process would have produced.
- 4) Finally, if Xcel does not agree at the hearing to the Consensus Recommendations, the Commission should simply reject C*C without prejudice to allow Xcel to develop a proposal that has more stakeholder support.

I. THE DEPARTMENT'S 3-ARCHETYPE PROPOSAL WILL PROVIDE MORE USEFUL INFORMATION ABOUT C*C AND ABOUT DISTRIBUTED CAPACITY GENERALLY THAN XCEL'S PROPOSAL.

Commenters' thoughtful analysis of Xcel's initial proposal revealed enthusiasm for the idea of expanding DER on Xcel's system, but also disagreement about the purpose of the C*C program. Xcel largely focuses on the batteries' bulk system benefits, insisting that offering the

C*C assets into MISO must be the “priority dispatch strategy.”⁷ It is not entirely clear why, if this is the case, C*C is preferable to simply building more grid-scale BESS, which appears to be a significantly cheaper resource.⁸

Other parties highlighted the potential distribution benefits of distributed capacity procurement such as deferring transmission and distribution upgrades.⁹ However, the OAG is currently aware of only one example of distributed capacity enabling deferral of a distribution upgrade.¹⁰

Still other parties suggested that distributed capacity could be used to relieve distribution system congestion on Xcel’s system through flexible interconnection and flexible energization.¹¹ Yet, distribution system congestion can be relieved with more well-established distribution system upgrades, and the Commission has pursued cost sharing programs to speed that process up.¹²

Thus, commenters all had reasonable reasons for supporting a distributed capacity program of some kind, but each commenter’s vision for the potential benefits of distributed capacity programs have significant uncertainty.

The Department’s recommendation to methodically evaluate each “archetype,” or value proposition, seeks to resolve these tensions with actual data. Distributed capacity procurement is a new approach to resource and distribution planning in Minnesota, making C*C a pilot program. A proper pilot program requires robust analysis. The OAG generally supports the Department’s

⁷ Xcel Reply Comments at 13-14.

⁸ Initial Filing at 43.

⁹ Initial Comments of Cooperative Energy Futures, Environmental Law and Policy Center, Institute for Local Self-Reliance, Solar United Neighbors, and Vote Solar at 18-27 (Dec. 10, 2025).

¹⁰ See generally *Petition of Consolidated Edison Company of New York, Inc. for Approval of Brooklyn/Queens Demand Management Program*, NYSDPS Matter No. 14-01390/Case No. 14-E-0302.

¹¹ Joint Solar Parties at 16.

¹² Docket No. E-002/CI-24-318; Docket No. E-002,015,017/CI-24-288.

proposal because it is the best way to conduct that robust analysis of pilot data, which will enable the Commission, stakeholders, and Xcel to measure the actual benefits of distributed capacity and make informed planning decisions going forward.

The OAG recommends adoption of Consensus Recommendation 1, but recommends limiting it to deployment of 50-60 MW and a cost cap of \$3.04 million per MW of capacity, equal to \$152 million for 50 MW, which is what Xcel stated its 50 MW deployment would cost.¹³

II. THE COMMISSION SHOULD ORDER A COMMENT PERIOD FOLLOWING THE COMPREHENSIVE THIRD-PARTY EVALUATION (CONSENSUS RECOMMENDATION 11) TO ASSESS WHETHER C*C SHOULD PROCEED.

Xcel initially proposed an “Interim Program Assessment,” to be conducted after 20 MW of capacity is operational or after 2 years, whichever comes first, and it stands by that proposal in its reply comments.¹⁴ Xcel further clarified that even though it offered to conduct this assessment, it would continue to deploy the full 50-200 MW of capacity regardless of what the assessment would show.¹⁵ This disregard for facts and data produced by its own proposed pilot is concerning.

Consensus Recommendation 11 provides that a Comprehensive Third-Party Evaluation should take place after 20 MW of capacity is operational or after 2 years, whichever comes first. This is intended to be a more robust, objective, and disinterested evaluation than Xcel’s proposed “Interim Program Assessment.” There is no reason to pursue C*C if it will not provide useful learnings, and useful learnings are unlikely to result from Xcel’s cursory “Interim Program Assessment,” the results of which Xcel apparently does not even plan to integrate into the program itself.

¹³ Initial Filing at 3.

¹⁴ Xcel Reply Comments at 32-33.

¹⁵ Xcel Reply Comments at 33.

The OAG therefore supports the spirit of Consensus Recommendation 11 to require a Comprehensive Third-Party Evaluation, but recommends an alternative version that would improve the likelihood of C*C's success:

OAG Consensus Recommendation 11. *Direct Xcel to conduct a Comprehensive Third-Party Evaluation after 20 MW of capacity is operational or after 2 years, whichever occurs first, and include the following:*

- A. A detailed discussion of how Grid DERMS dispatch decisions reflect tradeoffs between bulk system and distribution system benefits.*
- B. A detailed discussion of how Xcel's DERMS investments to date are capable of integrating with third-party aggregators (Recommendation 5), and any associated challenges and next steps.*
- C. An analysis documenting which concurrent benefit streams were realized and the alignment between MISO dispatch requirements and distribution system value.*
- D. A detailed discussion of the challenges and barriers faced when siting DCP assets in Phase II.*

*The Comprehensive Third-Party Evaluation will result in a report that will be filed in this docket. Stakeholders may file comments regarding the report within 90 days of its filing. If comments are filed, the Commission will issue a notice of reply comment period and hearing. Xcel shall not initiate the installation of any C*C assets until the 90-day comment period is concluded or the order after hearing is issued, whichever comes first.*

To be clear, the 90-day check-off period would begin when the Comprehensive Third-Party Evaluation report is filed. At that time, Xcel would not initiate further C*C installations until either the 90-day negative checkoff period was complete or, if stakeholders file comments, after reply comments and a Commission hearing. Any installations that were already in the process of being installed at the time the report is filed could, of course, proceed during this period.

The OAG's recommendation ensures that, once the Comprehensive Third-Party Evaluation report is filed in this docket, stakeholders and the Commission have an opportunity to evaluate whether proceeding as planned is likely to produce the hoped-for results, whether modifications are necessary, or whether the program is ineffective and should not continue. A similar process is formalized in statute for the Commission's annual review of utilities' Natural Gas Innovation Act

pilots,¹⁶ and recognizes the inherent uncertainty of and need for flexibility in implementing pilot programs. Similarly, providing a 90-day negative check-off period after the Comprehensive Third-Party Evaluation report will allow the Commission to intervene to protect ratepayers if it becomes clear that continuing would be throwing good money after bad. It will allow other stakeholders to highlight concerns if it appears that C*C is not proceeding the way stakeholders expected. And if it appears that C*C should continue but needs improvement, it will allow Xcel to course correct to ensure C*C is successful.

III. XCEL’S INITIAL FAILURE TO DISCLOSE ITS INVESTMENT IN SPARKFUND MILITATES ROBUST REPORTING ABOUT THE SOLE-SOURCE SELECTION OF SPARKFUND (RECOMMENDATION 3).

Xcel revealed in reply comments that it is an investor in Sparkfund, which it failed to disclose when it initially filed. Xcel emphasized that it does not operate Sparkfund and does not direct the investments of EIP, the investment group it is a part of.¹⁷

Nevertheless, the failure to disclose this relationship raises red flags because Xcel directly hired Sparkfund without any RFP process.¹⁸ While Xcel’s membership in EIP is not “in rates” in the sense that Xcel does not include its investment ventures in the rate case, Xcel’s decision makers are generally interested in the success of the entire enterprise, including Xcel’s unregulated operations, regardless of how the books are kept. More importantly, Xcel’s proposed C*C contract with Sparkfund very much would be in rates—ratepayer money will be propping up the startup Xcel has invested in, but only Xcel, not ratepayers, will reap the benefit if Sparkfund is financially successful. By contrast, if Sparkfund fails, Xcel will lose some of its investment, but ratepayers

¹⁶ See Minn. Stat. § 216B.2427, subd. 2(g) (2024). The NGIA provides that “[w]hen evaluating a utility’s annual report, the commission may: (1) approve the continuation of a pilot program included in the plan, with or without modifications; (2) require the utility to file a new or modified pilot program or plan; or (3) disapprove the continuation of a pilot program or plan.” *Id.*

¹⁷ Xcel Reply Comments at 28.

¹⁸ Department of Commerce Initial Comments at 14.

should not be impacted. Thus, there is a real risk that Xcel's sole-source selection of Sparkfund to run C*C could be using ratepayer money to bolster Xcel's unregulated investments or mitigate their risk.

These concerns are somewhat attenuated if the contract Xcel ultimately signs with Sparkfund is revealed to be market rate, and fully attenuated if that occurs *and* C*C turns out to be a success. If both conditions are met, ratepayers will be better off. Thus Consensus Recommendation 3 is imperative to ensure that Xcel is not abusing its position as a monopoly provider of an essential service to bolster the startup investments of its unregulated operations.

The OAG also recommends that, if data reveals that Xcel's contract with Sparkfund *is* more expensive than Xcel would have received using a transparent and competitive RFP process, the Commission should disallow recovery of the difference between the market rate and the Sparkfund contract. Xcel's selection of Sparkfund would be imprudent, motivated by its investment in that case, and disallowing recovery would be required to protect ratepayers.

IV. IF XCEL DOES NOT AGREE TO THE CONSENSUS RECOMMENDATIONS, THE COMMISSION SHOULD DENY C*C WITHOUT PREJUDICE AND ALLOW XCEL TO DEVELOP A BETTER PROPOSAL.

The record in this docket makes clear that Xcel's proposed C*C would be a very expensive way to learn very little about distributed capacity. The Consensus Recommendations remedy many of the shortcomings of Xcel's proposal. However, Xcel's reply comments failed to incorporate the vast majority of stakeholder recommendations. Instead, Xcel insists that the only viable path forward is to approve C*C almost exactly as Xcel proposed.

If Xcel opposes the Consensus Recommendations, or Xcel does not embrace these necessary modifications in their roll-out, C*C will not be successful. Stakeholders and the Commission are not able to manage Xcel's day-to-day operations, so there is a minimum level of consent required for a pilot program to be successful. This is particularly true of a program

intended to result in robust analysis and actionable learnings—there’s a risk that lack of enthusiasm from Xcel could cause the program to be implemented poorly, behind schedule, and over budget.

Thus, if Xcel does not agree to the Consensus Recommendations, the Commission should reject C*C for now. Instead, Xcel could voluntarily work with stakeholders to develop a distributed capacity procurement program that better achieves collective objectives.

CONCLUSION

The OAG thanks the Commission for the opportunity to comment on C*C and thanks the other stakeholders for the robust discussion in this docket. The OAG’s final recommendations are as follows:

1. Approve Consensus Recommendation 1, 1.1, 1.2, and 1.3, and impose a capacity limit of 50-60 MW and a cost cap of \$3.04 million per MW of capacity;
2. Approve Consensus Recommendation 3 and disallow recovery from ratepayers of the difference between the value of the contract Xcel signs with Sparkfund and the market rate for a comparable contract;
3. Approve the OAG’s modification to Consensus Recommendation 11:

OAG Recommendation 11. *Direct Xcel to conduct a Comprehensive Third-Party Evaluation after 20 MW of capacity is operational or after 2 years, whichever occurs first, and include the following:*

- A. A detailed discussion of how Grid DERMS dispatch decisions reflect tradeoffs between bulk system and distribution system benefits.*
- B. A detailed discussion of how Xcel’s DERMS investments to date are capable of integrating with third-party aggregators (Recommendation 5), and any associated challenges and next steps.*
- C. An analysis documenting which concurrent benefit streams were realized and the alignment between MISO dispatch requirements and distribution system value.*

D. A detailed discussion of the challenges and barriers faced when siting DCP assets in Phase II.

*The Comprehensive Third-Party Evaluation will result in a report that will be filed in this docket. Stakeholders may file comments regarding the report within 90 days of its filing. If comments are filed, the Commission will issue a notice of reply comment period and hearing. Xcel shall not initiate the installation of any C*C assets until the 90-day comment period is concluded or the order after hearing is issued, whichever comes first.*

4. If Xcel does not agree to the Consensus Recommendations, deny Xcel's petition for C*C without prejudice and allow Xcel to make an improved distributed Capacity Procurement proposal.

Dated: January 27, 2026

Respectfully submitted,

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