

**MINNESOTA PUBLIC UTILITIES COMMISSION
SUITE 350
121 SEVENTH PLACE EAST
ST. PAUL, MINNESOTA 55101-2147**

Katie Sieben	Chair
Joseph Sullivan	Vice Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
John Tuma	Commissioner

In the Matter of the Commission's
Investigation into the Impact of Severe
Weather in February 2021 on Impacted
Minnesota Natural Gas Utilities and
Customers

Docket No. G-999/CI-21-135

In the Matter of the Petition of Northern
States Power Company d/b/a Xcel Energy to
Recover February 2021 Natural Gas Costs

Docket No. G-002/CI-21-610

**DEPARTMENT OF COMMERCE'S ANSWER TO XCEL ENERGY'S
PETITION FOR RECONSIDERATION**

The Public Utilities Commission should deny Xcel Energy's petition for reconsideration.¹

The Commission reconsiders its decisions only when petitions raise new issues, point to new and relevant evidence, expose errors or ambiguities in the underlying order, or otherwise persuade the Commission that it should rethink its decision.² Here, Xcel mischaracterizes the Commission's October 19 order and glosses over the extensive record that supports it. Because its petition does not meet the Commission's standard, Xcel instead complains that the Commission departed from the Administrative Law Judges' recommendations, recycles deficient arguments from its prior

¹ Minn. R. 7829.3000, subp. 4 (2021) ("Other parties to the proceeding shall file answers to a petition for . . . reconsideration . . . within ten days of service of the petition.").

² See, e.g., *In re Inquiry into Exemptions for Small Gas Util. Franchises Under Minn. Stat. § 216B.16, Subd. 12, for Gorham's, Inc., Nw. Nat. Gas, LLC, Nw. Nat. Gas of Murray Cty., Inc., & Nw. Nat. of Cass Cty.*, Docket Nos. G-6278, G-6279, G-6280/CI-18-770, ORDER DENYING RECONSIDERATION at 1 (Aug. 27, 2021).

filings, and threatens to appeal the Commission's well-reasoned decision unless it is given permission to collect yet more costs from captive customers. Xcel's desire to collect an additional \$19 million from its customers, however, is not a basis for reconsidering the Commission's well-supported decision. There is one point, however, where the Commission may wish to clarify the rationale provided in its order to prevent confusion going forward.

ARGUMENT

I. XCEL'S PETITION FAILS TO MEET THE COMMISSION'S RECONSIDERATION STANDARD.

Xcel fails to raise new issues or new and relevant evidence as required by the Commission's reconsideration standard. Instead, Xcel simply repeats its arguments from the OAH proceeding and protests that the Commission did not find those arguments persuasive. In other words, Xcel essentially objects to the Commission's decision to exercise independent judgment and depart from the ALJs' recommendations with respect to the February 17 load forecasting and peaking plant usage issues.³ Xcel's arguments also are not responsive to the reasoning the Commission provided for its decision.

The Commission was not required to mechanically adopt the ALJs' recommendations. In fact, as the final decisionmaker in this matter, the Commission was obligated to employ its expertise to render an independent decision.⁴ Only the Commission has the "experience, technical competence, and specialized knowledge" necessary to evaluate "the evidence in the hearing record."⁵ Unlike ALJs who are well-rounded generalists, commissioners are appointed with consideration of past experience "in the profession of engineering, public accounting, property and utility valuation, finance, physical or natural sciences, production agriculture, or natural

³ Xcel Reconsideration Petition at 2.

⁴ *City of Moorhead v. Minn. Pub. Utilities Comm'n*, 343 N.W.2d 843, 846 (Minn. 1984).

⁵ Minn. Stat. § 14.60, subd. 4 (2020).

resources.”⁶ This special expertise means that commissioners are in the best position to assess what constitutes prudent utility practice under specific conditions. ALJ recommendations, by contrast, are “merely one part of [the] record.”⁷ In this instance, the Commission explained in detail the evidence that warranted departure from the ALJs’ recommendations.

Despite the October 19 order’s detailed explanations, Xcel fails to meaningfully address the Commission’s actual reasoning. With respect to the peaking plants, for example, the Commission explained in detail why prudence would have required Xcel to dispatch its Wescott facility on February 17 given the ongoing price spike event.⁸ Xcel ignores the Commission’s significant discussion documenting the February Event’s historic nature, and instead baldly concludes: “There is simply no evidence that supports the conclusion that the only action a reasonable utility in a similar circumstance would take would be to run its peaking plants in lieu of making daily purchases.”⁹ Xcel’s business-as-usual argument, however, is not new. Throughout this proceeding, Xcel has sought to abdicate its responsibility to exercise sound judgment in response to changing conditions by arguing that its normal practices were the only reasonable response to abnormal conditions.¹⁰ It is not a basis for reconsideration that the Commission disagreed with the company after the Commission exercised its expertise to evaluate the extensive record.

⁶ Minn. Stat. § 216A.03, subd. 1 (2020).

⁷ *City of Moorhead*, 343 N.W.2d at 847.

⁸ Docket Nos. G-002/CI-21-610, G-999/CI-21-135, ORDER DISALLOWING RECOVERY OF CERTAIN NATURAL GAS COSTS AND REQUIRING FURTHER ACTION at 37-38 (Oct. 19, 2022) (“Xcel Order”).

⁹ Xcel Reconsideration Petition at 17.

¹⁰ *See, e.g.*, Xcel Reply Br. at 25 (arguing that Xcel’s practice is only to use peaking plants for reliability events).

II. XCEL DOES NOT RAISE ARGUMENTS THAT WOULD WARRANT REVERSAL ON APPEAL.

Xcel frames its reconsideration petition as providing “the Commission an opportunity to correct an order prior to appellate review.”¹¹ The Commission’s decisions are entitled to significant deference on appeal, and the Commission is presumed to have the expertise necessary to decide technical matters within its authority.¹² A Commission decision may only be reversed, remanded, or modified if it runs afoul of one of six statutory standards.¹³ The scope of review on appeal is limited to the issues raised by a party in its reconsideration petition.¹⁴ Xcel raises no arguments that would warrant reversal on appeal. Instead, the Commission’s well-reasoned decision was made in accordance with law and is supported by substantial record evidence.

A. The Commission Reasonably Adopted Several Recommendations from the Department’s Expert.

For several issues, the Commission agreed with the conclusions of the Department’s expert witness that Xcel failed to act prudently, and imposed disallowances for the imprudently incurred extraordinary gas costs calculated by the Department’s expert as a result. Xcel appears to argue that it was arbitrary and capricious for the Commission to rely on the testimony of the Department’s retained expert witness Matt King over Xcel’s testimony.¹⁵ But credibility determinations are within the discretion of the decision makers for both lay witnesses and experts.¹⁶ The Commission should not revisit its determination to rely on Mr. King’s findings despite Xcel’s pugnacious attacks.

¹¹ Xcel Reconsideration Petition at 3.

¹² *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 278 (Minn. 2001).

¹³ Minn. Stat. § 14.69 (2020).

¹⁴ See Minn. Stat. § 216B.27, subd. 2; *In re Enbridge Energy, Ltd. P’ship*, 964 N.W.2d 173, 188 n.18 (Minn. Ct. App. 2021).

¹⁵ Xcel Reconsideration Petition at 8.

¹⁶ See *Schultz v. U.S. Bedding Co.*, 297 N.W. 351, 352 (Minn. 1941) (“[W]e do not try the facts nor determine the credibility of the testimony of witnesses, be they laymen or medical experts.”).

Xcel failed to challenge Mr. King’s qualifications before the deadline set by the ALJs,¹⁷ and for good reason as Mr. King is eminently qualified. Mr. King is a senior project manager and has worked for GDS Associates in various capacities since 2009.¹⁸ Mr. King holds degrees in Industrial and Systems Engineering from the Georgia Institute of Technology and Management Science & Engineering from Stanford University.¹⁹ During the past decade, Mr. King has directly testified in a utility proceeding, assisted other GDS experts, developed technical modeling, and conducted reviews of energy market issues.²⁰ More specifically, he has worked on utility integrated resource planning, long- and short-term hedging and risk management strategy and fulfillment, economic feasibility analyses of supply alternatives, financial planning and budgeting, and participated in federal and state regulatory proceedings.²¹

More importantly, Mr. King supported his recommendations with data provided by Xcel,²² with publicly available information (using sources like the Energy Information Administration) regarding the facts and circumstances available to Xcel when it was making its decisions,²³ and sound reasoning. Mr. King also vigilantly adhered to the prudence standard’s requirement not to apply hindsight.²⁴

¹⁷ See First Prehearing Order ¶ 24 (“Except for good cause shown, objections by any party related to the qualifications of a witness or to that witness’ direct, rebuttal, or surrebuttal testimony shall be considered waived unless the objecting party states its objection by motion made to the Administrative Law Judges, and serves a copy of such objections on the parties, no later than February 14, 2022.”).

¹⁸ DOC Ex. 506, MJK-D-1 at 1 (King Direct).

¹⁹ *Id.*, MJK-D-1 at 1.

²⁰ *Id.*, MJK-D-1 at 1–2.

²¹ DOC Ex. 506 at 1–2 (King Direct).

²² See, e.g., Ex. 506, MJK-D-7, 12-13, 16, 18, 20 (King Direct); Ex. 507, MJK-S-2-4, 7 (King Surrebuttal).

²³ See DOC Ex. 506, MJK-D-11 (King Direct).

²⁴ See, e.g., DOC Ex. 507 at 2-3 (King Direct). For example, in many instances, Mr. King’s prudence determinations differed between actions taken on February 12 and February 16 due to the different information available to the gas utilities at those two times.

Xcel's barrage of attacks on Mr. King's credentials do not compensate for its failure to carry its burden of proof to show that its actions before, during, and after the February Event were prudent. The Commission should not reconsider its decision.

B. The Commission's Application of the Prudence Standard Is Entitled to Deference.

Xcel does not dispute the Commission's articulation of the prudence standard, but instead argues that the Commission legally erred by misapplying the standard to the facts.²⁵ While legal questions are reviewed de novo on appeal, the Commission's quasi-judicial application of law to fact is reviewed under the substantial-evidence standard.²⁶ The Commission reasonably adopted the prudence standard that was agreed on by all parties and relied on by the ALJs.²⁷ The Commission used its expertise and discretion to apply the prudence standard to what Xcel acknowledges is a voluminous record.²⁸ Where the Commission departed from the ALJs' recommendation, it thoroughly explained why. Because the Commission's decision is "not affected by other error of law," it should not reconsider.²⁹

C. Substantial Evidence Supports the Commission's Decision.

Courts may reverse or modify an administrative decision only if it is "unsupported by substantial evidence in view of the entire record as submitted."³⁰ The question is whether there is "relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and more than a 'scintilla,' 'some' or 'any' evidence."³¹ The Commission need only adequately

²⁵ Xcel Reconsideration Petition at 4.

²⁶ *In re Enbridge Energy, Ltd. P'ship*, 964 N.W.2d at 189.

²⁷ Xcel Order at 5-6.

²⁸ Xcel Reconsideration Petition at 2.

²⁹ Minn. Stat. § 14.69.

³⁰ *Id.*

³¹ *In re NorthMet Project Permit to Mine Application Dated Dec. 2017*, 959 N.W.2d 731, 749 (Minn. 2021) (cleaned up).

explain “how it derived its conclusion and whether that conclusion is reasonable on the basis of the record.”³² The substantial-evidence standard is “rooted in the deference [courts] show to matters that are properly within the agency’s particular expertise.”³³

The Commission reasonably concluded that Xcel failed to exercise prudence in several respects, resulting in approximately \$19 million in imprudently incurred gas costs. As reflected throughout its 47-page order, the Commission considered the competing evidence, used its expertise to assess the voluminous record, and explained its conclusions. The Commission’s decision regarding Xcel’s load-forecasting decisions, related supply reserve margin, and peaking plants are supported by substantial evidence.

1. The Commission’s Determination that Xcel’s Load Forecast Was Not Prudent Has Substantial Record Support.

Xcel argues that the Commission’s determination that Xcel’s load forecast was not prudent is unsupported, and the Commission’s order includes “fundamental misstatements of the record.”³⁴ The Commission did not misstate the record; it simply disagreed with Xcel’s experts and evidence. Xcel’s desire to relitigate the case should not cause the Commission to reconsider.

Xcel claims that the Commission “ignores . . . uncontested evidence that the TESLA model incorporates the impact of recent curtailments.”³⁵ Far from being uncontested, whether Xcel appropriately accounted for curtailments in its load forecasts was the *central* dispute. Based on Xcel’s records and discovery responses, the Department’s expert determined that Xcel’s load forecast did not adequately account for planned curtailments.³⁶ CUB’s expert independently

³² *Id.*

³³ *Id.*

³⁴ Xcel Reconsideration Petition at 4.

³⁵ *Id.* at 9.

³⁶ DOC Ex. 506 at 71-74 (King Direct) (subsection titled “Xcel Curtailments Volumes in Forecasting”).

reached the same conclusion.³⁷ The Commission agreed with the Department and CUB and explained why:

The Commission agrees with the Department and CUB that Xcel did not satisfactorily show that the TESLA model adequately accounted for Xcel's planned curtailments in its daily load forecasts. Xcel offered only nonspecific statements that the model learns from past load data and, therefore, future load forecasts must be influenced by past curtailed loads. But Xcel failed to provide sufficient details to explain how this process works or how the influence of curtailments in past load data actually manifested in the February-Event load-forecast results. The explanation Xcel provided does not establish that the TESLA results adequately accounted for Xcel's February Event curtailment plans.³⁸

Xcel makes several other claims about the Commission's alleged misunderstanding and misstatements of its load forecasting arguments but these all boil down to asking the Commission to reweigh the evidence and expert determinations.³⁹ The Commission appropriately weighed the evidence the first time—finding the Department's and CUB's testimony more reliable than Xcel's vague assertions about its modeling software. The Commission is entitled to deference for its credibility determinations.⁴⁰ The Commission should not reconsider its determination.

2. Substantial Evidence Supports the Commission's Disallowance for Xcel's Failure to Maintain and Deploy Its LNG Peaking Plant.

Xcel disputes the Commission's determination that prudence required Xcel to dispatch peaking plants to offset expensive spot gas costs in the face of the ongoing extraordinary market event.⁴¹ Xcel argues that "[t]here is simply no evidence that supports the conclusion that the only

³⁷ See CUB Ex. 801 at 54 (Cebulko Direct) (finding that Xcel's planned supplies significantly exceeded load "[b]ecause Xcel chose to base its supply plans on load forecasts that included substantial load that would later be curtailed").

³⁸ Xcel Order at 19.

³⁹ See Xcel Reconsideration Petition at 9.

⁴⁰ See *Schultz v. U.S. Bedding Co.*, 297 N.W. 351, 352 (Minn. 1941) ("[W]e do not try the facts nor determine the credibility of the testimony of witnesses, be they laymen or medical experts.").

⁴¹ Xcel Reconsideration Petition at 15.

action a reasonable utility in similar circumstances would take would be to run its peaking plants in lieu of making daily purchases.”⁴² The Commission’s determination that Xcel acted imprudently in not dispatching its peak-shaving plants is supported by the prudence standard, the extraordinary circumstances, and Xcel’s past actions during a similar event. In addition, the Commission reasonably used Xcel’s past practices as the basis for its disallowance determination.

Xcel asserts that the Commission must sanction Xcel’s business-as-usual practices in the face of extraordinary events absent evidence of “*any* utility ever having done the same.”⁴³ Xcel’s argument ignores both the prudence standard and the record. There is abundant evidence supporting the Commission’s well-reasoned finding that the extraordinary circumstances of the event made it “imprudent for Xcel to adhere to its ordinary practice.”⁴⁴ The event’s extraordinary nature makes it unsurprising that there were not ready examples of multiple utilities engaging in precisely the same activity. But extraordinary times do not relieve utilities of their obligations to “exercis[e] the care that a reasonable person would exercise under the same circumstances at the time the decision was made.”⁴⁵ There is ample evidence in the record showing that a reasonable utility would have used its peaking plants to reduce its exposure to the spot market to protect its customers from the likelihood of continued extraordinary gas prices on February 17. Both the Department’s and the CUB’s experts determined that prudence required dispatching peaking facilities to offset the likely extraordinary gas prices on February 17.⁴⁶ Their conclusion was based on many facts that were known to Xcel at the time it made its gas purchasing decisions for the

⁴² Xcel Reconsideration Petition at 17.

⁴³ *Id.* (emphasis in original).

⁴⁴ Xcel Order at 38.

⁴⁵ *Id.* at 5.

⁴⁶ See Ex. DOC 506 at 87-96 (King Direct); Ex. DOC 507 at 38-35 (King Surrebuttal); CUB Ex. 801 at 79-95 (Cebulko Direct); CUB Ex. 811 at 41-59 (Cebulko Surrebuttal).

February 17 gas day. By that time, Xcel had seen natural gas spot prices spike to historic levels. Natural gas spot market prices had spiked to \$154.9/Dth at Ventura and \$231.7/Dth at Demarc.⁴⁷ In addition, Xcel was in a fundamentally different supply planning position on February 16 than it was on February 12 because it only needed to buy gas to serve customers on February 17, rather than for a four-day period (February 13-16). The Commission did not apply hindsight. Instead, it used the ample evidence in the record showing that under the circumstances at the time the decision was made, which were indisputably extraordinary, a reasonable utility would have dispatched its peaking plants to offset unnecessary exposure to the spot market.

Xcel's claim that there is not "*any* evidence of *any* utility" using peaking plants to avoid spot gas purchases is not only inaccurate, but particularly incredible because this record contains evidence of *Xcel* using its peaking plants for economic purposes during the 2017-18 New Year's Event.⁴⁸ During the 2017-18 New Year Event, temperatures across the central United States were 10 to 20 degrees below normal. By contrast, during the February Event, temperatures were about 20 to 25 degrees colder than normal. In neither case, however, did Xcel experience a design day; that is, a situation where the company experienced temperatures meeting or exceeding the system's maximum capacity.⁴⁹ And like the February Event, natural gas prices spiked during the 2017-18 New Year Event albeit in a more limited way.⁵⁰ Given that the temperature conditions were similar, the potential of price spikes was clear at the time of purchasing for both events, and Xcel

⁴⁷ Xcel Ex. 214, SHL-D-2 at 16, Figure 7 (Levine Direct).

⁴⁸ While Xcel disputes Mr. King's expert testimony on this issue, that does not change the fact that the evidence is part of the record, and the Commission has discretion to give it weight and make inferences. *See In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d at 278 ("We defer to an agency's conclusions regarding conflicts in testimony, the weight given to expert testimony and the inferences to be drawn from testimony.").

⁴⁹ DOC Ex. 506 at 9, 16 (King Direct).

⁵⁰ *See* DOC Ex. 507 at 41 (King Surrebuttal).

has not argued that it acted imprudently during the earlier event, prudence required Xcel to repeat its past behavior and again use its peaking plants to reduce spot gas purchases.⁵¹

Lastly, Xcel again ignores the record in claiming that the record does not support the amount of dekatherms of dispatched gas that the Commission's disallowance incorporates.⁵² The Commission's disallowance is calculated from "half of [Xcel's] single-day LNG capacity" or 78,000 Dth.⁵³ Mr. King testified that this was an appropriate amount, citing Xcel's own dispatch practices during the 2017-18 New Year's Event, during which Xcel withdrew between 55,000 Dth and 82,000 Dth each day from Wescott.⁵⁴ Given the high probability of extraordinary prices following the four-day period, and the fact that Xcel needed to purchase gas for only one day on February 17, rather than the three-day weekend during the 2017-18 New Year's Event, the Commission has substantial evidence for its disallowance determination based on 50% on Wescott's total capacity.

D. The Commission's Disallowance Calculations Have Substantial Record Support but the Order May Benefit from Clarification.

Xcel argues that the Commission miscalculated its disallowances by relying on the Ventura hub price rather than the weighted average cost of gas.⁵⁵ Xcel claims the Commission's

⁵¹ See DOC Ex. 506 at 94-96 (King Direct); DOC Ex. 507 at 41-45 (King Surrebuttal). While Xcel speculated that it deployed its peak shaving plants in response to potential supply cuts from the Bakken region, it did not provide any records supporting that speculation, which is at odds with the large amount of gas dispatched. See DOC Ex. 507 at 41-44 (King Surrebuttal); Evid. Hrg. Tr. 2C at 83-84 (King).

⁵² Xcel Reconsideration Petition at 16-17.

⁵³ Xcel Order at 39.

⁵⁴ DOC Ex. 507, MJK-S-7 at 5 (King Surrebuttal).

⁵⁵ Xcel Reconsideration Petition at 12-15.

disallowance calculation is out-of-step with the prudence standard because Xcel claims it requires foresight of the index price at various hubs.⁵⁶

The Commission correctly calculated the disallowance using the Ventura index price as the Department recommended. The Department believes the language in the order, however, does not correctly describe the Department's rationale for using the Ventura index price.⁵⁷ Because it appears that the Commission intended to adopt the Department's rationale on this point, the Department requests the Commission clarify page 39 of the order.

Throughout the proceeding, Mr. King recommended using the Ventura index price to calculate Xcel's disallowances.⁵⁸ At the Commission's agenda meeting, Mr. King explained:

[W]e intentionally used the index price at Ventura for pricing, or avoided potential spot gas for Xcel. And the reason we did that is if you think about if Xcel were to have bought one dekatherm less, buy gas during the event, where would they have reduced their spot purchases? . . . [Xcel] continued to diversify their purchases and instead they would have gone to the largest hub that they were purchasing at where they had the most exposure and instead reduced their purchases there. So we're trying to re-create if Xcel had indeed bought less spot gas where would they have done it at.⁵⁹

Mr. King did not assume that Xcel would know which hub would be most expensive, as Xcel argues.⁶⁰ Mr. King's disallowance calculation simply presumes that if Xcel had bought less gas, it would have acted like a prudent utility and sought to reduce its purchases at the largest hub where it had the most exposure—Ventura. For example, assume a prudent investor owns 20 shares of Alpha Co., 20 shares of Beta Co., and 50 shares of Cappa Co.—and seeks to sell 10 shares of one company. All other things equal, the prudent investor would sell 10 shares of Cappa Co.,

⁵⁶ *Id.* at 14.

⁵⁷ *See* Xcel Order at 39.

⁵⁸ DOC Ex. 506, MJK-D-2 at 1 (King Direct).

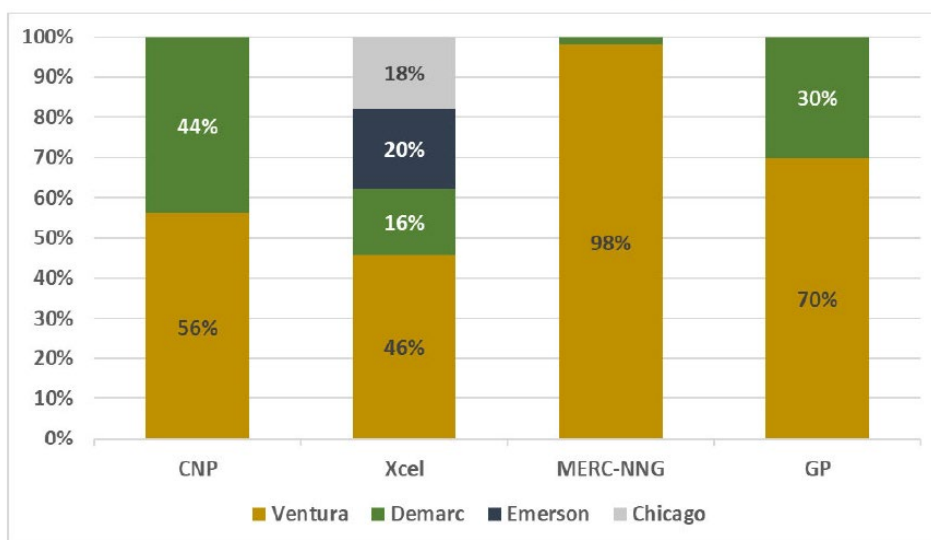
⁵⁹ Aug. 11, 2022 Commission Hrg. Tr. at 104-105 (statements of Mr. King).

⁶⁰ Xcel Reconsideration Petition at 14-15.

because as the stock with the most shares, it has the largest exposure to losses. Like Cappa Co. in the example, Ventura was the largest hub where Xcel has the most exposure, and reducing purchases at that hub would be prudent.

Xcel's geographic diversity makes it fundamentally different than the other utilities. CenterPoint, Great Plains, and MERC were limited by their available upstream transportation to making spot purchases exclusively at Ventura and Demarc.⁶¹ In contrast, Xcel had greater flexibility, making purchases across four hubs, with the largest exposure at Ventura.⁶² This stark difference is shown clearly in Figure 16 from Mr. King's direct testimony:⁶³

Figure 16: February Event Purchases by Hub



The Department therefore recommends that the Commission clarify its rationale for using the Ventura index price to reflect that, because Xcel had greater geographic diversity than the other utilities, drawing down the amount of gas purchased at Ventura was the prudent course of action

⁶¹ DOC Ex. 506 at 48-49 (King Direct).

⁶² *Id.* at 47-49. Although CenterPoint and Great Plains have transportation rights on the Viking pipeline (the Emerson hub), they had procured baseload supplies for their full transportation rights and therefore had no space to purchase spot gas. *See id.* at 49-51.

⁶³ *Id.* at 46.

to reduce Xcel's exposure at the largest hub. The Department proposes the below red-line of its order for the Commission's consideration:

The Commission finds it reasonable to apply the NNG Ventura index price to the disallowance calculation—as the Department did—rather than Xcel's daily spot average price for that day which includes fixed-price transactions and purchases at hubs that had much lower index prices. Basing the disallowance on the index price at the largest hub Xcel purchased at, where it had the most exposure, ~~hub where prices were highest~~ reflects that prudence would have required Xcel to take advantage of the geographic diversity of its supply options to maximize cost savings for customers by reducing exposure to the extent possible at a particular hub, prioritizing the reduction of the higher-priced transactions before reducing the volumes it was able to purchase at lower prices. Pricing the disallowances at the Ventura index price reflects Xcel's obligation to reduce price-exposure for its ratepayers when possible.

The Department's methodology reasonably reflects prudent gas supply diversification, and the Department recommends the Commission clarify the rationale provided in its order to ensure that there is no confusion going forward.

III. THE DEPARTMENT DOES NOT OBJECT TO XCEL'S REQUEST FOR CLARIFICATION.

Xcel requests clarification on regarding how the Commission should treat extraordinary gas costs for its interruptible customer class.⁶⁴ The Department does not object to clarification to the extent that Xcel seeks clarification that interruptible customers that complied with the curtailment order should not be charged the extraordinary gas costs *and* Xcel should ensure that any interruptible customers that failed to fully curtail pay their fair share. If Xcel seeks some other treatment that is not in line with the testimony in this proceeding, it should provide further information about the change it seeks.

⁶⁴ Xcel Reconsideration Petition at 18-19.

CONCLUSION

Xcel Energy fails to raise new issues, point to new and relevant evidence, expose errors or ambiguities in the underlying order, or present evidence that otherwise warrants reconsideration. The Commission's order is well-reasoned, consistent with law, and supported by substantial evidence. The Commission should deny the company's petition.

Dated: November 18, 2022

Respectfully submitted,

Keith Ellison
State of Minnesota
Attorney General

/s/ Katherine Hinderlie
KATHERINE HINDERLIE
Assistant Attorney General
Attorney Reg. No. 0397325

RICHARD DORNFELD
Assistant Attorney General
Attorney Reg. No. 0401204

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1468 (Voice)
(651) 297-1235 (Fax)
katherine.hinderlie@ag.state.mn.us

ATTORNEYS FOR MINNESOTA
DEPARTMENT OF COMMERCE

|#5362483-v3