STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

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In re Xcel Energy's Petition for Approval of Gas State Energy Policy Rider Recovery with True-Up Mechanisms	DOCKET NO. G-002/M-25-403
In re Application of Northern States Power Co., d/b/a Xcel Energy, for Authority to Increase Rates for Natural Gas Service in Minnesota	DOCKET NO. G-002/GR-25-356

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

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Comments in response to the Public Utilities Commission's Notice of Comment Period issued on November 4, 2025 regarding Xcel's proposal to recover the costs of providing service through the State Energy Policy rider (Stay-out Petition) in exchange for withdrawing its rate case filed on October 31, 2025.[1] The Commission should reject Xcel's Stay-out Petition because adopting it would be illegal.

BACKGROUND

Xcel filed its rate case and its Stay-out Petition on the same day. In its rate case petition, it seeks to increase its net revenues by $63.4 million and requests an interim rate increase of $51.47

[1] Docket No. G-002/GR-25-356.

million.[2] However, Xcel also offers in its Stay-out Petition to withdraw its rate case if the Commission instead approves it to recover $46.3 million through its State Energy Policy (SEP) rider so that "the Company, Commission, and other stakeholders [can] direct their resources to other important matters, rather than litigating another case."[3] Xcel proposes that this recovery for the Stay-out Petition costs would be subject to true-up to actual costs.[4]

The costs Xcel seeks to recover through the SEP rider include $25.5 million in capital investments related to fire suppression systems, a control room at its gas plants, and capacity upgrades to gas facilities;[5] $10.5 million for property taxes "driven by capital investments;"[6] $6.1 million for distribution, plant and transmission operations-related labor costs;[7] $3.8 million in damage prevention costs related to helping excavators and customers avoid damaging underground infrastructure;[8] and $0.4 million for resolving environmental claims related to Xcel's historical manufactured gas plant sites.[9] Xcel states generally that these costs are related to a state policy of providing safe and reliable natural gas service and protecting the environment.[10]

The State Energy Policy (SEP) rider was created in 2004 to recover costs that utilities incurred as a result of specific legislative acts. In 2001, the legislature created the position of Reliability Administrator within the Minnesota Department of Commerce and directed the Minnesota Departments of Commerce and Administration to develop sustainable building

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[2] Stay-out Petition at 2. Xcel's rate case petition also requests rolling certain riders into base rates, bringing the total increase in revenue to $86.14 million. Docket No. G-002/GR-25-356, Direct Testimony of Amy Liberkowski at 3 (Oct. 31, 2025).
[3] Stay-out Petition at 3.
[4] *Id.* at 2.
[5] *Id.* at 7.
[6] *Id.* at 8.
[7] *Id.*
[8] *Id.* at 9.
[9] *Id.*
[10] *Id.* at 7; *Id.* at 8; *Id.* at 9.

guidelines for state buildings.[11] The Legislature determined that expenses associated with the Reliability Administrator and sustainable building guidelines should be recovered from ratepayers through an automatic rate adjustment mechanism to be approved by the Commission.[12] The Commission created an electric SEP rider and a gas SEP rider to enable recovery of electricity- and gas-related costs arising out of these statutes.[13] The Commission also allowed in the electric SEP rider recovery of costs resulting from two other legislative acts: (1) the costs of a legislative settlement of disputes between Xcel and the Prairie Island Indian Community, and (2) the costs of a study on energy resources required by the Minnesota legislature.[14] The legislature approved automatic adjustment mechanisms for both of these cost categories as well.[15] The legislature has since repealed the Reliability Administrator legislation.[16]

Since then, the SEP has been used to recover other gas-related costs resulting from legislative action. In 2007, the legislature authorized recovery of the costs of replacing cast iron pipes and breakers containing sulfur hexafluoride "in order to reduce the risk of greenhouse gases being released into the atmosphere."[17] That law was repealed in 2013.[18] The Commission authorized use of the SEP rider for this purpose until costs incurred before the statutes' repeal were fully recovered.[19] In 2011, the legislature authorized rider recovery of costs related to the

[11] Minn. Stat. § 216C.052; Minn. Stat. § 16B.325.
[12] Docket No. E, G-002/M-03-1544, Order Approving State Policy Rate Rider, as Modified at 1 (Apr. 6, 2004).
[13] *Id.* at 6-7.
[14] *Id.* at 5-6.
[15] 2003 Minn. Laws, ch. 11, art. 1, sec. 3; *Id.*, art. 2, sec. 21.
[16] 2011 Minn. Laws, ch. 97, sec. 34
[17] *See* 2007 Minn. Laws ch. 57, art. 2, sec. 20 (previously codified as Minn. Stat. § 216B.1637). In 2008, the Legislature made a single change to correct a typo stating "sodium" instead of "sulfur." *See* 2008 Minn. Laws ch. 277, art 1, sec. 29.
[18] 2013 Minn. Laws ch. 85, art. 13, sec. 6.
[19] Docket No. G-002/M-17-174, Order Continuing Recovery of Costs Through the State Energy Policy Rider and Other Action at 3 (Aug. 24, 2017).

Department of Commerce's duty to represent Minnesota interests in regional, national, and international policymaking and infrastructure development,[20] and these costs were recovered through the SEP from 2017 until 2022.[21]

There are currently no costs being collected through Xcel's gas SEP rider.[22] Xcel was recovering other costs through its separate electric SEP rider until this year.[23]

ANALYSIS

The Commission should reject Xcel's Stay-out Petition for two reasons. First, it would be unlawful to grant SEP recovery of costs that the legislature never authorized for rider recovery. Second, the costs that Xcel proposes appear to be standard rate case costs, and it would be unjust and unreasonable to summarily grant recovery of them without standard rate case scrutiny.

I. XCEL'S PROPOSAL TO RECOVER ITS COST OF PROVIDING SERVICE THROUGH THE SEP RIDER IS CONTRARY TO LAW

The Commission should reject Xcel's request to recover its costs of service through the SEP rider because such recovery requires legislative authorization and none exists in this case. Generally, a public utility may not raise rates without first filing a general rate case in which the Commission comprehensively reviews its costs and revenues.[24] The Legislature has created exceptions to this general policy, allowing a utility to implement a rider to expedite recovery of certain costs not reflected in the utility's base rates.[25] However, these exceptions are for specific

[20] 2011 Minn. Laws. ch. 97, sec. 26 (codified as Minn. Stat. § 216B.62, subd. 3b); *see also* Minn. Stat. § 216A.07, subd. 3a.
[21] Docket No. G-002/M-22-111, Order at 1 (Jul. 12, 2022); *id.* at PDF page 5.
[22] *Id.* at 1.
[23] *See generally* Docket No. E-002/M-25-135, Order (Jun. 16, 2025).
[24] Minn. Stat. § 216B.16.
[25] *see* Minn. Stat. §§ 216B.16, subds. 6b(c), 7, 7a, 7b, 7c(b), 7d, 7e(b), 15(d), 19, .1635, subd. 4, .1636, subd. 2, .1638, subd. 2, .1645, subds. 2, 2a, 4, .1675, subd. 4, .1692, .1696, subd. 2(d), .241, subds. 2b(b), 11(c), 12(c), 13(c), .2424, subd. 9(e), .2427, subd. 2(c) (authorizing riders or other rate-adjustment mechanisms).

costs; if costs are not authorized by legislation for rider recovery, rider recovery for those costs is not allowed.[26]

There is no legal basis for including the costs Xcel has requested in the SEP rider. The SEP was originally created for recovery of expenses incurred as a result of specific legislative mandates – the Reliability Administrator position and state building guidelines. The legislature later authorized recovery of two specific types of infrastructure improvements.[27] Then it authorized recovery of costs related to responsibilities it conferred upon the Department of Commerce.[28] The unifying theme of the SEP rider is recovery of costs arising from specific legislative policy mandates for which rider recovery was explicitly authorized by the legislature.

None of Xcel's proposed costs are authorized for SEP rider recovery, as none of them fall into any of these statutes. Instead, Xcel misinterprets the "state policy" title of the rider to include apparently anything that aligns with a general "state policy" of providing natural gas to ratepayers. The largest single portion of Xcel's request is its "capital true-up," for investments that Xcel says "comport with state policy to provide customers with safe and reliable natural gas service."[29] Xcel similarly states that its property taxes "are driven by its capital investments, which are in turn driven by our customers' need for safe and reliable service consistent with state policy."[30] Xcel also seems to argue that regional economic health is sufficient "state policy" to justify SEP recovery because the taxes it pays "contribute to the economic health of the communities [it]

[26] *County of Hennepin by Freeman v. 6131 Colfax Lane, Minneapolis*, 907 N.W.2d 257, 260 (Minn. Ct. App. 2018) ("the inclusion of some items in a statute implies the exclusion of all unstated items").
[27] Minn. Stat. § 216B.1637.
[28] Minn. Stat. § 216B.62, subd. 3b; *see also* Minn. Stat. § 216A.07, subd. 3a.
[29] Stay-out Petition at 7.
[30] *Id.* at 8.

serve[s]" and because Xcel "has provided quality jobs in the State."[31] Xcel cites "reduc[ing] damage to buried facilities" and "protecting the environment" as the justification for SEP recovery of its damage prevention costs, citing Minnesota Statutes Chapter 216D.[32] However, Chapter 216D does not authorize rider recovery of those costs.[33] Finally, Xcel states that recovery of "claims related to historical MGP sites" should be recovered through the SEP rider because of their connection to "human health and the environment."[34] Again, Xcel cites no authorization for rider recovery of costs simply because they may be related to "human health and the environment." Thus, none of the costs Xcel seeks to obtain summary rider recovery for are actually legislatively authorized for rider recovery, but rather relate to vague notions of "policy."

This is all the more concerning because of the vagueness of what costs exactly Xcel even seeks to recover. Xcel does not provide more than a few sentences for each category of costs, all of which sound like standard rate case costs. A utility's capital expenditures, property taxes, and labor costs are all certainly the sort of costs rate cases exist to recover. Xcel does not specify what it means by "damage prevention costs," instead briefly discussing the general policy goal of avoiding damage to its underground infrastructure. Its manufactured gas plant costs would "resolve claims" relating to its manufactured gas plants but Xcel provides no further support for or evidence of the costs in the Stay-out Petition. For Xcel's entire Stay-out Petition, in fact, it is impossible to

[31] *Id.*
[32] *Id.* at 9.
[33] *See generally*, Minn. Stat. ch. 216D. Indeed, this chapter is administered by the Commissioner of Public Safety. *See, e.g.*, Minn. Stat. §§ 216D.01, subd. 1a ("Commissioner" means the "commissioner of public safety"); 216D.08, subd. 1 (authorizing the Commissioner of Public Safety to assess civil penalties for violations of provisions of chapter 216D). The Public Utilities Commission is not referenced in the chapter.
[34] *Id.*

know exactly what the costs it seeks summary recovery for are, whether these costs were prudently incurred, or whether it is just and reasonable for Xcel to recover these costs from ratepayers.

In short, the SEP rider exists for recovery of specific costs arising from specific legislative actions, none of which are included in Xcel's SEP request. Furthermore, Xcel's Stay-out Petition fails to demonstrate what, exactly, the costs it seeks to recover even are. It would be unlawful and unreasonable for the Commission to approve Xcel's Stay-out Petition, and it should therefore be rejected.

II. THE COMMISSION SHOULD NOT APPROVE A RATE INCREASE WITHOUT ALLOWING STAKEHOLDERS A MEANINGFUL OPPORTUNITY TO SCRUTINIZE PROPOSED COSTS.

Xcel's Stay-out Petition may appear to be an attractive option, particularly when regulators and consumer advocates are currently inundated with rate cases and other complex proceedings. The Commission, however, should refrain from approving the Stay-out Petition simply because it may offer a lower bill impact than Xcel's rate case in the short term. In addition to comparing the immediate bill impact of Xcel's rate case and Stay-out Petition, the Commission must consider the longer-term risks to ratepayers of approving millions of dollars in utility investments without meaningful prudence review.

In terms of general non-SEP "state policy," it is a general state policy that a public utility may not raise rates without a rate case in which the Commission comprehensively reviews a utility's costs and revenues.[35] Xcel proposes instead that the Commission approve charging ratepayers over $46 million without any opportunity for stakeholders to review Xcel's proposed costs or conduct discovery, and less than two weeks to comment on the Stay-out Petition.[36] And while Xcel's proposal includes a "true-up" feature that would provide refunds if the Company does

[35] Minn. Stat. § 216B.16.
[36] *See generally* Notice of Comment Period on Completeness and Procedures (Nov. 4, 2025).

not incur planned costs, the review of the true-up would likely be limited to determining whether Xcel actually incurred them. This sidesteps the Commission's duty to review rate case costs and determine whether costs are just and reasonable.

The Commission should therefore reject Xcel's Stay-out Petition because it would be unjust and unreasonable to approve a $46.3 million rate hike without the proper review and oversight.

CONCLUSION

The OAG opposes the Stay-out Petition. First, the Stay-out Petition is contrary to law and approval could have negative long-term consequences for ratepayers, even if the Stay-out Petition might result in slightly lower rates in the short term. Second, there has been no meaningful opportunity for stakeholders to review Xcel's proposed costs, conduct discovery, offer substantive comments or testimony, or cross-examine Xcel's witnesses. Under these circumstances, the public interest would not be furthered by the Commission approving the Stay-out Petition.

Dated: November 12, 2025

Respectfully submitted,

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