



Overarching Testimony

Energy Justice is the lens through which the Public Utilities Commission should view all of its decisions in order to execute its obligation to set just and reasonable rates in the public interest. The need for justice in the energy system has been called to attention and advocated by many local communities over decades. Our testimony relies on a definition of Energy Justice from the *Initiative for Energy Justice (IEJ)*, which synthesizes from both grassroots and scholarly traditions and has since been reflected in frameworks for energy justice referenced by the US Department of Energy.

The IEJ defines Energy Justice as follows:

*"Energy justice refers to the goal of achieving equity in both the social and economic participation in the energy system, while also remediating social, economic and health burdens on those historically harmed by the energy system ("frontline communities"). Energy justice explicitly centers the concerns of marginalized communities and aims to make energy more accessible, affordable, clean and democratically managed for all communities."*¹

and articulates four Energy Justice principles:

- 1) **Recognition justice** - understanding the history and context of energy decisions that have created inequitable benefits and burdens in the past and in the present
- 2) **Procedural justice** - meaningful and equitable participation and representation in energy decision making
- 3) **Distributional justice** - ensuring benefits and burdens are equitably distributed
- 4) **Restorative justice** - facilitating healing and harmony by improving conditions within communities and providing for remediation of legacy harms

This rate case - on the heels of a historic resource planning process for Xcel, a global pandemic and uprising, and audit showing failings of public process - is at a critical juncture to consider how regulators and utilities can design for an energy system that will drive equitable economic and social outcomes and be a part of remediating the past and ongoing harms.

All of the following recommendations on Xcel's electric rate case are grounded in these principles.

¹ JCS expert witness Lorenzo Kristov further defines "energy justice communities" building off the definition of "energy justice" laid out by JSC expert witness Gabe Chan, as: "an umbrella term to encompass the full range of customers and communities who merit special consideration in policy and regulation due to factors related to current and past inequities, or conditions that make them particularly vulnerable or limit their ability to access or benefit from clean energy technologies." (Kristov testimony, p. 18 footnote 11)

Full Recommendations

Neighborhood Level Spending on the Electric Grid

(also known as (aka): "Distribution Investments")

Summary: The majority of Xcel's proposed spending in this rate increase request is allocated at the local neighborhood level, or the "distribution system." Concerningly, however, most of that spending is simply *replacing* outdated infrastructure with more of the same, rewarding Xcel shareholders at even higher rates, and missing most opportunities to upgrade the grid for the future and reduce long term costs for consumers. Specifically, Xcel's proposal is absent of investments that would provide customers with the tools to reduce and manage their own energy use, lower their energy bills, produce their own clean energy, or create choice.² In short, Xcel's request grows its own profits and control, while blocking customers from being true participants, agents, and beneficiaries of this transition. If Xcel's plan is approved this way, communities will be saddled with an unaffordable cost increase in exchange for a grid that barely keeps up with current needs and fails to provide for resilience, clean energy access, or the reliability needs of the future.

Specific Recommendations:

1. Reject Xcel's proposed spending for its "Grid Reinforcement Program" because it does not result in the level of reliability improvement necessary to warrant the program cost.
2. Reject Xcel's proposed underground cable replacement budget until they separate out the budgets for underground cable replacements that are *reactive* (e.g. intended to restore service) versus those that are *proactive* (e.g. intended to improve reliability). Reject any increase in Xcel's proposed cable replacement budget until Xcel has justified the cost-effectiveness of this spending by quantifying the magnitude of customer reliability benefits expected to result from the cost of proactive replacements.
3. Require Xcel to evaluate current capabilities to add clean energy to the local grid (known as "hosting capacity") where low-income customers and energy justice communities are located.
4. Direct Xcel to prioritize increasing the ability to add clean energy to the local grid ("hosting capacity") as part of all of its infrastructure replacement projects.
5. Direct Xcel to study and report on the impacts of, and potentially modify, Xcel's current distribution planning philosophy of intentionally excluding the capacity contributions of local renewable resources.
6. Direct Xcel to allow customers producing local renewable energy to use the built-in features to improve the quality and production of power where it will not cause problems for the grid.

² Such as such as rooftop solar, community solar, efficiency, microgrids, batteries, electric transportation, and organized shifts in customer energy use ("demand response")

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7. Direct Xcel to incorporate into their "voltage studies" the modern power quality functions of existing local renewable energy systems, especially for areas of the grid Xcel has planned to spend capital on improving power quality, to determine whether these local renewables' capabilities may provide a lower cost alternative.
8. Direct the Xcel to explain how its upcoming "non-wires-alternatives" analysis (an analysis of how local clean energy may be used to delay or eliminate the need for new utility-owned grid investments) using new methodology will impact Xcel's proposed investments within this rate case if there are viable and cost-effective "non-wires-alternative" solutions identified.
9. Direct Xcel to assess the degree to which encouraging electric vehicle charging during high solar generation periods could improve the ability of the power grid to include more local clean energy, especially in places that already have limited ability to accommodate more local resources ("hosting capacity").

Energy Price: Who Is Charged What

(aka: "Rate Design")

Summary: The Commission must address historical and systemic disparities in energy security and affordability in order to achieve just and reasonable rates, and can do so by adopting the proposals recommended below that improve how energy rates are designed and how costs are spread among different types of energy users.

Specific Recommendations:

- Require Xcel to establish a measurable and verifiable threshold for "burden of proof" to assess whether a multi-year rate plan actually produces just and reasonable rates compared to a single-year rate plan, and likewise whether its proposed multi year rate plan is just in accordance with the principles of Energy Justice in order to achieve just and reasonable rates.³ Right now, advocates like the Just Solar Coalition have to fight back to argue for a more equitable energy future, but the responsibility should be on Xcel to demonstrate why their plans justly and reasonably serve the needs of all community members.
- Exercise the Commission's discretion to advance the public interest through consideration of a broader range of factors than Xcel's outdated approach that treats all residential customers the same, regardless of where they live, whether they can afford energy, or whether they have faced systemic injustice through discriminatory housing policy, education policy, etc. While community members served by Xcel have some opportunities to appeal for specific kinds of relief like medical necessity, these are not systemic approaches and the burden falls on individuals to demonstrate need, excluding many community members. Additional factors the Commission should consider in designing new rates:

³ Energy Justice Principles - definitions, justification, and origins (outlined by Dr. Chan's testimony, p. 7-16)

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- difference in costs to provide service (e.g. multi-family units cost ~60% less to serve than others)
- difference in benefits to alleviating amount of burden caused by energy system (e.g. low-wealth customers, households in geographies that have compounding burdens of health, socio-economic, race-based discrimination, pollution, and disinvestment)
- opportunities to incentivize and drive whole system and societal benefits (e.g. increasing residential electrification to reduce indoor air pollution from burning fossil fuels in the home; increasing home efficiency to reduce physiological stresses of extreme heat and cold; or increasing affordability for senior citizens and stay-at-home parents to increase relative daytime energy consumption and thereby more efficiently use energy infrastructure). These opportunities for benefits should be held up along the costs (allowing decades of indoor air pollution and physiological stress) to continue - as the status quo is just as much a choice as choosing to part from it.
- the mandates of Energy Justice (e.g. using these principles as a foundational lens through which to view all utility regulation because there is no path to serving the just and reasonable rates without Energy Justice).

Xcel Profit

(aka: "Return on Equity")

Summary: (*translation*) The magnitude of the requested increase in profit is unsupported in Xcel's stated need for it, their already high credit rating and shareholder dividends, and the minimal efforts in its proposal to build a resilient and accessible grid. Xcel's proposal to increase profits from 9.02% to 10.2%, and perhaps even higher in 2024, means Xcel's profits would be set at a level higher than even the high inflation experienced in 2022 so far. In 2022 alone, Xcel's proposed profit increase would amount to *more than 20% of the overall proposed increase in money collected* from residential customers. As Minnesota communities struggle with recovery from the pandemic and keeping up under conditions of high inflation and new gas price surcharges, the extraction of more profit for a company already collecting excessive profits for very low risk, low competition environment is simply unjust. Higher-than-necessary profit levels for basic service also limit the Commission's ability to start putting performance-based rewards in place that could better motivate Xcel to deliver the best outcomes for Minnesotans. Other formal intervenors in this Rate Case have argued eloquently why this increase should be denied, and perhaps even recalculated and adjusted down to 7.00-7.5% in order to be reasonable or in public interest.

Specific Recommendations:

- Reject Xcel's request for an increase in profit to 10.2%
- Evaluate whether a downward adjustment in Company profit, as recommended by the Citizens Utility Board would produce more just and reasonable rates for reliable service

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Energy Bill Assistance

(aka: "Affordability Programs")

Summary: (*translation*) The Commission should address needs of Minnesota communities through improved affordability programs. In particular, these affordability programs should be designed to serve energy justice communities and those facing high energy costs, challenges paying energy bills, and risk of shut-offs. We believe that programs designed to solely address cost for one season - while important - are not the biggest thing our communities need the Commission and utility to work on. The majority of our resources must be focused on *eliminating the conditions within the energy system* that cause the enormous need for help. This means looking squarely at and seeking to - in every decision - evaluate and address racialized disparities in wealth-building opportunities, quality of service, decision-making control, and access to participation.

Specific Recommendations:

- Apply principles of Energy Justice⁴ to review all aspects of Xcel's proposed rate plan related to the practice of shutting-off customers' power, including:
 - length of time between a missed bill payment and disconnection,
 - the cost to ratepayers for each disconnection,
 - fees to get reconnected after a shut off,
 - the frequency of disconnections shortly before or after the protected cold weather months,
 - and the customer impacts of disconnections.

Following this review, the Commission should evaluate the rate impact of a permanent moratorium on disconnections.

- Apply the principles of Energy Justice⁵ to assess whether Xcel's proposed multi-year rate increase takes sufficient proactive actions to maintain affordable and predictable bills for customers in light of the demonstrated volatility in the fuel prices following the 2021 Winter Storm Uri and further methane gas market volatility in 2022.
- Direct Xcel to fund and work with community-based groups and other relevant groups to develop plans with specific, measurable performance metrics for delivering energy efficiency, and other local renewable energy-based technologies and services to low-wealth and missing middle customers and households who cannot access existing rebates, loans and assistance, including through improved rate design, inclusive financing, and culturally and community-based outreach.
- Direct Xcel to reevaluate and increase program budgets for income-eligible weatherization programs in order to address a significantly greater percentage of the unserved population of

⁴ [Energy Justice Principles](#) - definitions, justification, and origins (outlined by Dr. Chan's testimony, p. 7-16)

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low-wealth customers. As part of this, Xcel could pilot and evaluate the "low-income rate" proposal from the Energy CENTS Coalition, which would provide a 35% monthly discount to all low-income residential customers that use, on an annual basis, an average of 300 kWh per month or less. The Just Solar Coalition supports a 35% low-income rate discount to assist customers struggling with their electricity bills. However, we do not believe such a discount should be subject to the 300 kWh per month or less restrictions, and should instead be available for all energy consumed by all income-qualified customers. The JSC views this proposal as important near-term relief for customers while Xcel and the Commission and communities work to implement the larger, more structural changes many of which JSC suggests in these recommendations, which will provide longer-term and more sustaining economic and wealth-building benefits for low-wealth customers and all Minnesotans.

Monthly Fixed Fees for Residents

(aka: "Base Charge")

Summary: The fixed monthly fee is already too high, as pointed out by many experts, but Xcel's proposal to increase it further for households by ~17.5% to \$10.25 per month for service will have inequitable outcomes. Those who use the *least* amount of energy will bear a greater cost impact. These increase and the charge itself are economically regressive - impacting lower income households most - because in Minnesota there is a close fit between low energy use and low income. This is even more true for apartment dwellers, who are the cheapest for Xcel to serve, but who still shoulder the same fixed charge as everyone else. Increasing fixed charges also has a negative impact on the cost-effectiveness of energy efficiency, local renewables, and other behavioral shifts or investments by customers, because fixed charges are unavoidable despite any cost-saving changes made. This proposal therefore actually works *against* Minnesota's statewide energy policy, which calls for increased reliance on energy efficiency and renewable energy alternatives, and retail rates that are lower than national averages. The fixed charge for residential customers should not be increased--in fact, the strongest case is that Xcel should lower those charges to reflect the real cost.

Specific Recommendations:

- Reject the Company's proposed fixed monthly customer charges, which would increase the charge from \$8.72 to \$10.25⁶— a roughly 17.5% jump – and instead approve a lowered charge of \$5.10 per customer per month for the residential class, which is based on the Company's own calculation of customer costs under the "basic customer method." We also support the proposal by the Department of Commerce to reduce charges for all residential customers, and reduce them even more for customers living in multi-family housing.

⁶ The current weighted-average monthly per-customer monthly fixed charge

- Direct the Company in all future rate cases to calculate fixed customer charges using this "basic customer method," and to allocate the additional costs that are driven by how much energy is used by customers to "volumetric" rates (e.g. the rate charged per unit of energy used).
- Direct the Company to end its practice of using methods for calculating and assigning costs that unjustly shift costs driven by large energy users onto all customers, which subsidizes very high users of electricity (these methods are called "minimum system" and "zero intercept").
- Direct the Company to list out for the record the cost difference in serving multifamily households versus single-family households, and use those values to set rates for multifamily and single-family households, including in a lowered multifamily-specific customer charge.

Big Business Discount

(aka: "Business Incentive Sustainability Rider" and other "Economic Incentives")

Summary: Big businesses with very high energy-use already pay lower per-unit costs of energy than residential and small business customers, and it is therefore unreasonable to allow certain large energy users further subsidies from Minnesotans until the benefits are proven to outweigh the costs and inequities. An example of Xcel's proposals to subsidize big business is through offering industrial customers - like data centers - substantial 5-year discounts paid for by all other customers. Unlike discounts to help low-wealth customers, big business discounts actually increase rates for everyone by requiring the utility to build more power plants and install bigger grid equipment.

Specific Recommendations:

- Order Xcel to suspend any subsidies of big businesses' high energy use like new data centers until Xcel conducts a long-term, comprehensive benefit-cost-analysis. This suspension should continue indefinitely until and unless Xcel can provide substantive proof that the benefits to Minnesota ratepayers outweigh the costs and still maintains rates that are just and reasonable for all.

Fair Decision-Making Process

(aka: "Procedural Justice")

Summary: The Commission should improve overall procedural justice of docket proceedings so that key energy decision-making accurately reflects the needs of Minnesota communities. Process defines not only definition of the issues, but who can meaningfully shape outcomes. The 2020 legislative audit of the Public Utilities Commission's public participation process found the process "challenging for the public to navigate," and critical that the Commission "do more to facilitate participation" and "ensure consistency and fairness" particularly to "better prepare for cases with significant public interest." In order for energy decision-making to be consistently fair and just, it must account for the ways in which many communities in Minnesota have been excluded from both information and economic resources. The following recommendations seek to begin to account for those legacies of exclusion.

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Specific Recommendations:

- At minimum: move rapidly to adopt the relevant recommendations of the Office of the Legislative Auditor's 2020 report, Public Utilities Commission's Public Participation Processes. including the provision of:
 - *More and better resources to help the public understand PUC's unique role and the role of the public in PUC's proceedings.*
 - *Better guidance to its staff and partner agencies to ensure consistency and fairness across public participation processes.*
 - *More oversight of the agency's public participation processes and better prepare for cases with significant public interest.*
- If the current resources do not allow the Commission to fully and robustly implement these recommendations, the Commission should seek the sufficient staff/financial resources to support its legal mandate to ensure fairness and access to public participation in its proceedings.
- Whether or not it is not administratively possible with current resources for the Commission to sufficiently adopt the recommendations of this Audit, the Commission should communicate publicly on its website and via other widely-known channels to the public and elected officials its plans to implement the recommendations of this compliance Audit.