STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in Minnesota	PUC Docket No. E-002/GR-13-868 OAH Docket No. 68-2500-31182

INITIAL BRIEF OF CLEAN ENERGY INTERVENORS

September 23, 2014

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I. INTRODUCTION

Northern States Power Company's ("Xcel") multi-year rate case raises significant rate design issues directly related to conservation and the statutory mandate that the Commission "set rates to encourage conservation to the maximum reasonable extent."[1] In this Initial Brief, Clean Energy Intervenors[2] address three issues related to rate design and conservation: (1) Clean Energy Intervenors support adoption of the inverted block rate stipulation calling for a new docket for further evaluation of the IBR proposal, a rate structure that will encourage residential customers to conserve; (2) Clean Energy Intervenors oppose any increase in the customer, or "fixed," charge because it sends the wrong price signal to customers, ultimately discouraging conservation; and (3) Clean Energy Intervenors support Xcel's proposal to "decouple" sales from revenue in an effort to eliminate any disincentive the utility has to achieving customer conservation.

II. MINNESOTA STATUTES REQUIRE THE COMMISSION TO USE RATE DESIGN TO ENCOURAGE CONSERVATION.

Minnesota law requires the Commission, in approving rate designs, to ensure that the rate structure encourages conservation. Indeed, this mandate is no less significant than the demand that rates be "just and reasonable" – both requirements are set out in Minnesota Statutes Section 216B.03:

> Every rate made, demanded or received by any public utility . . . shall be just and reasonable. . . . ***To the maximum reasonable extent, the Commission shall set rates to encourage energy conservation*** and renewable energy use and to further the goals of sections 216B.164, 216B.241, and 216C.05.

(emphasis added).

[1] Minn. Stat. § 216B.03.

[2] Clean Energy Intervenors include the Minnesota Center for Environmental Advocacy, Natural Resources Defense Council, The Izaak Walton League- Midwest Office, Fresh Energy, and Sierra Club.

Thus, not only must rates be reasonable and just, they also must be set to encourage conservation and further the energy efficiency goals expressed in state policies. Section 216C.05, cited in the rate making statute above states, for example, that it is the "energy policy of the State of Minnesota that . . . the per capita use of fossil fuel as energy input be reduced by 15 percent by the year 2015, through increased reliance on energy efficiency and renewable energy alternatives . . ."[3] It further states "[t]he legislature finds and declares that continued growth in demand for energy will cause severe social and economic dislocations, and that the state has a vital interest in providing for increased efficiency in energy consumption . . . wherever possible . . ."[4]

The Legislature's use of the term "shall" in Section 216B.03 makes this a mandatory duty of the Commission.[5] Moreover, the statute's language – "the Commission shall set rates to encourage energy conservation" – is free from any ambiguity and must be applied based on its plain meaning.[6]

Further, the Legislature explicitly set a state-wide goal to achieve 1.5% annual energy savings through both conservation programs *and rate design*:

> It is the energy policy of the state of Minnesota to achieve annual energy savings equal to 1.5 percent of annual retail energy sales of electricity and natural gas directly through energy conservation improvement programs ***and rate design*** . . .

Minn. Stat. § 216B.2401 (emphasis added).

Both because it is required by statute, and because it has the practical effect of keeping energy costs lower, conservation *must* be a significant factor in the Commission's evaluation of

[3] Minn. Stat. § 216C.05, subd. 2,
[4] Minn. Stat. § 216C.05, subd. 1.
[5] *See* Minn. Stat. § 645.44, subd. 16 ("'Shall' is mandatory"); *see also Opheim v. Cnty. of Norman*, 784 N.W.2d 90, 97 (Minn. Ct. App. 2010) (term "shall" created statutory duty for county board to act).
[6] *See Ed Herman & Sons v. Russell,* 535 N.W.2d 803, 806 (Minn.1995); *see also* Minn.Stat. § 645.16 (2000).

rate design. The three rate design issues raised in this matter that have the potential to encourage conservation to the maximum reasonable extent are the inclining block rate ("IBR") proposal, the customer charge, and Xcel's proposed revenue decoupling mechanism (the "RDM").

III. CLEAN ENERGY INTERVENORS' PROPOSED IBR STRUCTURE ENCOURAGES CONSERVATION TO THE MAXIMUM REASONABLE EXTENT AND THE IBR STIPULATION SHOULD BE ADOPTED.

Clean Energy Intervenors proposed a 4-block IBR that will encourage conservation and result in load reductions. To allow parties more time to consider the proposal, Clean Energy Intervenors entered into a Stipulation with Xcel and other parties to address this issue in a separate docket. Because there is substantial evidence in the record that the IBR would encourage conservation and is in the public interest, the Commission should adopt the Stipulation.

A. The Record Evidence Demonstrates That Clean Energy Intervenors' IBR Proposal Encourages Conservation.

Clean Energy Intervenors established through undisputed expert testimony that an IBR structure will encourage conservation and result in energy savings.

An IBR consists of two or more per kWh price levels, with a lower price charged for the first kWh block in each month, and a higher price charged in each subsequent kWh block. For example, if a customer uses less than the cutoff for the first kWh block in a month, it is charged only the first-block rate; if the customer uses more than the first-block cutoff it is charged the first-block rate for the first-block kWh, and the second block rate for any additional kWh.[7] A central purpose of this increasing price system is to encourage and reward conservation by offering lower prices to customers who use less energy and charging higher prices to high-use

[7] Exh. 280 at 3 (Chernick Direct).

consumers who typically have more opportunities to conserve.[8] IBR rate structures are being used successfully to encourage conservation by several electric utilities in the United States, including Minnesota Power and Xcel Energy's subsidiary, Public Service of Colorado.[9]

The Clean Energy Intervenors engaged an experienced rate design expert, Paul Chernick, to design an IBR structure that would maximize conservation benefits while lowering the average customer's bill and avoiding an increase in any customers' bill by more than 20%.[10] Mr. Chernick designed a four-block IBR for the summer and winter seasons. Using the existing regular residential energy charge of 8.671¢ per kWh for summer and 7.393¢ per kWh in winter, the proposed adjustment would be as follows:

	Summer		**Winter**	
Block	**Block Price**	**Block kWh**	**Block Price**	**Block kWh**
1	6.070¢	0–350	5.545¢	0–300
2	9.538¢	351–700	8.132¢	301–600
3	10.405¢	700–1,200	8.872¢	602–1,000
4	12.684¢	>1,200	9.434¢	>1,000[11]

Mr. Chernick estimated that the likely effect of such an IBR would be to reduce load by 2% to 6% over the first few years of the IBR.[12]

Thus, the record evidence shows that adopting an IBR structure would encourage conservation and result in significant load reductions. This specific evidence has not been disputed.[13] Because the Commission is charged with setting rates to "encourage conservation . .

[8] *Id.*
[9] *Id.* at 8-9.
[10] *Id.* at 18.
[11] *Id.* at 18-19.
[12] *Id.* at 20.
[13] Xcel's witness Steve Huso cited in rebuttal to three studies that he claimed show that overall bill costs, rather than rate design (energy charges), influence customer behavior. Those studies, however, are contrary to the overwhelming majority of peer-reviewed literature on the subject, do not support Mr. Huso's point in many respects, do not evaluate the Chernick proposal, and, at most, suggest that effective

. to the maximum reasonable extent," it should adopt an IBR structure for Xcel's rates going forward.

B. The IBR Stipulation Is In The Public Interest And Supported By Substantial Evidence And Should, Therefore, Be Adopted By The Commission.

Xcel entered into a Stipulation on the IBR with Clean Energy Intervenors, Energy CENTS Coalition, and Suburban Rate Authority that calls for Xcel to file an IBR proposal in a separate docket to allow for further development and discussion on the issue prior to a final Commission decision.[14] The Department of Commerce ("Department") supports the Stipulation and has committed to play a central role in any such docket ordered by the Commission.[15] The Stipulation provides a reasonable way to make progress toward a rate structure that encourages conservation. It is in the public interest and supported by substantial evidence.[16]

The Stipulation requests that the Commission establish a new docket and require Xcel to file a proposal for an IBR structure in the form of a Compliance Filing 120 days after the Commission issues its Findings of Fact, Conclusions of Law and Order in this proceeding. In the event the Stipulation is approved, all information regarding IBR developed during the rate case would be incorporated into the new docket. Xcel's filing would include Clean Energy Intervenors' proposed IBR and, if desired, any alternative that the utility believes improves upon that structure. The utility's filing would also address the statutory goals of conservation and affordability and include a proposal for educating customers about the IBR.

The Stipulation further recommends that, upon receipt of the Compliance Filing, the Department would convene stakeholder meetings to facilitate discussion by all interested parties

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customer education and communication is key to a successful rate design. *See* Exh. 295 at 7–12 (Chernick Surrebuttal). In any event, following the submission of Huso's Rebuttal Testimony Xcel agreed with Clean Energy Intervenors and other parties on a resolution of the IBR issue which will allow for additional consideration of this and any other concerns in a separate docket.

[14] *See* Exh. 135 (executed stipulation).

[15] Exh. 446 (Grant Opening Statement).

[16] *See* Minn. Stat. § 216B.16, subd. 1a.

regarding any issues of concern about the IBR proposal(s). The Department has agreed that it will strive to complete the stakeholder process within 90 days of the Compliance Filing.[17] Finally, the Stipulation envisions a comment period that will provide all interested parties the ability to make recommendations to the Commission on the IBR proposal(s).

As set out above, there is substantial evidence in the record that an IBR structure would encourage conservation.[18] Adopting a rate structure that reduces load is consistent with the state's policy objectives and is in the public interest. Moreover, by allowing an opportunity for further discussion and evaluation of the proposals, the Stipulation ensures an even more robust record. Under the Stipulation, any concerns parties have about an IBR structure can be fully aired and all parties have an opportunity to address those concerns in the ultimate proposal(s) offered for Commission approval.

In sum, the conservation benefits of an IBR structure have been demonstrated with substantial evidence in this proceeding. Given the Legislature's directive to set rates to encourage conservation to the maximum reasonable extent, it is in the public interest to further develop, within a reasonable time frame, the record for an IBR (or alternative) in a separate docket. The Stipulation is supported by substantial evidence, is in the public interest, and therefore it should be adopted pursuant to Minn. Stat. § 216B.16, subd. 1a.

IV. THE COMMISSION SHOULD REJECT ANY INCREASE IN THE CUSTOMER CHARGE.

No increase in the "fixed" or "customer" charge is warranted if the Commission implements decoupling. In addition, an increased customer charge is contrary to the statutory mandate to encourage conservation, and unjustified based on the actual costs of adding

[17] Exh. 446 (Grant Opening Statement).

[18] In addition, the record contains substantial evidence that the IBR structure will promote affordability. The Clean Energy Intervenors rely on Energy CENTS Coalition's arguments and will not repeat those here.

customers to Xcel's system. Xcel's proposed increase of $1.25 per month, as well as the Department's counterproposal of $.50, are not in the public interest and must be rejected.[19] The Office of the Attorney General ("OAG") and AARP also oppose any increases to the customer charge.[20]

Residential electricity bills are generally divided between energy charges (a per kWh amount that varies depending on how much the consumer uses) and customer charges (a fixed amount charged each billing period to each customer regardless of the amount of energy consumed). The customer charge is intended to reflect "those operating and capital costs found to vary with the number of customers regardless of the customers' energy consumption. They include costs of metering, billing, tracking accounts and responding to customer questions."[21] In other words, customer charges are supposed to cover costs the utility incurs to service a new customer, regardless of how much electricity that new customer may use.

The relationship between the customer charge and the energy charge has an important impact on conservation incentives. The customer charge is a fixed expense – it does not vary regardless of how much energy a customer uses – and therefore consumers have no ability to lower the charge through behavioral change (other than stopping service altogether). Energy charges, in contrast, vary directly in relation to use and, therefore, provide a direct economic incentive for consumers to conserve. As a result, a *higher* customer charge results in *less* conservation incentive, while a *lower* customer charge provides a *greater* incentive to conserve because more of the customer's bill varies based on consumption.[22]

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[19] Clean Energy Intervenors limited their testimony in this matter to the *residential* customer charge. *See* Exh. 293 at 1 (Chernick Rebuttal); *see also* Exh. 290 at 8-9 (Cavanagh Direct). However, these arguments and conclusions apply equally to the small business customer charge as well.
[20] *See* Exh. 375 at 52 (Nelson Direct); *see also* Exh. 310 at 4:14-19 (Brockway Direct).
[21] Exh. 408 at 19 (Ouanes Direct).
[22] Exh. 280 at 26-27 (Chernick Direct).

Because raising the customer charge results in a *disincentive* to conservation and is contrary to the statutory mandate to set rates to encourage conservation to the maximum reasonable extent, the burden of proof and persuasion lie with any party seeking to raise the charge. Here, neither Xcel nor the Department has met its burden to demonstrate that such an increase (on the heels of last year's increase) is necessary or justified.

Clean Energy Intervenors' rate design expert, Paul Chernick, provided testimony in this proceeding explaining in detail why any increase in Xcel's current customer charge is unwarranted, contrary to good rate design principles, and contrary to the statutory directive to use rate design to encourage conservation.[23] Ralph Cavanagh also provided testimony opposing a customer charge increase in the context of decoupling.[24] *No party offered substantive evidence or testimony to rebut either Mr. Chernick or Mr. Cavanagh's analysis*.[25]

A. An Increase In The Customer Charge Is Unnecessary Where The Company Implements Decoupling.

Minnesota law imparts to this Commission a mandatory duty to design rates that favor energy conservation, and it explicitly acknowledges the importance of rate design to achieving the state's ambitious energy savings goals.[26] The record is clear that the RDM would provide the same cost recovery as increasing fixed charges, but without the reduction in conservation incentives that accompanies higher fixed charges. For this reason, Clean Energy Intervenors oppose any proposal to increase the customer charge.

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[23] Exh. 293 (Chernick Rebuttal).
[24] Exh. 290 at 8-9 (Cavanagh Direct).
[25] *See, e.g*. Evidentiary Hearing Transcript, Vol. 4, p. 183 (Department witness Peirce agreeing that she did not respond to Mr. Chernick's testimony); Exh. 108 at 7–9 (Huso Surrebuttal) (failing to address any points raised in Mr. Chernick's testimony); Exh. 107 at 32:2-6 (Huso Rebuttal) (referencing Mr. Cavanagh's statement that any customer charge increase is obviated by Xcel's decoupling proposal, but providing no substantive rebuttal).
[26] *See* Minnesota Statutes §§ 216B.2401, 216B.241, 216B.03, 216B.2412.

As discussed above, for a given revenue requirement any increase in customer charges reduces volumetric rates, and thus reduces customers' rewards for saving energy. To be sure, both the RDM and a customer charge increase would allow Xcel to recover its fixed costs of service, even as per-customer usage declines. But where the two mechanisms differ is their impacts on *customers*. Revenue decoupling allows utilities to maintain rate structures that encourage conservation by pairing a low monthly charge with higher volumetric charges, while rate designs that feature increased fixed charges send an "all you can eat" price signal that *decreases* incentives for conservation. Because of this, Clean Energy Intervenors echo the OAG's statement that "decoupling and the customer charge be seen as substitutes, not compliments" and its parallel concern that Xcel's dual proposal for the RDM and an increase in customer charges sends "mixed signals about conservation."[27]

Xcel has failed to provide persuasive evidence to the contrary. To the extent that the utility is seeking to recover its authorized nonfuel costs through fixed charge increases, revenue decoupling meets the same need without adversely impacting consumer propensity to conserve.[28]

B. Xcel's Class Cost Of Service Study Is Not An Appropriate Mechanism For Setting The Residential Customer Charge.

Both Xcel and the Department base their recommended customer charge increases on the utility's Class Cost of Service Study ("CCOSS"). The CCOSS concludes that the average customer-related costs are $15.86 per month for a residential customer. Xcel's current customer charge is $8.00 or $10.00, depending on whether a given customer's lines are overhead or

[27] Exh. 375 at 59 (Nelson Direct) (stating that OAG recommends that if the Commission orders a decoupling mechanism that the customer charge remain at its current level or be decreased).

[28] *See* Exh. 290 at 8-9 (Cavanagh Direct) (recommending that the Commission maintain the current fixed charges, but make a compensating adjustment to the non-fuel revenue requirement to which the proposed RDM would apply, so that Xcel and its customers are made whole, respectively, for the revenue impacts of any downward or upward fluctuations in kWh use); *see also* Exh. 109 at 12:21-22 (Hansen Direct) ("Customer charge revenue is excluded from the [proposed] RDM because it is already decoupled from customer sales").

underground. Because the CCOSS value is higher than the current charge, Xcel and the Department reason, an increase is justified.[29] But their reliance on the CCOSS is in error for at least two reasons.

First, the CCOSS is not intended to evaluate costs for purposes of rate design. Instead, it provides guidance for the allocation of costs between classes, a wholly different exercise. Indeed, Dr. Ouanes confirmed this on cross examination:

> Q: Do you agree that the class cost of service study is intended to provide guidance for the allocation of costs between classes?
>
> A: I do.
>
> Q: And there's a separate process that has to happen once those costs are allocated that has to do with figuring out how, within each of the classes, those costs are going to be covered?
>
> A: Yes.
>
> Q: And that we generally refer to, at least with the residential class, as rate design?
>
> A: Correct.
>
> Q: You agree that the principles that apply to rate design are different from those that apply to the cost class of service study?
>
> A: I fully agree.
>
> Q: And you agree that it's not the purpose of the CCOSS to design rates?
>
> A: It is not.[30]

Thus, blindly adopting the CCOSS value of $15.86 as a customer cost value relevant for rate design purposes is inappropriate.

[29] *See* Exh. 420 at 12 (Peirce Direct); *see also* Exh 148 (Responding to IR asking DOC witness Peirce for her definition of customer costs: "the customer costs under consideration were taken from Xcel's CCOSS . . .").

[30] Evidentiary Hearing Transcript, Vol. 4, at 104-105 (Peirce Cross-Examination).

The CCOSS is focused on equity – it provides guidance on the equitable allocation of costs between different customer groups. As Mr. Chernick explained, this is a reasonable approach for class cost allocation, but not for rate design.[31] On an inter-class basis, the CCOSS is used to divide revenue responsibility into portions to be recovered from various classes. But the total size of the bucket of costs allocated to each class does not directly affect the behavior of customers. Rather, in contrast to class allocation, rate design is the utility's and Commission's major opportunity to influence customer behavior. Rate design is what the Commission uses to set rates to encourage conservation to the maximum reasonable extent. Therefore, using a customer cost figure designed solely to allocate costs between classes as a guide for rate design is inappropriate. The CCOSS is not intended as a guide for the rate design decision of how much revenue to recover through a fixed charge versus how much to recover through the variable charge. Xcel and the Department's use of the CCOSS in this way ignores the fact that the primary principle of rate design is to influence customer behavior.

Second, the value that Xcel's CCOSS attributes to customer-related costs is inflated and not a true representation, or even a relevant approximation, for determining what it actually costs Xcel to connect and service a new customer. The CCOSS includes costs in its calculation that go well beyond the costs that are appropriate to attribute to the fixed customer charge in rate design. Department witness Peirce stated that the customer charge should cover "the full cost of connecting and keeping a customer on the system (including connecting to the system along with ongoing metering, billing, customer service and repair)."[32] The problem is that Xcel's CCOSS customer cost includes much more than that. As Mr. Chernick explained, "many of the CCOSS costs are classified as customer-related, not because they are driven by the number of customers

[31] Exh. 293 at 9 (Chernick Rebuttal).
[32] Exh. 420 at 14 (Peirce Direct); Exh 148 (Information Request MCEA No. 1).

on the system, but because Xcel has not identified a better classification factor to split among classes the costs of spanning the service territory."[33] At most, the customer charge should include only those expenses that *truly* vary depending on the number of customers the utility has, such as those identified by the Department – metering, billing, customer service, etc.[34] But Xcel's CCOSS study attributes many more types of costs to its customer cost category in reaching the $15.86/month figure.

When calculated to include only the expenses identified by Department witness Peirce, the costs of connecting and keeping a customer on the system are far *lower* than Xcel's existing customer charge. In response to an Information Request, Xcel computed customer costs including Ms. Peirce's cost categories, plus transformers and the capital costs of service drops, and found average costs of only $6.51 per month for the residential class and $8.61 per month for the small commercial class.[35] Thus, based solely on the CCOSS cost categories that the Department says should be attributable to customer charges, Xcel's existing charges are too high.

Again, no party challenged or rebutted any of Mr. Chernick's testimony on the customer charge. Given that the average cost of those services that the Department believes should be attributed to the customer charge are less than what Xcel currently charges, there is no basis in this record for a customer charge increase.

C. The Department's Concern For A Purported "Intra-Class Subsidy" Is Factually Incorrect And Lacks Support In The Policy Objectives Of Rate Design.

As justification for a higher customer charge, the Department relies on a concern about "intra-class subsidies." But the evidence the Department cites has been rebutted and no additional facts in the record substantiate this concern. In addition, the concern is overstated and

[33] Exh. 293 at 6 (Chernick Rebuttal).
[34] Exh. 420 at 14 (Peirce Direct); Exh 148 (Information Request MCEA No.1).
[35] *Id.* at 7.

does not outweigh the very strong countervailing policy considerations mandated by statute that counsel against a higher customer charge.

Department witness Peirce testified at length about what she describes as "intra-class subsidies" in seeking to justify her recommendation for an increase in the customer charge.[36] She seeks to balance the impact of an increased customer charge "on the heels of a prior increase" with the "impact of intra-class subsidies."[37] At the beginning of her testimony, Ms. Peirce cited to the statutory mandate to use rate design to encourage conservation, yet conservation played no role in her discussion of the customer charge.[38]

According to Ms. Peirce's testimony, a residential customer who uses less than approximately 600 kWh per month is being "subsidized" by customers who use more electricity because a substantial portion of what that customer costs the system (which she says is $15.86 per month, adopting Xcel's CCOSS figure) is recouped through the energy charge.[39] The customer charge should approach "actual" costs (which she asserts amounts to $15.86/month) so that less of this assumed customer cost is passed through in the energy charge. Ms. Peirce expresses a special concern that "customers with higher usage levels, some of whom are households with low incomes, are subsidizing the customer costs of lower usage households that may have average or high incomes."[40]

The Department's analysis, while certainly developed with the goal of reaching a balanced and considered result, is fallacious and must be rejected.

[36] Exh. 420 at 13–21 (Peirce Direct).
[37] *Id.* at 13.
[38] *Id.*
[39] *Id.* at 19.
[40] *Id.*

1. The Department's "intra-class subsidy" analysis is based on an incorrect calculation of the average cost to connect and maintain an additional customer to Xcel's system.

First, the basis for Ms. Peirce's "intra-class subsidy" analysis is the $15.86 per month value that resulted from Xcel's CCOSS study. As set out above, when Xcel calculated the sum of those costs that Ms. Peirce herself attributes to the customer charge ("the full cost of connecting and keeping a customer on the system")[41] the average monthly cost for a residential customer is actually $6.51 per month. In other words, customers are currently paying *more* ($8.00 or $10.00) than the average cost to connect and stay connected to the system. As a result, based on Ms. Peirce's logic, it is the low-use customers (i.e., those who are conserving the most) who are currently subsidizing the larger, high-use residential customers because those low-use customers are paying for some of the energy consumption of high-use residences through the inflated customer charge.

Mr. Chernick explained this in his testimony.[42] No party offered any objection or response.

2. "Intra-class subsidies" should not determine rate design.

A second and more important reason to reject the Department's analysis is because the issue of "intra-class subsidy" should not be a determining factor in designing rates. As Mr. Chernick said: "Based on the way that Ms. Peirce uses the term 'subsidy,' the small customers are currently subsidizing the large customers. However, I do not believe this consideration should be paramount for the Commission . . . ."[43] Subsidies between different groups within a class, as the term is used by the Department, are inevitable. For example, those who use electricity on-peak are being substantially subsidized by those who use electricity during off-

[41] Exh. 420 at 14 (Peirce Direct); Exh 148 (Information Request MCEA -1).
[42] Exh. 293 at 14 (Chernick Rebuttal).
[43] *Id.*

peak hours. And those who build on five-acre lots requiring long service drops are being subsidized by people who live in multi-unit buildings requiring only one service drop. Because some amount of cross-subsidizing is inevitable, the key, as Mr. Chernick explained, is to avoid to the extent possible, "subsidies that encourage customers to act in uneconomic ways." Such subsidies "create real costs."[44]

Raising the fixed charge causes customers to "act in uneconomic ways" because it results in a disincentive to conserve. Those who have been using the least energy – a benefit that accrues to *all* customers because it lowers overall system costs – would see a larger percentage increase in their bills as a result of this rate case. Such an outcome is inconsistent with the statutory directive to encourage conservation and further the state's energy savings goals through rate design. Clean Energy Intervenors submit that conservation is a rate design principle that the Commission should weigh more heavily than any particular "intra-class subsidy."

In sum, those parties proposing an increase in the customer charge have failed to establish that any increase is necessary or justified. It is clear that if the Commission orders decoupling, any revenue-related justifications for the increase evaporate. Decoupling ensures full cost recovery of fixed costs even as per-customer energy use declines; therefore there is no revenue benefit of an increased customer charge. It is likewise clear that increasing the fixed charge results in a *disincentive* to conserve in direct contravention of the Commission's statutory obligation. Finally, the Clean Energy Intervenors fully rebutted the arguments offered by the Department in support of its proposed $.50 per month increase. The average cost of connecting and maintaining a new customer on Xcel's system is $6.51 per month, which is substantially *lower* than the existing customer charge; there are no "intra-class subsidies" flowing from high-use to low-use customers and, even if there were, that would not be a basis to design rates in

[44] *Id.* at 16.

such a way as to reduce the conservation incentive. For all of these reasons, the Commission must reject any proposed increase in the customer charge.

V. CONSISTENT WITH ITS STATUTORY DIRECTIVE TO PROMOTE CONSERVATION, THE COMMISSION SHOULD ORDER THE COMPANY TO IMPLEMENT DECOUPLING.

The Minnesota Legislature has directed the Commission to consider revenue decoupling as a means of accomplishing the state's energy conservation goals.[45] The record contains robust support indicating that, if implemented, the decoupling rider would meet Minnesota's objectives of aligning the utility business model with energy efficiency, while avoiding adverse impacts to customers.[46]

The Clean Energy Intervenors request that the Commission approve Xcel's proposed RDM because: (1) it accomplishes the Minnesota Statute's decoupling objectives; (2) the OAG and AARP's criticisms of decoupling are unsubstantiated and insufficient to rebut compelling evidence establishing decoupling's many benefits; and (3) the RDM and Xcel's current shared savings incentive are separate, though complimentary, mechanisms. Moreover, if the RDM were implemented, it would obviate Xcel's request for an increase in the fixed charge, while – importantly – maintaining consumer incentives to invest in energy efficiency.

A. The Record Demonstrates That Decoupling Would Effectively Remove Xcel's Disincentive To Promote Conservation.

As discussed above, Minnesota law has established a preference for utilities to implement rate designs that further conservation. One specific approach that has been identified as a means of accomplishing this goal is revenue decoupling. The Legislature encourages decoupling to align a utility's business model with the state's energy savings goals:

[45] Minn. Stat. §§ 216B.03 (reasonable rates), 216B.241 (energy saving goals), 216B.2412 (decoupling).
[46] Minn. Stat. § 216B.2412.

> 216B.2412 DECOUPLING OF ENERGY SALES FROM REVENUES.
> Subdivision 1. **Definition and purpose.** For the purpose of this section, "decoupling" means a regulatory tool designed to separate a utility's revenue from changes in energy sales. *The purpose of decoupling is to reduce a utility's disincentive to promote energy efficiency.*[47]
>
> Subd. 2. **Decoupling criteria.** The Commission shall, by order, establish criteria and standards for decoupling. The Commission may establish these criteria and standards in a separate proceeding or in a general rate case or other proceeding in which it approves a pilot program, and *shall design the criteria and standards to mitigate the impact on public utilities of the energy-savings goals under section 216B.241 without adversely affecting utility ratepayers*. In designing the criteria, *the Commission shall consider energy efficiency, weather, and cost of capital, among other factors.* [48]

In conjunction with the clear preference for conservation-focused rate designs in Section 216B.03, and the energy savings goals established in Section 216B.241, Minnesota law explicitly encourages the Commission to consider revenue decoupling as part of an overarching policy package to drive the state closer to achieving its conservation goals.

Both Xcel and Clean Energy Intervenors established through expert testimony that a decoupling rider would effectively remove the utility's disincentive to promote energy efficiency.[49] Unlike Xcel's proposed increase in the fixed customer charge, decoupling would maintain a rate structure that continues to encourage customers to conserve. The Department concurs, stating that the RDM would remove Xcel's throughput incentive, regardless of whether or not it is designed to normalize for weather.[50]

[47] Minn. Stat. § 216B.2412, subd. 1 (emphasis added).
[48] Minn. Stat. § 216B.2412, subd. 2 (emphasis added).
[49] Exh. 109 at 2-9 (Hansen Direct); Exh. 42 at 3-5 (Sundin Rebuttal); Exh. 290 at 7-8 (Cavanagh Direct); Exh. 294 at 3-4 (Cavanagh Rebuttal).
[50] Exh. 417 (Davis Direct at 18:1-13). On cross-examination, the Department's witness Christopher Davis confirmed his position that Xcel has a throughput incentive and that the RDM addresses that incentive. *See* Evidentiary Hearing Transcripts, Vol. 4 at 140:24-25, 141-142:1-7.

The goal of decoupling in Minnesota is to transition utilities to a business model that removes the disincentive to promote energy efficiency. Xcel recovers most of its authorized nonfuel costs of service through volumetric charges on electricity. As a result, increases or reduction in consumption will affect recovery of these costs, even though the costs themselves do not vary with consumption. [51] When sales fall, Xcel may not be able to fully recover these fixed costs, and when sales increase it may end up collecting more. Because of this throughput incentive, the utility may be motivated to work against energy efficiency, even despite policies promoting it. Decoupling addresses this problem by using modest rate adjustments to prevent fluctuations in sales from resulting in over- or under-recovery of Xcel's authorized nonfuel costs.

As Xcel witness Hansen explains in his testimony:

> The proposed RDM is intended to remove the Company's financial disincentive to promote conservation and energy efficiency . . . By eliminating the link between sales and revenues, the Company's proposed RDM will better align the Company's shareholder interests with the public policy goals of conservation and energy efficiency.[52]

The utility industry has ample experience with decoupling mechanisms. Half the states have adopted such mechanisms for at least one electric and/or gas utility, and, in total, 52 electric utilities and 28 natural gas utilities have decoupling.[53] Decoupling has proven effective at eliminating utility disincentives to promote conservation, supporting robust per-capita investment in energy efficiency programs, and allowing utilities to focus on providing energy services rather than increasing sales.[54] Indeed, Xcel expects that the RDM will allow the

[51] Exh. 109 at 2-4 (Hansen Direct); Exh. 290 at 2-3 (Cavanagh Direct).
[52] Exh. 109 at 2:20-26, 3:1-2 (Hansen Direct).
[53] Exh. 290 at 4 (Cavanagh Direct); *see also* Exh. 291 (Cavanagh Direct, Exh. A); Exh. 109 at 5-6 and Schedule 2 (Hansen Direct).
[54] Exh. 290 at 11:1-10 (Cavanagh Direct) (citing Consortium for Energy Efficiency, *State of Efficiency Program Industry Report*, Table 6, January 12, 2011, http://www.cee1.org/ee-pe/docs/Table%206.pdf).

Company to continue supporting an aggressive energy efficiency portfolio.[55] The Department has also noted the utility's record of success with respect to energy conservation, and as noted above – notwithstanding some differences of opinion on the RDM's design elements – the Department agrees that the RDM would successfully address Xcel's throughput incentive.[56]

The RDM structure has evolved throughout the course of this proceeding. Currently, Xcel proposes that it be designed as a "partial" mechanism that excludes weather effects, caps any annual surcharges while – importantly – placing no limit on any refunds, and applies to all residential customers and a subset of small commercial and industrial customers.[57] Separate annual adjustments will be calculated for each covered customer class every twelve months by adding or subtracting the cumulative deferral to volumetric rates for the following year, resulting in either a surcharge or refund to customers.[58] The RDM contains other design elements that are the result of modifications that Xcel incorporated to address certain recommendations of the parties, particularly those of the Department,[59] including: (1) implementing the RDM as a pilot over the course of three years; (2) disallowing RDM surcharges in a given year if Xcel has not reached a target of 1.2 percent savings through its efficiency programs; (3) expanding Xcel's annual RDM evaluation plan to include a comparison of how revenues under traditional regulation would have differed from those collected under "partial" and "full" decoupling;[60] and

[55] Exh. 109 at 8 (Hansen Direct).
[56] Exh. 417 (Davis Direct at 18-19); *see also* Evidentiary Hearing Transcripts, Vol. 4 at 140:24-25, 141-142:1-7 (Davis Cross-Examination).
[57] Exh. 109 at 9-16 (Hansen Direct).
[58] *Id.*
[59] Exh. 110 at 2-4 (Hansen Rebuttal).
[60] Christopher Davis noted the resolution of these first three issues to the satisfaction of the Department during the evidentiary hearings. *See* Evidentiary Hearing Transcripts, Vol. 4 at 136:10-22 (Davis Opening Statement).

(4) modifying the annual cap such that any RDM surcharges do not exceed 5 percent of base revenue, excluding fuel and all applicable riders.[61]

Aside from the above modifications that Xcel and the Department have agreed upon, there remain a handful of elements in dispute between the parties.[62] The main areas of disagreement revolve around whether the RDM should adjust revenues to normalize for weather (i.e. "partial" decoupling) or not ("full" decoupling),[63] the magnitude of the annual cap on any surcharges (ranging from 2 to 5 percent),[64] and whether the RDM should allow deferrals to subsequent years of any adjustments in excess of the cap (i.e., a "soft" vs. a "hard" cap).[65]

Clean Energy Intervenors note that the elements of Xcel's proposed approach are common to successful decoupling mechanisms seen in other jurisdictions, including the proposed "hard" cap on adjustments.[66] In addition, some of the outstanding recommendations by the parties, including full decoupling, have been widely implemented by other utilities.[67] The record

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[61] It appears that Xcel made this modification of its own accord. *See* Exh. 110 at 9:13-23 (Hansen Rebuttal).

[62] *See* Exh. 110 at 4-14 (Hansen Rebuttal) (responding to each of the recommended modifications to the RDM not currently accepted by Xcel). The outstanding issues between Xcel and the Department are also outlined in witness Davis' opening statement. *See* Evidentiary Hearing Transcripts, Vol. 4 at 136:23-25, 137:1-2.

[63] The Department is recommending a "full" decoupling mechanism. *See* Evidentiary Hearing Transcripts, Vol. 4 at 139:23-25 (Davis Opening Statement).

[64] *See* Exh. 419 at 16:21-24 (Davis Surrebuttal) (recommending no cap on decoupling refunds, but a hard cap on surcharges of 3% of total customer group revenue, including fuel and all applicable riders; *see also* Exh. 311 at 3 (Brockway Rebuttal) (recommending cap of 2% of total revenue); Exh. 377 at 38-39 (Nelson Rebuttal) (supporting the Department's 3% cap, but asking Commission to also consider AARP's recommendation).

[65] As Xcel's witness Hansen described, with a hard cap the ". . . amounts in excess of the cap when it is exceeded, are not recovered or carried over into future years." With a soft cap ". . . They remain in a deferral account for recovery in future years." *See* Evidentiary Hearing Transcripts, Vol. at 95:12-16 (Hansen Cross-Examination). Xcel is recommending a soft cap, while the Department, AARP and OAG are recommending a hard cap.

[66] *See* Exh. 109 at 5-6 and Schedule 2 (Hansen Direct).

[67] *See* Exh. 291 (Cavanaugh Direct, Exh. A) (Pamela Morgan paper, showing that 21 of the 23 electric utilities surveyed implement "full" decoupling); *see also* Exh. 109 at 5-6 and Schedule 2 (Hansen Direct) (showing the same). And as Clean Energy Intervenor's expert, Ralph Cavanagh indicated, "I have supported . . . "full decoupling" in other states, as a way to minimize risk to both utilities and their customers, but I also feel strongly that decoupling mechanisms work best when utilities support and

contains much testimony on the merits of a range of proposals with respect to these design elements, and the Commission has before it several alternative approaches for how to craft the RDM. But given that Xcel has accepted the recommendation of parties to implement the RDM as a pilot, the Commission and the parties will have ample time to address, reassess and update these design elements to ensure that the mechanism satisfies the objectives of Minnesota law to completely remove the utility's throughput incentive, aggressively promote conservation in the coming years, and not adversely impact customers. The Department agreed that this pilot approach, coupled with the additional analyses that Xcel plans to include in its annual RDM reports, provide this kind of latitude.[68]

B. The Parties' Criticisms Of The RDM Are Unsubstantiated And Do Not Account For The Full Range Of Benefits Of Decoupling.

Decoupling offers a host of benefits for both utilities and consumers: alignment of the utility business model with energy efficiency; assurance that customers as a whole pay the utility for its costs and reasonable return authorized by the Commission – no more and no less – regardless of fluctuations in sales; and assurance of fixed cost recovery for the utility without the need to increase customer charges and deaden the conservation signal in current rates. The record as it stands today reflects considerable testimony from Xcel,[69] Clean Energy

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embrace the key design elements applicable to them. Xcel prefers the weather normalization approach described in its proposal, for the reasons described by Mr. Hansen, and the Department's recommendation for regularly updated evaluations (which I too support) will give the Commission and interested parties ample basis for reassessing this issue and possibly agreeing on a mid-course correction as experience is gained.") Exh. 294 at 6 (Cavanagh Rebuttal).

[68] *See* Evidentiary Hearing Transcripts, Vol. 4 at 144:12-25, 145:1-13 (Davis Cross-Examination).

[69] Exh. 109 at 2-9 (Hansen Direct); *see also* Exh. 42 at 3-5 (Sundin Rebuttal); Transcript of Evidentiary Hearings, Vol. 3 at 95-96, 107-108 (Hansen Cross-Examination); Transcript of Evidentiary Hearings, Vol. 1 at 153-156 (Sundin Cross-Examination).

Intervenors,[70] and the Department[71] demonstrating these benefits, and the ways in which revenue decoupling could drive Minnesota closer to realizing its conservation goals.

Despite these benefits, the OAG, AARP, and on occasion other intervenors, object to the RDM for reasons other than those design elements raised by the Department and discussed above. Specifically, they claim that: (1) there is no linkage between the RDM and Xcel's commitment to energy efficiency; (2) the RDM is not needed to help Xcel reach its conservation goals; (3) decoupling adjustments adversely impact consumers; and (4) decoupling is "known" to lead to customer confusion. In fact, the record reflects that these concerns are unfounded.

1. The record demonstrates a link between the RDM and Xcel's energy efficiency performance.

Though AARP claims that there exists no link between decoupling and energy efficiency performance,[72] this concern has been repeatedly rebutted.

The Commission has itself concluded that decoupling is essential to aligning utility and customer interests in energy efficiency progress.[73] Specifically, OAG and AARP's statements are inconsistent with this Commission's recent finding in the CenterPoint Energy case:

> The Company established that, more likely than not, it has a throughput incentive, and decoupling will fully separate the Company's revenue from changes in energy sales. The Commission concludes that full decoupling has substantial potential to align the Company's interests with the public's interest in energy efficiency.[74]

[70] Exh. 290 at 7-8 (Cavanagh Direct); Exh. 294 at 3-4 (Cavanagh Rebuttal); Evidentiary Hearing Transcripts, Vol. 3 at 72-87 (Cavanagh Cross-Examination).
[71] Exh. 417 (Davis Direct at 18-19); *see also* Evidentiary Hearing Transcripts, Vol. 4 at 140:24-25, 141-142:1-7.
[72] Exh. 310 at 13:18-22, 14:1-16 (Brockway Direct).
[73] *See* MPUC Docket No. G-008/GR-13-316, Findings of Fact, Conclusions and Order at 47-48.
[74] *Id.* at 48.

The language of Minnesota Statutes Section 216B.2412 also indicates that the Legislature assumes a relationship between the two (e.g., subd. 1: "[t]he purpose of decoupling is to reduce a utility's disincentive to promote energy efficiency").

Further, a nationwide review of decoupling mechanisms and energy efficiency performance suggests a strong association between the two, with seven out of the 10 states that led the nation in per-capita investment in residential electric energy efficiency programs in 2011 implementing decoupling for at least one utility. [75] Likewise, the Department disclaims any support for the contention that "revenue decoupling is not a policy that fosters increased energy efficiency."[76] Clean Energy Intervenors also note that other Minnesota utilities (for example, Minnesota Energy Resources Corporation)[77] are already reporting preliminary findings on both expanded efficiency programs and savings achieved in the wake of implementing revenue decoupling.

The RDM as currently proposed by Xcel is a pilot and will specifically address in annual reports this very linkage between decoupling and energy efficiency, and the differences – if any – in adjustments under a "partial" or "full" approach. This evaluation will reveal whether the predicted momentum in energy efficiency has materialized, and will allow the Commission to

[75] Exh. 290 at 11:1-10 (Cavanagh Direct) (citing Consortium for Energy Efficiency, *State of Efficiency Program Industry Report*, Table 6, January 12, 2011, http://www.cee1.org/ee-pe/docs/Table%206.pdf. The states are California, Connecticut, Idaho, Massachusetts, New York, Oregon, and Vermont).

[76] Exh. 417 at 22:28-32, 23:1-2 (Davis Direct) (also stating that Xcel's modified annual reporting on the RDM would provide useful information to this effect).

[77] *See* MPUC Docket No. G-007, 011/GR-10-977, Compliance Filing Revenue Decoupling Evaluation Report for 2013 (March 31, 2014). For example, MERC states that "[a]s a result of the Revenue Decoupling Mechanism and the input from various stakeholders, MERC implemented two new measures and two new programs in 2013 . . ." *Id*. at 7. MERC also surpassed its annual gas savings goal while the decoupling pilot was in place in 2013. *Id*. In addition, MERC reported that the 2013 decoupling adjustment will result in an average monthly refund of approximately $0.92 per residential customer in 2014, amounting to 1.32% being returned to customers. *Id*. at 23. And while MERC acknowledges that ". . . due to the start date of the new projects and their size, it is highly doubtful that a significant impact can be detected in the results to date," it nonetheless reasserts its commitment to energy efficiency programs in Minnesota and confirms that it continues to increase the energy savings goal as a percent of retail sales. *Id*. at 6-7.

assess the RDM on a regular basis for any lingering concerns of the parties and with an eye toward satisfying the decoupling criteria of Minnesota state law.

In addition to this annual performance evaluation, Xcel has agreed to forego any surcharges in a year in which it fails to reduce energy use by 1.2 percent as a result of its energy efficiency programs.[78] This criteria in and of itself creates an explicit link between Xcel's energy efficiency performance and the presence of the RDM.[79] Xcel views this design element a "means of demonstrating its commitment to working with its customers to ensure the effective promotion of conservation and energy efficiency."[80]

2. The RDM is essential to sustaining Xcel's conservation performance and increasing innovation in achieving all cost-effective energy efficiency.

OAG and AARP's position that the RDM is unnecessary to maximize Xcel's energy efficiency performance[81] is not supported by record evidence. But rather than signaling that Xcel does not need decoupling to continue delivering successful programs to its customers, the record is clear that the RDM is essential to Xcel's future performance. Xcel testified that it remains committed to meeting its statutory energy efficiency requirements in the coming years even if decoupling is not ordered by this Commission.[82] But at the same time the utility has also made clear that these requirements are becoming increasingly difficult to meet because of changing conditions in an increasingly challenging energy marketplace.[83] These conditions will be present with or without the RDM in place. But *with* decoupling, Xcel's throughput incentive would be removed, enhancing its ability to surmount these circumstances in the coming years

[78] Exh. 110 at 3:16-25 (Hansen Rebuttal).
[79] *See* Transcript of Evidentiary Hearings, Vol. 3 at 79-81 (Cavanagh Cross-Examination).
[80] Exh. 110 at 3:20-22 (Hansen Rebuttal).
[81] *See* Exh. 375 at 54 (Nelson Direct); *see also* Exh. 310 at 10-11 (Brockway Direct).
[82] Exh. 109 at 6-8 (Hansen Direct); *see also* Exh. 42 at 3-5 (Sundin Rebuttal); Transcript of Evidentiary Hearings, Vol. 1 at 156-161 (Sundin Cross-Examination), Vol. 3 at 94-95 (Hansen Cross-Examination).
[83] *See* Transcript of Evidentiary Hearings, Vol. 3 at 103-105 (Hansen Cross-Examination, confirming these challenges).

and continue to deliver robust, cost-effective energy efficiency to consumers. As Xcel's witness Sundin stated, "[d]ecoupling is a foundational regulatory tool that will help reduce the uncertainty surrounding future DSM efforts."[84]

Clean Energy Intervenors also submit that the parties opposing the RDM on this issue focus myopically on mere compliance with energy efficiency requirements, when they should be concerned with innovation and driving Minnesota's conservation efforts further and further every year. Underpinning Minnesota's mandate to design rates to encourage conservation "to the maximum reasonable extent" is a recognition of the importance of driving energy efficiency performance in the coming years. While the annual efficiency requirements are critical, ideally they should be seen as the floor – not the ceiling – for the robust conservation utilities could be achieving. And Minnesota's rates should be designed to achieve that end. As Clean Energy Intervenors' witness Ralph Cavanagh indicated:

> I am confident that this company will make every effort to remain in compliance with the law. But I also believe that having its incentives aligned with those of its customers with a joint stake in cost-effective efficiency is the best way to ensure continued excellence. This isn't just about compliance. It's about innovation. It's about constantly trying to do better. . . And I think that's what Minnesotans want.[85]

3. AARP's concern that the RDM will adversely impact consumers is unsubstantiated on the record.

AARP also voices concern about potential impacts on consumers as a result of the RDM's annual adjustments. Though the exact amounts of these adjustments remain to be seen (and whether they will adjust rates up or down), experience across a range of decoupling mechanisms nationwide suggests that any surcharges associated with the RDM would be minimal and in no way insurmountable. AARP's concerns appear to be based on two

[84] Exh. 42 at 5:6-8 (Sundin Rebuttal).
[85] *See* Transcript of Evidentiary Hearings, Vol. 3 at 80 (Cavanagh Cross-Examination).

overarching assumptions: first, that any surcharges added to customer bills as a result of the RDM would somehow increase costs of service or the revenue requirement; and second, that customers (particularly those classified as low-income) would be unable to offset any claimed bill impacts by investing in energy efficiency. Neither of these claims is supported by the record.

With respect to the first issue, AARP repeatedly states that if implemented the RDM would result in bill impacts that would not have otherwise been present.[86] This conclusion relies on a crucial error, however; that decoupling somehow increases the costs of service to customers. While the RDM would indeed adjust volumetric rates every year, it would *not* affect the underlying, Commission-approved revenue requirement in this proceeding.[87] Rather, it would simply ensure that the utility would collect no more and no less than its approved revenue requirement. In this sense, the RDM serves an important consumer protection role. In its absence, consumers run the risk of over-compensating the utility in years when it over-collects its revenue. But with the RDM in place customers would pay *exactly* the approved costs of service, with surcharges or refunds acting as corrective annual true-ups. Any potential impacts (if they occur) would be further mitigated by the proposed 5 percent cap on adjustments when a revenue shortfall exists, which – importantly – does not limit the refunds available to customers.

AARP's second concern – that customers would be unable to overcome the RDM's (modest) rate adjustments through efficiency investments[88] – has been thoroughly rebutted on the record. As a threshold matter, nationally, decoupling results in very modest rate adjustments (typically about 2 percent or less of base rates and the total bill) that include both surcharges *and* refunds, and have not been found to materially affect rewards to consumers for reducing their

[86] Exh. 310 at 15-19 (Brockway Direct); Exh. 311 at 5-6 (Brockway Rebuttal); Exh. 312 at 8-9 (Surrebuttal).
[87] *See* Transcript of Evidentiary Hearings, Vol. 3 at 83-84 (cross-examination of Ralph Cavanagh).
[88] Exh. 311 at 6:22-23 (Brockway Rebuttal).

energy use.[89] This pattern applies to Xcel's proposal as well. It remains to be seen what exact adjustments will be made for the covered customer classes, but as an illustration Xcel produced a series of examples for how the RDM may interact with residential customers' bills. The utility found that (all else equal) "low-use" customers – by AARP's own definition, those who use 200 kWh or less per month – would likely experience lower percentage bill impacts from RDM surcharges than higher-use customers. [90] It also found that the amount of conservation required to offset any bill impact associated with even the maximum allowable RDM surcharge under Xcel's proposal (5 percent of base rates) is attainable for lower-use customers.[91]

AARP also voices a parallel concern, that the typical 2 percent adjustments cited by Clean Energy Intervenors are larger for low-use customers than for those who use more than the average amount of electricity.[92] But because the RDM surcharge would be applied to the variable portion of a customer's bill, it actually varies by use. As a result any RDM surcharge would actually produce a *smaller* percentage increase for lower-use customers than for average-use and higher-use customers.[93] Thus, it appears that AARP's concerns to this effect are not based on a proper understanding of how Xcel's RDM works, or its potential effects on customers.[94]

Clean Energy Intervenors also note that what the parties should be (and, in many cases, are)[95] concerned with here is the impact of higher customer charges on conservation incentives, which as discussed above, dampen conservation signals and lessen customer incentives to

[89] *See* Exh. 291 at 3-4 (Cavanagh Direct, Exh. A, Pamela Morgan study).
[90] Exh. 111 at 5-10 (Hansen Surrebuttal).
[91] *Id*.
[92] Exh. 311 at 5:20-28 (Brockway Rebuttal, relying on OAG witness Nelson's Direct Testimony at 50, Table 15, showing impacts of increased customer charge on different levels of usage).
[93] Exh. 111 at 10 (Hansen Surrebuttal).
[94] *Id*.
[95] *See* Exh. 375 at 52 (Nelson Direct) (opposing Xcel's proposed customer charge increases); *see also* Exh. 310 at 4:14-19 (Brockway Direct) (opposing same).

conserve. One of the many benefits of the RDM is that it obviates the need for Xcel to seek an increase in its customer charges in order to ensure that it recovers its fixed costs. There also appears to be a trend of ever-increasing fixed customer charges for Minnesota's utilities,[96] which is likely to continue as utilities continue to invest in their distribution systems. Decoupling would slow this trend, while enabling Minnesota to continue to balance the interests of utilities with those of consumers, and at the same time drive the achievement of Minnesota's conservation goals.

4. The record contains no credible evidence of customer confusion as a result of decoupling mechanisms.

Both OAG and AARP express concern that if implemented the RDM will "confuse" Xcel's customers.[97] However, neither party offers evidence establishing such a pattern; in fact, just the opposite is true. For example, OAG witness Nelson testified that approving the RDM is "known" to lead to customer confusion.[98] However, when asked to cite to any evidence of such confusion arising from a decoupling adjustment, Mr. Nelson was unable to do so.[99] In fact, he indicated that he was unaware of *any* specific instances where decoupling has led to customer confusion or customer complaints.[100] Moreover, upon a review of three independent evaluations of decoupling mechanisms, Xcel witness Hansen uncovered no evidence of widespread customer

[96] For example, over the last decade Xcel has steadily implemented customer charge increases for the residential class, starting with $4.50 per month in 2005 (*see* MPUC Docket 05-1428), to $8 in 2013 (*see* MPUC Docket 13-868). This trend is present with MN Power and Otter Tail as well. In 2009 Otter Tail increased its residential customer charge from $6.15 to $8.00 per month (*see* MPUC Docket 2007 07-1178) and added another $0.50 in 2011 (*see* MPUC Docket 2010 10-239). In 2008, MN Power nearly doubled its fixed customer charge, from $5.00 to $8.00 per month (*see* MPUC Dockets 08-415, 09-1151).
[97] Exh. 375 at 53-54 (Nelson Direct); Exh. 311 at 1:17-18 (Brockway Rebuttal) (AARP indicates concern that decoupling "confuses customers," but does not provide any further explanation or evidence of this on the record).
[98] Exh. 375 at 53:8-11, 54:7-14 (Nelson Direct).
[99] *See* Transcript of Evidentiary Hearings, Vol. 3 at 274-275 (Nelson Cross-Examination).
[100] *Id.*

confusion.[101] Rather than creating concerns amongst customers, the RDM in fact is the "cleanest way of resolving [Xcel's] disincentive . . . that arises in meeting the state's policy goal to promote conservation."[102]

C. The RDM and Xcel's Shared Savings Incentive Serve Different (Though Complementary) Purposes.

OAG and the Minnesota Chamber of Commerce[103] also imply that, because Xcel receives a shared savings incentive for achieving its energy efficiency targets each year (termed the "CIP incentive") decoupling is not needed.[104] This claim is unsupported by the record, and conflates the two policies.

As Department witness Davis points out, the CIP incentive is a long-standing part of Xcel's regulatory landscape.[105] And Xcel's witnesses have repeatedly confirmed throughout this proceeding that the RDM and the CIP incentive have distinct purposes, though they are components of an overall policy package that would ensure Xcel continues to perform in its energy efficiency portfolio year after year. Xcel has unequivocally indicated that the purpose of the RDM is to "remove the utility's *disincentive* to promote conservation and energy efficiency,"[106] and it does so by providing the lost revenue between rate cases.[107] In contrast, the purpose of the CIP incentive is to "*encourage* [Xcel] to do energy efficiency at a very high level in Minnesota in a very cost-effective manner."[108] The CIP incentive is based on bill savings and

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[101] Exh. 110 at 16-17 (Hansen Rebuttal).
[102] *See* Transcript of Evidentiary Hearings, Vol. 3 at 97:8-12 (Hansen Cross-Examination).
[103] *See* Transcript of Evidentiary Hearings, Vol. 3 at 107-108 (Minnesota Chamber cross-examination of Xcel witness Hansen); Exh. 375 at 53 (Nelson Direct).
[104] The Department does not explicitly oppose the coexistence of these two mechanisms, but it does object to a "soft" cap on the RDM where Xcel also has a shared savings incentive. *See* Exh. 417 at 37:4-10 (Davis Direct); *see also* Exh. 419 at 2-6 (Davis Surrebuttal).
[105] Exh. 417 at 19-20 and Table 2 (Davis Direct).
[106] *See* Transcript of Evidentiary Hearings, Vol. 3 at 95-96, 107-108 (Hansen Cross-Examination); *see also* Transcript of Evidentiary Hearings, Vol. 1 at 153-156 (Sundin Cross-Examination).
[107] *See* Transcript of Evidentiary Hearings, Vol. 1 at 163-166 (Sundin Redirect).
[108] *Id*. 165:19-25.

provides the utility a portion of the energy savings achieved in a given year based on a certain level of achievement,[109] and is not intended to compensate Xcel for lost revenues.[110] Regardless of how ardently the parties would like to cast these two policies as one-in-the-same, they are different mechanisms that serve wholly distinct ends.

And though the OAG and the Minnesota Chamber appear to object to the coexistence of the RDM and the CIP Incentive, these two mechanisms are quite commonly bundled together in other jurisdictions. For example, 17 of the 25 decoupled utilities reviewed by Xcel witness Hansen also have energy efficiency performance incentives in place, including utilities in California, Connecticut, Massachusetts, New York, Ohio, and Rhode Island.[111] The Department concurs that decoupling would work in conjunction with a shared savings incentive mechanism.[112]

In sum, the Commission has before it robust evidence that decoupling would successfully remove Xcel's throughput incentive – essential criteria for approving this mechanism under Minnesota law. If implemented, the decoupling rider would meet Minnesota's policy objectives of aligning the utility business model with energy efficiency, while also avoiding adverse impacts to customers. Clean Energy Intervenors recommend that the Commission adopt decoupling in this proceeding. In addition, for the reasons identified in Mr. Cavanagh's testimony[113] Clean Energy Intervenors also recommend no prospective adjustment in the utility's authorized return on equity, as it removes both an upside and a downside from utility recovery of non-fuel revenue requirements, with effects on cost of capital that cannot be presumed.

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[109] *See* Transcript of Evidentiary Hearings, Vol. 1 at 163-166 (Sundin Redirect).
[110] *Id.*
[111] *See* Exh. 109 at 16-17, and Schedule 2 (Hansen Direct); *see also* Transcript of Evidentiary Hearings, Vol. 3 at 109-110 (Hansen Cross-Examination, confirming the compatibility of these mechanisms).
[112] *See* Exh. 417 at page 37:4-5 (Davis Direct).
[113] *See* Exh. 290 at 5-6 (Cavanagh Direct); *see also* Exh. 292 (Cavanagh Direct, Exh. B, Brattle Group study); Evidentiary Hearing Transcript, Vol. 4 at 69-72 (Cavanagh Cross-Examination).

VI. CONCLUSION

The Commission's decision in Xcel's first multi-year rate case includes important rate design issues that have significant impacts on conservation. The Legislature mandated that the Commission design rates to encourage conservation "to the maximum reasonable extent." To fulfill that obligation in this case, the Commission should adopt the IBR Stipulation, reject any increase in the customer charge, and order Xcel to implement decoupling.

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Respectfully submitted,

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