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April 4, 2017

Mr. Daniel Wolf
Minnesota Public Utilities Commission
350 Metro Square Building
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St. Paul, MN 55101-2147

**Re: In the Matter of an Alternative Rate Design Stakeholder Process for Xcel Energy
Docket No. E002/CI-15-662**

Dear Mr. Wolf:

I write regarding the Alternative Rate Design Stakeholder Process for Xcel Energy proceeding before the Commission, Docket No. E-002/CI-15-662, and the Informational Meeting that the Commission has scheduled for April 11, 2017. **The OAG requests that the Commission cancel the meeting scheduled for April 11, 2017, because it would be inappropriate to allow Xcel to make a special presentation to the Commission in light of the Alternative Rate Design proceeding.**

Background Information.

The Commission opened the Alternative Rate Design proceeding following Xcel Energy's 2013 rate case, Docket E-002/GR-13-868. During the 2013 rate case, several parties raised the possibility of using alternative rate design concepts to set rates for Xcel. The Commission found that it would be most appropriate to consider a wide range of alternative rate designs in a separate proceeding including a stakeholder group, and opened the instant docket.

Over the last *two years*, the OAG and other interested parties have participated in multiple stakeholder meetings and two workshops organized by the Commission. The participants have filed several rounds of comments. On February 15, 2017, the Commission issued a Notice of Comment Period requesting that participants provide comments on whether an alternative rate design pilot should be developed for Xcel, with a deadline for "Initial" comments of March 31, 2017. On that date, the OAG provided comments recommending that the Commission develop a Time-of-Use rate design pilot for residential customers. The OAG also explicitly recommended that the Commission *not* allow Xcel to develop the proposal. The Commission has not yet taken action in response to these comments.

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Xcel also filed comments in the Alternative Rate Design proceeding on March 31, 2017. Rather than moving the process forward, Xcel instead indicated its preference to abandon the Alternative Rate Design docket in favor of its own separate and parallel procedure, and commence with an alternative rate design pilot of its own design.

Despite the fact that the Alternative Rate Design docket has been active for nearly two years, Xcel states that the Commission should take no action in this proceeding because it would be duplicative of Xcel's plans—which do not appear to have involved any of the participants in the Alternative Rate Design docket. Instead of proposing a rate design pilot, it seems that Xcel has decided to opt-out of the process designed by the Commission and use its own, different process to consider Time-of-Use rates. While Xcel's comments mention stakeholder engagement and processes eight separate times, the only organizations who joined Xcel's comments are organizations who have not filed comments or otherwise participated in the Alternative Rate Design proceeding. None of the parties who have filed comments in the Alternative Rate Design docket joined Xcel's comments, and the OAG was not informed of Xcel's parallel process until the filing on March 31.

Xcel states that it intends to provide the Commission with more information about its proposal at an Informational Meeting on April 11, 2017. It appears that Xcel first requested the Informational Meeting in a letter dated March 9, 2017. The letter was attached to a Notice issued by the Commission on April 3, 2017, but was not filed in this proceeding (or disclosed publicly, to the OAG's knowledge) until the April 3 Notice. The March 9, 2017 letter does not reference the Alternative Rate Design proceeding, and also does not reference the fact that there was an open comment period on the matter of alternative rate designs at the time Xcel requested the informational meeting. The Commission's website indicates that there will be a "Public Informational Meeting" on April 11, but it does not appear that there was any public notice of the subject of the meeting until the notice issued on April 3, 2017—only eight days before the informational meeting is scheduled to take place.

The Commission Should Cancel the Informational Meeting Scheduled for April 11, 2017.

The OAG requests that the Commission cancel the meeting scheduled for April 11, 2017.

The Commission's Alternative Rate Design Stakeholder Process began on July 13, 2015. Many parties have been actively participating in the docket for nearly two years. The Commission solicited comments in its Notice of Comment Period, and six parties (in addition to Xcel) filed comments with specific recommendations only a few days ago. It is possible that the Commission will request additional comments. If not, then the Commission must decide what action to take in response to several conflicting recommendations made last week.

In light of this open and ongoing proceeding, Xcel's request to make a special presentation to the Commission regarding its proposal is not appropriate. The Commission

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should not, under these circumstances, allow a utility to make a special presentation at a planning meeting about a disputed issue in an open docket. Even if the Commission does not make substantive decisions during the April 11 meeting, the Commission will receive information that may influence its later decisions. Xcel's request to provide information through a special forum would give the Company preferential treatment and could raise questions about the Commission's process.

The utility should not have a special forum to make presentations related to open proceedings in any event, but the substance of Xcel's proposal raises additional concerns. Rather than providing a rate design proposal as requested by the Commission's Notice, Xcel has instead suggested that the Commission abandon several years of progress in the Alternative Rate Design docket and allow the utility to develop a new process. Implicitly, Xcel's proposal would substitute a procedure created by the Commission with input from all stakeholders, with one controlled by Xcel that would take place outside of the Commission's view. Discussions involving issues of this significance should be handled through comments and appearances at the Commission's agenda meetings, not special meetings where one party makes a presentation to the Commission.

The Alternative Rate Design Pilot Should Not be Developed by Xcel.

In determining whether to permit the meeting, the Commission should consider concerns raised in the OAG's comments filed on March 31, 2017. These comments recommend that the Commission begin a Time-of-Use rate design pilot, but also state that it is extremely important that the rate design pilot *not* be designed by Xcel.

The primary purpose of a Time-of-Use rate is to lower system peak demand, which will have the impact of reducing the amount of rate base infrastructure on which Xcel can earn a return. The OAG's comments state that "Giving the Company the responsibility to design and market an effective TOU would, effectively, be asking the Company to do something that is intended to reduce the amount of money the Company makes in the future. *These are exactly the types of situations that the regulatory system is intended to avoid.*" OAG March 31, 2017 Comments, at 14.

In other words, Xcel has a financial conflict of interest because a well-structured Time-of-Use rate is likely to reduce returns for shareholders. It would be particularly inappropriate for Xcel to make a special presentation about its proposal for alternative rate design when other parties have raised serious concerns about the Company's conflict of interest on the issue. To the extent that there were already-existing concerns regarding Xcel's conflict of interest on alternative rate designs, the fact that Xcel now seeks to replace a Commission-led process with one the Company has developed in secret seems to reinforce that those concerns were well-founded.

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In addition to these general concerns, allowing Xcel to make its presentation may raise additional issues. In making its decision, it is important that the Commission consider the Open Meeting Law, the Commission's Code of Conduct, and the Rules governing communication between commissioners and parties to an open proceeding. The greater point is simply that the Commission should not permit a utility, that has a financial conflict of interest on the issue, to make a special presentation regarding an open docket during a planning meeting.

Conclusion

Xcel had the opportunity, as did all members of the public and all interested organizations, to present its recommendation to the Commission in written comments filed in the Alternative Rate Design docket. Instead of providing a specific recommendation, Xcel suggests that it has instead decided to undertake its own duplicative path, outside of the process ordered by the Commission. If the Commission seeks additional analysis regarding those recommendations, additional comments may be appropriate. In the alternative, the Commission could, with proper notice, schedule this matter on an agenda meeting to obtain additional information, take action, or request further proceedings. But Xcel should not be permitted to make a special presentation regarding its recommendation. The Commission should cancel the meeting scheduled for April 11, 2017.

Sincerely,

s/ Ryan P. Barlow

RYAN P. BARLOW
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AFFIDAVIT OF SERVICE

**Re: In the Matter of an Alternative Rate Design Stakeholder Process for
Xcel Energy
Docket No. E002/CI-15-662**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

JUDY SIGAL hereby states that on April 4, 2017, I e-filed with eDockets a letter and served the same upon all parties listed on the attached service list by email, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

s/ Judy Sigal

Judy Sigal

Subscribed and sworn to before me
This 4th day of April, 2017.

s/ Patricia Jotblad

Notary Public

My Commission expires: January 31, 2020.

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