STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Joseph K. Sullivan	Vice-Chair
Audrey Partridge	Commissioner
Hwikwon Ham	Commissioner
John Tuma	Commissioner

In the Matter of a Commission Inquiry into a Framework for Proactive Distribution Grid Upgrades and Cost Allocation for Xcel Energy	MPUC DOCKET NO. E002/CI-24-318

INITIAL COMMENTS OF ENVIRONMENTAL LAW & POLICY CENTER, VOTE SOLAR, AND COOPERATIVE ENERGY FUTURES

I. INTRODUCTION

In its September 16, 2024 Order on Xcel Energy's last Integrated Distribution Plan (IDP), the Commission approved the establishment of a stakeholder process to develop a framework on cost allocation and proactive upgrades for the utility. In that IDP proceeding, the Environmental Law & Policy Center (ELPC), Vote Solar, and Cooperative Energy Futures (together, ELPC/VS/CEF), commenting with Sierra Club as the Grid Equity Commenters, agreed with the need for this work group process to develop the record on these topics and inform any further Commission action to satisfy Minn. Stat. § 216B.2425, subd. 9.

ELPC and Vote Solar were active "participants" in the proactive work group, and CEF was a work group "observer" and attended most of the work group meetings.[1] We appreciate

[1] CEF is an active participant in the related reactive work group, where ELPC and Vote Solar have remained in monitoring/observer roles. ELPC, Vote Solar, and CEF have continued to coordinate our engagement in these and other IDP-related processes.

Commission Staff's facilitation of a robust and effective process to develop the Draft Proactive Distribution Upgrade Framework (Draft Framework), provided as Attachment A to the Notice of Comment Period. ELPC/VS/CEF recommend the Commission adopt the Draft Framework, specifically the provisions identified in ELPC/VS/CEF Attachment 1. In addition, ELPC/VS/CEF recommend the Commission proceed with Phase 2 as described in Attachment B to the Notice and discussed below in response to Question 4.

II. RESPONSES TO TOPICS OPEN FOR COMMENT

1. Should the Commission establish a framework for Proactive Distribution Grid Upgrades for Xcel Energy?

Yes—ELPC/VS/CEF support the establishment of a framework for Proactive Distribution Grid Upgrades for Xcel Energy, and specifically the adoption of the Draft Framework. We view the Draft Framework as an important step towards achieving state policy goals related to customer access to distributed energy resources (DERs) and electrification[2] by ensuring that the grid is not a barrier to these objectives, particularly for residential and small commercial customers. The Draft Framework allows the utility to depart from its existing distribution planning process where reasonable and necessary to enable integration of DERs and beneficial electrification, when it can do so equitably, efficiently, and cost-effectively. Specifically, ELPC/VS/CEF suggest that there are three (potentially overlapping) goals that proactive upgrades can help to achieve, which are captured in Draft Framework Section G.14:

[2] Minnesota law makes advancing beneficial electrification and DERs an explicit state policy objective. The Energy Conservation and Optimization Act requires utilities to pursue "efficient fuel-switching improvements" that cut greenhouse-gas emissions and directs the Public Utilities Commission (PUC) to design financial incentives for those programs. Minn. Stat. §§ 216B.2401-.2403, 216B.16, subd. 6c. On the distribution side, utilities must file distribution system studies and Integrated Distribution Plans identifying upgrades and management tools needed "to support the continued development of distributed generation resources," § 216B.2425, subds. 8-9, and the PUC must consider DER alternatives in every major resource or transmission proceeding, § 216B.2426. Market-enabling statutes such as net metering, § 216B.164, community solar gardens, § 216B.1641, and electric-vehicle charging tariffs, § 216B.1614, further embed DER deployment and managed electrification in utility regulation.

- **Anticipate Adoption Speed: Increased adoption speed of DERs and electrification by removing grid barriers**. Proactive upgrades can ensure that upgrade construction timelines do not prevent customer access to DERs and electrification, and related achievement of state policy goals. The utility can target areas with a high likelihood of DER and/or electrification growth occurring faster than upgrade construction timelines would traditionally enable based on their forecasts, particularly for residential and small commercial customers.
- **Coordinate Impacts: Avoided risk of construction/procurement bottlenecks**. When the utility forecasts the need for a larger-than-usual volume of upgrades/costs in the future, it may benefit from proactively undertaking these upgrades sooner in order to spread the costs over time and avoid rate shock, as well as construction and resource procurement bottlenecks.
- **Efficiency: Degree of lifecycle cost reduction or overall spending efficiency achieved**. The utility may identify areas with planned project or maintenance work where it could also realize efficiency savings by simultaneously making a proactive investment that it might have otherwise delayed under its traditional planning paradigm. Achieving this goal requires significant utility inter-department communication that may not typically occur under existing processes. In addition, the utility can achieve such efficiency when it explicitly considers investments that can achieve multiple benefit streams, e.g., load and/or DER hosting capacity, reliability improvement, and asset health improvement.

ELPC/VS/CEF recognize that, in departing from the utility's established investment justification practices, proactive upgrades introduce additional and potentially significant risk. In

particular, there may be higher risk of under-utilized investment, since the generation and load forecasts driving these investments are on a longer time horizon and forecasting the need for these investments is an imprecise and uncertain task. To the extent proactive upgrade costs are socialized, this uncertainty would also increase the risk of rate increases tied to investments that would not be considered "used and useful" under the traditional cost recovery framework.

The Draft Framework addresses this potential for increased risk, in part, through robust upgrade identification and evaluation processes (Sections F and G, respectively). In addition, the Draft Framework contains cost recovery and cost allocation provisions (Sections J and K, respectively) that effectively balance attributing costs to cost-causers with establishing a framework that is administrable in practice and relies as much as possible on existing, familiar cost recovery and allocation paradigms. The Draft Framework also proposes thorough tracking and reporting (Section M) to confirm the proactive upgrade process functions as intended and to inform any future modifications that may be necessary.

The Draft Framework meets the Commission's directives in its most recent IDP Order, as discussed further below in response to Question 3. It also supports Xcel's compliance with Minn. Stat. § 216B.2425, subd. 9, which requires the Company to include a forecast of necessary distribution upgrades to comply with various state statutes, an evaluation of how to reduce the cost of those upgrades using advanced technologies, and a discussion of potential cost allocation options. Moreover, ELPC/VS/CEF believe the Draft Framework and the ongoing work group discussions may positively influence Xcel's regular distribution planning process, as the utility continues to refine its forecasting and its integration of DERs and beneficial electrification into is existing planning. We hope that the lessons learned in this process will inform the evolution of

distribution planning in the state and lead to the incorporation of proactive planning principles into the core planning process.

2. Which requirements from the Draft Proactive Distribution Upgrade Framework, as outlined in Attachment A, should the Commission adopt?

Although the work group did not aim to achieve consensus, the Draft Framework nonetheless reflects a large amount of consensus among work group participants. ELPC/VS/CEF explain below our positions on certain non-consensus provisions. We include the full list of Draft Framework provisions that we support in Attachment 1. We note that the Draft Framework currently skips from Section H to Section J, omitting any Section I, and recommend correcting the lettering in the final version.

ELPC/VS/CEF Positions on Non-Consensus Provisions

- **Section A1**. ELPC/VS/CEF agree that a core goal of the Draft Framework is to upgrade the system to enable customer DER and electrification adoption, as described in A.2. However, we prefer the less prescriptive language in A.1 because the Draft Framework may also enable other state energy policy requirements and goals, including affordability and system efficiency.
- **Section A4**. While A.4 and A.5 are similar, ELPC/VS/CEF believe A.4 more appropriately calls for a "rigorous review" process for proactive upgrade proposals and sets the goals of avoiding undue costs (for any reason) and avoiding inequitable distribution of project costs and benefits.
- **Section A6**. ELPC/VS/CEF do not believe that the qualifying clause in A.7 is necessary as we understand the utility and the Commission to be seeking to achieve all of the listed goals "to the extent reasonably possible."

- **Section A8**. ELPC/VS/CEF believe that, in implementing the Draft Framework, the utility and the Commission should strive to limit cost impacts to ratepayers from any forecast inaccuracies, whether or not they are "unreasonable" as specified in A.9.
- **Sections A.10 – A.15**. ELPC/VS/CEF do not believe any of these additional provisions are necessary because Sections A.4, A.6, and A.8 (as well as their alternatives: A.5, A.7, and A.9) already capture the goal of allocating costs equitably and appropriately, and minimizing risks to ratepayers. In addition, while ELPC/VS/CEF agree that the cost-causer pays principle, which several of these provisions embody, is important and relevant to cost allocation in the Draft Framework, we also believe that there may be circumstances where some degree of socializing costs may be appropriate for policy and/or administrability reasons. As discussed below, we support additional discussion of these cost allocation and cost recovery issues in Phase 2. ELPC/VS/CEF recommend deferring identification of specific cost allocation principles, beyond the goals already identified in Sections A.1 – A.9, until the work group has discussed these issues further.
- **Section B2**. ELPC/VS/CEF believe that the specification that a Cost-Share Customer is responsible for paying a Cost-Share Fee adds helpful clarity to the definition in B.1.
- **Section B.8**. ELPC/VS/CEF prefer the more inclusive definition of Distributed Generation in B.8. We find that, in the context of this Draft Framework, B.7 unnecessarily limits which small distribution-connected generation qualifies as "Distributed Generation."
- **Section B.14**. ELPC/VS/CEF do not believe the additional sentences in B.15 are necessary in order to define Proactive Upgrade Proposal. Moreover, we do not agree

that a proposed proactive upgrade would necessarily be found imprudent under the current framework simply because it is based on a forecasted need outside the traditional planning cycle. Prudency evaluation is a fact-based inquiry and we do not believe pre-judging any particular prudency determination within the definitions in this Draft Framework is appropriate.

- **Section C6**. ELPC/VS/CEF believe the clause added to the definition in C.5 provides important flexibility. "Significant changes" to a project may include factors beyond project scope changes that impact overall cost, and could include other changes that impact project costs, timelines, or other aspects.
- **Sections C.10 and C.11**. ELPC/VS/CEF support the stakeholder engagement process around forecasting and proposed upgrade site identification described in Section C.10. However, ELPC/VS/CEF do not support Section C.11. We do not believe that an additional stakeholder engagement process specifically centered on distributed generation developers is necessary at this time, especially given the focus of this initial Draft Framework on smaller, behind-the-meter distributed generation (vs. community solar gardens). ELPC/VS/CEF suggest that the work group could discuss modifications to C.10 and/or additional stakeholder engagement provisions during Phase 2, in the context of discussing forecasting and proactive upgrades for front-of-the-meter generation.
- **Section G.14**. ELPC/VS/CEF believe that the specific reference to the goals of proactive upgrades, discussed above in response to Question 1, add clarity to the evaluation process for upgrade proposals. They ensure that the Commission, utility, and other stakeholders are in agreement around the goals for these upgrades, and

allow for a clear assessment of whether any particular upgrade proposal meets one or more of those goals.

- **Sections J.1 and J.2**. Especially because the Draft Framework presents a new concept and process, ELPC/VS/CEF believe it is appropriate to retain flexibility regarding the treatment of upgrade investments. ELPC/VS/CEF recognize that it may be likely that these investments should and will be treated as regulatory assets and receive deferred accounting treatment, but we do not support Section J.3's presumption of these decisions. Instead, we support Sections J.1 and J.2, which allow the utility and the Commission to consider each particular project and ensure such treatment is appropriate, and, in turn, that ratepayers are properly protected.
- **Sections J.5 and J.6**. ELPC/VS/CEF prefer this approach to the Cost-Share Window because it would tend to attribute more costs to benefitting generation and/or load customers due to the longer 15-year timeframe, and thus protect ratepayers from these costs. In contrast, the shorter 5-year timeframe specified in Sections J.7 – J.9 would tend to rate base more of these costs, which departs from underlying cost-causation principles and exposes ratepayers to this risk. Moreover, because the 5-year window would start from the upgrade's anticipated need date at the time of approval, it could end up being even shorter if there are upgrade construction or other delays, which would tend to result in even more rate-based costs.
- **Sections J.10 – J.12**. ELPC/VS/CEF support the cost cap described in Section J.10 because we believe it will help to protect ratepayers from excessive costs associated with proactive upgrades. We agree it is appropriate for the Commission to use the first round of proactive upgrade proposals to inform its determination of the cap. In

addition, we support J.10 and J.11, which explain impact of Cost-Share Fees and the close of the Cost-Share Window on the cost cap. We agree that as a particular upgrade is effectively "paid off," through Cost-Share Fees and/or socialization at the end of its Cost-Share Window, its associated costs should no longer count against the cap. We understand this process to allow new proactive upgrades to be added under the cap over time, while still limiting ratepayer exposure to these costs.

- **Sections J.13 and J.18**. ELPC/VS/CEF support the intent in Section J.13 that the Commission's approval of proactive upgrade proposals creates a rebuttable presumption of prudency during later cost recovery proceedings. Importantly, during the cost recovery proceeding, the utility would have to provide evidence that its investment and related costs comport with what the Commission previously approved. And we agree that during these cost recovery proceedings other parties can submit substantial evidence to rebut the prudency presumption, as described in Section J.18. Although ELPC/VS/CEF recognize that a utility may wish to obtain additional certainty regarding its investments through an advance determination of prudency, we believe such an approach improperly shifts risk to ratepayers, particularly in the context of this new approval process. ELPC/VS/CEF believe that the approach captured in Sections J.13 and J.18 appropriately balances giving the utility some additional certainty regarding cost recovery with protecting ratepayers.
- **Sections K.2 – K.6**. ELPC/VS/CEF believe that Sections K.2 – K.6 offer a clear and administratively reasonable approach to cost allocation. In particular, we support Sections K.4 and K.5, which effectively exempt residential and smaller commercial customers from the cost-sharing paradigm, and instead allows their share of any

proactive upgrade costs to be socialized. ELPC/VS/CEF believe this appropriately facilitates access to DERs and electrification for these customers, which we view as a core grid service, particularly in light of related state policy mandates. We find that the pro-rata fee envisioned in K.2 appropriately balances the cost-causer pays principle with establishing a system that is not overly burdensome for the utility to administer. We recognize that a downside to this approach does not send meaningful locational price signal, as the fee will not reflect any difference between areas that have higher-cost upgrades and areas with lower-cost upgrades. Nonetheless, we believe it is an appropriate starting point for this first iteration of the Draft Framework. As discussed in response to Question 4, we look forward to further discussion of cost allocation and cost recovery approaches in Phase 2.

- **Sections K.20 – K.26**. ELPC/VS/CEF do not believe any of these provisions are necessary and that K.2 – K.6 sufficiently address cost allocation. Regarding K.26, although ELPC/VS/CEF appreciate the goal underlying this provision, we are unsure of how the Commission and utility would implement it in practice. We suggest that this concept could warrant further discussion in Phase 2. In the meantime, as discussed in response to Question 3.b, we believe that existing provisions allow for tracking and transparency related to the impact of the Draft Framework program on Environmental Justice Areas, which could inform modifications to the framework in the future.
- **Section L.1**. If the Commission adopts K.2 – K.6 as ELPC/VS/CEF suggest, then we do not believe that a capacity reservation is necessary at this time. Under the approach in K.2 – K.6, only larger/demand-metered customers would pay a Cost-

Share Fee; costs related to residential and small commercial customer access to proactive upgrades would be socialized. This approach mitigates the risk of residential and small commercial customers paying for upgrades that only larger customers take advantage of. That being said, ELPC/VS/CEF believe that further discussion of a capacity reservation would be valuable during Phase 2, and that such discussion should be informed by the implementation of the framework and its effects.

- **Section M.3**. Generally, ELPC/VS/CEF support robust reporting and tracking related to proactive upgrades under the Draft Framework, as outlined in Section M. We believe Section M.3 appropriately provides flexibility regarding whether or not to continue to report on a proactive upgrade project whose cost-share window has closed. It may make sense to discontinue reporting in some cases; in other cases, there may be reasons that the utility, Commission, and/or stakeholders remain interested in the project status and details, in which case continued reporting would be appropriate. In addition, ELPC/VS/CEF support continuing to include such projects in the "all proactive upgrades" summary to maintain a complete picture of the proactive upgrade program.

3. Does the Draft Framework address the following topics from the Commission's September 16, 2024 Order in Docket E002/M-23-452?

The Draft Framework addresses all of the identified topics, as discussed further below.

a. How to allocate the costs of proactive upgrades.

Draft Framework Section K addresses cost allocation for proactive upgrades.

b. How to ensure any proactive upgrades are distributed in an equitable manner throughout a utility's service territory.

Draft Framework Section F.4 requires the utility to provide a description or analysis of the proposed proactive upgrades on Environmental Justice (EJ) Areas, as defined by Minn. Stat. § 216B.1691, Subd. 1(e). Similarly, Section G.10 requires the inclusion of the impact of upgrades on EJ Areas in the evaluation of proposed proactive upgrades. And Draft Framework Sections M.4 and M.5 require the utility to track approved proactive projects located in EJ communities. Together, these provisions provide transparency into whether and to what extent these disadvantaged communities benefit from this proactive upgrade process. In addition, more generally speaking, the robust reporting required in Section M will provide the Commission and stakeholders visibility into where proactive upgrades are located to ensure they are distributed in an equitable manner and inform any future changes to the framework to advance this goal.

c. If costs are socialized among ratepayers, whether portions of the upgraded capacity should be reserved for certain customer classes.

As discussed above, at this stage, ELPC/VS/CEF do not recommend an explicit capacity reservation (Section L.1). However, as Draft Framework Section L demonstrates, the work group discussed this topic and developed various capacity reservation options for stakeholder and Commission consideration. In addition, Phase 2 (as described in Attachment B) would allow for further discussion of this topic.

d. How a proactive upgrade program would integrate with a utility's planned distribution investment programs.

Draft Framework Section B.16 defines Proactive Distribution Upgrade as "a distribution upgrade made solely based on a forecasted need outside a utility's traditional planning cycle." This definition explicitly ties the proactive upgrade program to the utility's traditional planning program by differentiating proactive upgrades as being outside the traditional planning timeframe. Moreover, provision C.1 requires the utility to file any Proactive Upgrade Proposal in

conjunction with its IDP filing and envisions evaluation of this Proposal in the same docket and process, which will help to ensure these two investment categories are appropriately integrated.

e. How a utility's other capacity programs and changes to distribution standards impact available hosting capacity.

Draft Framework Section K.1 explains that any changes to distribution planning or other utility standards that impact the amount of available hosting capacity after the utility completes a proactive upgrade project do not affect the established cost-sharing responsibility.

f. How to determine where and when there is a need for proactive upgrades using forecasted DER and load adoption.

Draft Framework Section E addresses DER and load forecasts used to justify proactive upgrades. Section F addresses the criteria used to identify potential sites for proactive upgrades, informed by these forecasts. And Section G addresses the evaluation process the Commission can use to determine whether or not to approve particular proactive upgrade proposals. In addition, Section H provides criteria for non-location specific proactive measures.

g. Whether there should be changes to any of a utility's service policy provisions such as Contributions In Aid of Construction (CIAC).

Several provisions in Draft Framework Section K rely on existing CIAC policies, as well as the utility's existing cost recovery framework, including rate case allocators and established revenue requirement procedures. As discussed above, ELPC/VS/CEF's preferred cost allocation approach (Sections K.2 – K.6) would establish a new framework for identified Cost-Share Customers and thus reflects a limited change to the utility's traditional cost recovery provisions. Under this approach, Cost-Share Customers who would pay a pro-rata fee calculated across all Proactive Distribution Upgrades, whether they serve load or generation or both, instead of a differentiated fee tied to the cost of a particular proactive upgrade. In contrast, small DG interconnections and non-demand-metered customers (i.e., residential and small commercial

customers) would not be classified as Cost-Share Customers, and thus these customers' share of Proactive Distribution Upgrade costs would be socialized through the usual cost recovery process in a rate case.

4. Should the Commission establish Phase 2 of the Proactive Distribution Grid Upgrade Proceeding as proposed in Attachment B, and if so, what should the scope and timeline be?

Yes—ELPC/VS/CEF support the establishment of Phase 2 for this process as proposed in Attachment B. ELPC/VS/CEF suggest the proposed timeline (Commission decision in Q2 2027 or Q3 2027) would depend on the scope identified for Phase 2. If the Commission approves the full suite of proposed topics, then Q3 2027 may be a more appropriate target for a Commission decision for Phase 2.

Regarding these topics, ELPC/VS/CEF highlight the importance of discussing flexible interconnection (#5), and advanced cost allocation and cost recovery methodology methods, including specifically export tariffs (#6).

- **Flexible interconnection** allows the applicant and/or the utility to use various methods (e.g., curtailment) to enable interconnectors to avoid identified grid constraints and in turn avoid costly system upgrades that would be necessary under the traditional interconnection process. This approach both decreases interconnection time and costs, and also improves system utilization. The Commission highlighted the promise of flexible interconnection and DERMS in its September 16, 2024 IDP Order and indicated that Xcel should work towards implementing these innovations.[3] Arguably, allowing Xcel to implement proactive upgrades disincentivizes the utility from using flexible interconnection, since the goal of flexible interconnection is to

[3] IDP Order at 18, 26-27 (particularly Order pt. 21).

maximize use of *existing* infrastructure. At the least, proactive upgrades and flexible interconnection are in some tension with each other. Further discussion of how to address this tension and potential disincentive within the proactive upgrade process will be valuable, to ensure maximum benefit to customers at the lowest cost.

- **Export tariffs** extend traditional ratemaking principles for load to exporting customers in a fair and transparent manner, to determine DER cost allocation and recovery and equitably mitigate and manage costs. Allocating and recovering costs from DER through export tariffs can provide price signals to enable and scale flexible interconnection, allocate distribution capacity to exporting customers more efficiently, and better mirror the ratemaking principles traditionally applied to importing customers. Export tariffs can fairly allocate and recover export-related costs from exporting customers, which, in turn, can improve the access, services and connections exporting facilities receive.[4] To a limited extent, ELPC/VS/CEF's preferred cost allocation approach (Sections K.2 – K.6) moves in this direction, in that it treats Cost-Share Customers benefiting from a proactive upgrade in the same manner, whether they are load or generation customers (or both), by charging them the same pro-rata fee to connect. However, the work group did not discuss in any depth the fuller potential of export tariffs, in particular their ability to send more sophisticated price signals over time to exporting customers relying on upgrades, which could in turn encourage flexible interconnection. It would be valuable to

[4] For additional information regarding export tariffs, see McDonnell, Matt, Ron Nelson, Natalie Mims Frick, *Distributed Energy Resource (DER) Integration Framework: Regulatory Innovation for DER Compensation and Cost Allocation* (Jan. 2025), https://emp.lbl.gov/news/new-report-discusses-regulatory-framework-distributed-energy-resources-compensation.

discuss in Phase 2 the role export tariffs could play with respect to this proactive upgrade process and, potentially, in the broader ratemaking context.

5. Are there other issues or concerns related to this matter?

None at this time.

III. CONCLUSION

ELPC/VS/CEF recommend the Commission adopt the Draft Framework provided as Attachment A, specifically the provisions identified in ELPC/VS/CEF Attachment 1. In addition, the ELPC/VS/CEF recommend the Commission proceed with Phase 2 as described in Attachment B and discussed above in response to Question 4.

Respectfully submitted,

/s/ Erica S. McConnell
Erica S. McConnell
Staff Attorney
Environmental Law & Policy Center
35 E. Wacker Drive, Suite 1600
Chicago, IL 60601
(312) 673-6500
emcconnell@elpc.org

/s/ William D. Kenworthy
William D. Kenworthy
Senior Regulatory Director, Midwest
Vote Solar
1 South Dearborn Street, Suite 2000
Chicago, IL 60603
will@votesolar.org

/s/ Pouya Najmaie
Pouya Najmaie
Policy and Regulatory Director
Cooperative Energy Futures
310 E 38th St Suite 109
Minneapolis, MN 55409
(612) 715-1224
pouya@cooperativeenergyfutures.com

Date: May 8, 2025