



**How Governor Tim Walz’s State Public Pension Fund Colludes with the Climate Cartel to  
Raise Energy Costs for American Consumers**

Interim Staff Report of the  
Committee on the Judiciary  
U.S. House of Representatives



October 24, 2024

---

## EXECUTIVE SUMMARY

---

U.S. antitrust law forbids collusive agreements designed to limit the production of disfavored goods and services.<sup>1</sup> It does so because collusion to constrain supply inevitably harms American consumers by raising prices and reducing choice.<sup>2</sup> In recent years, however, a growing number of environmental activists and institutional investors have colluded to shrink affordable, carbon-based energy production to “net zero” in pursuit of radical left-wing environmental, social, and governance (ESG)-related goals.<sup>3</sup> As the Committee has previously detailed, these activists use a constellation of coalitions and alliances to create a climate cartel that pressures U.S. companies to “decarbonize” by eliminating affordable energy products that millions of Americans need and use.<sup>4</sup>

At the forefront of the climate cartel are blue-state public pension funds.<sup>5</sup> These funds are run by Democrat-controlled state and local governments throughout the United States and hold the retirement savings of millions of state and local public employees—including teachers, nurses, police officers, and firefighters.<sup>6</sup> Blue-state public pension funds use these retirement savings as leverage to impose a “net zero” climate agenda, coercing the companies in which they invest to commit to eliminate their greenhouse gas emissions by 2050.<sup>7</sup> By colluding with other members of the climate cartel, these blue-state pension funds increasingly operate as *de facto* interstate climate regulators, threatening U.S. companies to comply with “net-zero” standards beyond their state lines and across the entire U.S. economy.<sup>8</sup>

One of the more prominent blue-state public pensions within the climate cartel is the Minnesota State Board of Investment (MSBI), chaired by Minnesota Governor Tim Walz.<sup>9</sup> Under Governor Walz, the MSBI uses \$140 billion in the retirement savings of Minnesota public employees to “participate in ESG coalitions and engage with corporations on ESG related

---

<sup>1</sup> See 15 U.S.C. § 1; see also *Fashion Originators’ Guild v. FTC*, 312 U.S. 457, 467 (1941).

<sup>2</sup> See *FTC v. Sup. Ct. Trial Laws. Ass’n*, 493 U.S. 411, 423 (1990).

<sup>3</sup> See H. COMM. ON THE JUDICIARY, 118TH CONGR., CLIMATE CONTROL: EXPOSING THE DECARBONIZATION COLLUSION IN ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG) INVESTING 32–41 (June 11, 2024).

<sup>4</sup> See *id.* at 1–4.

<sup>5</sup> CERES30849 at CERES30854.

<sup>6</sup> See *State and Local Government Pensions*, URB. INST., <https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/projects/state-and-local-backgrounders/state-and-local-government-pensions> (last visited Oct. 22, 2024).

<sup>7</sup> See MEKETA INV. GRP., MINNESOTA STATE BOARD OF INVESTMENTS (SBI): CLIMATE CHANGE INVESTMENT ANALYSIS 13 (May 16, 2022), <https://msbi.us/sites/default/files/2022-05/Climate%20Change%20Investment%20Analysis%20-%20Phase%20II%20-%20Public%20Pension%20Climate%20Leaders%20Survey.pdf>.

<sup>8</sup> The Supreme Court has held that the Commerce Clause holds an implied limit on state power that generally prohibits state governments from interfering with interstate commerce to achieve public policy goals, such as environmental regulation, without a legitimate local interest. See *Hughes v. Oklahoma*, 441 U.S. 322, 331 (1979). While the Court has recognized a limited “market participant” exception to this rule, it has prohibited states from entering the market to impose “downstream restrictions” that “restrict[] the post-purchase activity of the purchaser,” like the climate cartel’s “net-zero” standards. See, e.g., *South-Central Timber Dev., Inc. v. Wunnicke*, 467 U.S. 82, 93, 99 (1984).

<sup>9</sup> *Resolution of the Minnesota State Board of Investment Concerning Environmental, Social, and Governance Initiatives*, MINN. STATE BD. OF INV. 2 (Feb. 26, 2020), [https://msbi.us/sites/default/files/2021-02/msbi\\_resolution\\_on\\_esg\\_-\\_february\\_26\\_2020.pdf](https://msbi.us/sites/default/files/2021-02/msbi_resolution_on_esg_-_february_26_2020.pdf).

issues.”<sup>10</sup> Two of the MSBI’s “ESG coalitions” are the Ceres Investor Network and the Ceres-facilitated initiative known as Climate Action 100+.<sup>11</sup> These climate coalitions form the spine of the climate cartel by “convening” hundreds of investors to launch “net-zero” pressure campaigns against U.S. companies.<sup>12</sup> With the support of the MSBI, Ceres and its initiatives like Climate Action 100+ strive to “create [an] army of committed engagers” to pressure U.S. companies to commit to “net zero” and reduce carbon-based energy production.<sup>13</sup>

In recent years, Governor Walz has used the MSBI’s participation in the climate cartel as a weapon in a broader climate crusade against affordable electricity. In 2023, after extensive coordinated engagement and support from Ceres,<sup>14</sup> Governor Walz “signed one of America’s most aggressive climate laws, mandating that 100% of . . . [Minnesota’s] electricity come from carbon-free sources by 2040.”<sup>15</sup> At the same time, the MSBI colluded behind the scenes with other climate cartel investors to escalate Governor Walz’s “net-zero” climate campaign against affordable electricity and extend it across the entire U.S. economy. Since 2019, “[a]s a member of the Climate Action 100+[,] the [M]SBI [has] actively participat[ed] in engagement with Xcel Energy, Inc.,”<sup>16</sup> one of America’s largest electric and gas utilities, with 5.9 million customers across eight states.<sup>17</sup> According to documents produced to the Committee, following a pressure campaign from Governor Walz’s MSBI and Climate Action 100+, Xcel Energy surrendered to the climate cartel and made a series of “net-zero” climate commitments, forcing it to “retire” carbon-based energy production and raise electricity prices throughout the Midwest.

Governor Walz’s embrace of the climate cartel and its collusive conduct has serious adverse consequences for American energy consumers. From nonpublic documents produced as a part of the Committee’s oversight, the Committee has found:

- **The climate cartel has vowed to pressure the U.S. power sector to eliminate affordable carbon-based energy sources.** The climate cartel intends to conduct a “transformation in the global power sector,”<sup>18</sup> so that “[b]oth coal and gas fired [electrical] generation . . . [are] phased out to achieve global net-zero emissions by mid-

---

<sup>10</sup> See *Assets Under Management*, MINN. STATE BD. OF INV., <https://msbi.us/assets-management> (last visited Oct. 22, 2024); see also *Environmental, Social and Governance (ESG) Stewardship*, MINN. STATE BD. OF INV., <https://msbi.us/ESG-stewardship> (last visited Oct. 22, 2024).

<sup>11</sup> MINN. STATE BD. OF INV., ENVIRONMENTAL, SOCIAL, GOVERNANCE REPORT 1, 3 (Feb. 2020), [https://msbi.us/sites/default/files/2021-02/esg\\_report\\_-\\_february\\_2020.pdf](https://msbi.us/sites/default/files/2021-02/esg_report_-_february_2020.pdf) [hereinafter MSBI Feb. 2020 ESG Report].

<sup>12</sup> See H. COMM. ON THE JUDICIARY, *supra* note 3, at 1–4.

<sup>13</sup> CERES82598 at CERES82603.

<sup>14</sup> See CERES97694 at CERES97695–96.

<sup>15</sup> Joshua Antonini & Jason Hayes, *Walz’s Climate Policies Could Leave the Midwest in the Dark*, WALL ST. J. (Aug. 9, 2024), <https://www.wsj.com/opinion/walz-climate-policies-could-leave-the-midwest-in-the-dark-energy-electricity-net-zero-d1014efb>; accord H.F. 7, 93rd Leg. (Minn. 2023).

<sup>16</sup> MINN. STATE BD. OF INV., ENVIRONMENTAL, SOCIAL, GOVERNANCE REPORT 2 (June 2020), [https://msbi.us/sites/default/files/2021-02/esg\\_report\\_-\\_june\\_2020.pdf](https://msbi.us/sites/default/files/2021-02/esg_report_-_june_2020.pdf) [hereinafter MSBI June 2020 ESG Report].

<sup>17</sup> See XCEL ENERGY, 2023 INVESTOR FACT BOOK 2 (Oct. 2023), [https://s202.q4cdn.com/586283047/files/doc\\_downloads/factbook/2022-investor-fact-book-october-final.pdf](https://s202.q4cdn.com/586283047/files/doc_downloads/factbook/2022-investor-fact-book-october-final.pdf); see also CERES59890 at CERES59903.

<sup>18</sup> INST. INV. GRP. ON CLIMATE CHANGE, GLOBAL SECTOR STRATEGIES: INVESTOR INTERVENTIONS TO ACCELERATE NET ZERO ELECTRIC UTILITIES 6 (Oct. 2021), <https://www.climateaction100.org/wp-content/uploads/2021/10/Global-Sector-Strategy-Electric-Utilities-IIGCC-Oct-21.pdf>.

century.”<sup>19</sup> For U.S. companies that “resist stepped-up investor pressure,” the climate cartel intends to escalate its “net-zero” campaigns by “hold[ing] Boards and C-Suites accountable.”<sup>20</sup>

- **The MSBI, chaired by Governor Walz, and climate cartel investors launched a multi-year pressure campaign against Xcel Energy to force “net-zero” commitments.** Climate Action 100+ has branded Xcel Energy as a targeted “focus company” and colluded with the MSBI, as an “active[] participa[nt]” in its engagement group, to pressure “Xcel Energy, Inc. on a variety of ESG issues.”<sup>21</sup> Since 2018, the climate cartel has repeatedly escalated its campaign, threatening to “flag” climate-related shareholder resolutions and calling for Xcel Energy to “retire” power plants early.<sup>22</sup>
- **Following the climate cartel’s collusive efforts, Xcel Energy surrendered and made a series of “net-zero” commitments.** Following the MSBI-supported investor engagements, Xcel Energy “committed to reduce carbon emissions to zero by 2050” for its electricity and natural gas businesses,<sup>23</sup> forcing it to shut down power plants in Governor Walz’s state of Minnesota and elsewhere “precisely at a time when those resources will be needed the most to keep electricity flowing 24/7/365.”<sup>24</sup>
- **The MSBI and climate cartel investors pledge to escalate their “net-zero” climate campaign against the electric power sector and beyond.** Following its success pressuring Xcel Energy, the climate cartel believes it is “nearly at the tipping point needed to push the whole sector forward to rapidly decarbonize.”<sup>25</sup> As a result, it plans to broaden its pressure campaign to target even more U.S. companies with “large state pension funds” including “Minnesota” becoming “much more active as lead engagers.”<sup>26</sup>
- **Xcel Energy’s “net-zero” commitments have forced it to raise electricity prices across the Midwest and elsewhere.** In 2022 and 2023, Xcel Energy’s “net-zero” pledges forced it to raise electricity prices in Colorado by 6.4 percent and 4.4 percent respectively to “cover the cost of retiring a handful of coal-fired power plants.”<sup>27</sup> Likewise, Xcel Energy increased electricity costs in Minnesota by 9.6 percent due to its efforts “to lead

---

<sup>19</sup> GFANZ13103 at GFANZ13146.

<sup>20</sup> CERES43806 at CERES43819.

<sup>21</sup> MSBI June 2020 ESG Report, *supra* note 16, at 2.

<sup>22</sup> See CERES62685 at CERES62690; see also CERES110913.

<sup>23</sup> CERES9175 at CERES9179; see also XCEL ENERGY, 2021 SUSTAINABILITY REPORT 6 (June 2022), <https://www.xcelenergy.com/staticfiles/xcel-responsive/Company/Sustainability%20Report/2021%20SR/2021-Sustainability-Report-Full.pdf>.

<sup>24</sup> Letter from S.D. Pub. Utils. Comm’n to Ryan Long, President, Xcel Energy 1 (Jan. 4, 2024), <https://s3.documentcloud.org/documents/24362424/2024-xcel-reliability-ltr.pdf>.

<sup>25</sup> CERES62685 at CERES62689.

<sup>26</sup> CERES115490 at CERES115516.

<sup>27</sup> Sam Brasch, *Xcel Energy Customers Can Expect Higher Electricity Bills Starting in September*, CPR NEWS (Aug. 17, 2023), <https://www.cpr.org/2023/08/17/xcel-energy-electricity-bills-rate-increase/>; Mark Jaffe, *Xcel Energy to Raise Residential Electric Bills by 6.4% in April, Two More Rate Increases Loom*, COLO. SUN (Mar. 17, 2022), <https://coloradosun.com/2022/03/17/xcel-rate-hike-electricity-colorado/>.

the clean energy transition.”<sup>28</sup> As a result of the “net-zero” commitments, the company also plans to charge Minnesotans as much as seven times more for electricity during “peak” usage periods “to avoid building a new power plant to meet peak demand.”<sup>29</sup>

Despite substantial evidence of anticompetitive conduct, the Biden-Harris Administration has refused to enforce existing U.S. antitrust law against the climate cartel. In contrast, the Committee remains committed to protecting “trade and commerce against unlawful restraints and monopolies,” like the climate cartel’s “net-zero” crusade.<sup>30</sup> So far, the Committee has received and reviewed 278,553 documents and 2,596,401 pages of non-public information, interviewed five key individuals affiliated with the climate cartel, and issued document subpoenas to several key stakeholders in the climate cartel.<sup>31</sup> Since the beginning of the Committee’s oversight, at least 70 investors have withdrawn from Climate Action 100+, including the former lead investor of Climate Action 100+’s Xcel Energy engagement, Morgan Stanley subsidiary Calvert Research & Management.<sup>32</sup> In light of the continued collusion among climate cartel investors like the MSBI, the Committee’s investigation remains ongoing to inform potential legislative reforms. This interim report, however, presents a case study of how one blue-state public pension fund colluded with other climate activists to raise costs for American consumers.

---

<sup>28</sup> Andrew Hazzard, *Energy Equity Advocates Help Keep Xcel Energy’s Rate Hike to a Minimum*, SAHAN J. (June 8, 2023), <https://sahanjournal.com/climate-environment/xcel-rate-case-minnesota/>.

<sup>29</sup> Kirsti Marohn, *Xcel Energy Hopes Charging More for Electricity During Peak Hours Will Encourage Customers to Shift Energy Use*, MPR NEWS (Apr. 10, 2024), <https://www.mprnews.org/story/2024/04/10/xcel-energy-charging-more-electricity-peak-hours-time-of-use-rates-utilities>.

<sup>30</sup> Rules of the House of Representatives R. X(1)(l)(16) (2023).

<sup>31</sup> See Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to John Eichlin (Nov. 1, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Matthew Miller (June 14, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Andrew Herman (Nov. 1, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Veronica Renzi (Dec. 11, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Alyssa DaCunha (Dec. 15, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Donald Deng (Dec. 15, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Robert Kelner (Dec. 11, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Aaron Cutler (Dec. 20, 2023); Letter from Rep. Jim Jordan, Chairman, Comm. on the Judiciary, to Nichol Garzon-Mitchell (Dec. 20, 2023).

<sup>32</sup> See E-mail from Calvert to Comm. Staff (July 31, 2024) (on file with the Comm.).

---

## GOVERNOR WALZ’S AND THE CLIMATE CARTEL’S “NET-ZERO” CRUSADE AGAINST XCEL ENERGY

---

The climate cartel is an alliance of environmental activists and major financial institutions unified by a shared commitment: to impose “net-zero” greenhouse gas (GHG)-emission requirements on the U.S. economy that drain it of affordable, carbon-based energy.<sup>33</sup> In its ranks are hundreds of “investor signatories” with tens of trillions of dollars in assets under management in a sprawling network of climate coalitions—such as the Glasgow Financial Alliance for Net Zero (GFANZ), the Net Zero Asset Managers Initiative (NZAM), Ceres, and Climate Action 100+.<sup>34</sup> Using their collective influence in the investment market, the climate cartel attempts to circumvent the democratic process by forcing U.S. companies to implement climate mandates far beyond what U.S. law requires.<sup>35</sup> When U.S. companies refuse to surrender and comply, the climate cartel has even colluded to enforce its “net-zero” demands by voting to remove and replace their board members.<sup>36</sup>

### ***Blue-state Public Pensions like the MSBI Collude to Impose “Net-zero” Climate Policy Goals***

The climate cartel is led by a vanguard of blue-state public pension funds that use the retirement savings they manage to pressure U.S. businesses to meet climate policy objectives. According to Ceres, these Democrat-controlled public investment houses are the “[leaders] on ESG in the U.S.”<sup>37</sup> With the retirement accounts of state and local government employees, blue-state public pension funds “unit[e] with investors around the globe to engage with the world’s largest greenhouse gas emitters.”<sup>38</sup> Through GFANZ investor alliances, Ceres, Climate Action 100+, and other climate coalitions, a growing number of blue-state public pension funds have joined the climate cartel’s ranks. In fact, according to a recent survey conducted by the Minnesota State Board of Investment (MSBI), *all* major Democrat-controlled state and local public pensions in the United States hold membership in at least one climate coalition, and eighty-five percent are investor signatories of Climate Action 100+.<sup>39</sup>

The MSBI, chaired by Minnesota Governor Tim Walz, holds memberships in a variety of climate coalitions and “work[s] to integrate appropriate ESG frameworks into its processes.”<sup>40</sup> Using \$140 billion in assets under management from the pension plans of Minnesota public employees,<sup>41</sup> the MSBI “has a long history of engaging with corporations” on ESG-related

---

<sup>33</sup> See H. COMM. ON THE JUDICIARY, *supra* note 3, at 24–39.

<sup>34</sup> See *id.* at 1–4.

<sup>35</sup> See *id.* at 8–15.

<sup>36</sup> See *id.* at 24–31.

<sup>37</sup> CERES30849 at CERES30854.

<sup>38</sup> CALPERS5908 at CALPERS5911.

<sup>39</sup> MEKETA INV. GRP., *supra* note 7, at 13.

<sup>40</sup> Jill E. Schurtz, *United Nations Principles of Responsible Investment Reporting: Senior Leadership Statement*, MINN. STATE BD. OF INV. 2 (2023), <https://msbi.us/sites/default/files/2024-01/SBI%20Senior%20Leadership%20Statement%20-%202023%20PRI%20reporting.pdf>.

<sup>41</sup> See *Assets Under Management*, *supra* note 10.

objectives.<sup>42</sup> In February 2020, as Chair of the MSBI, Governor Tim Walz signed an order “recogniz[ing] the importance of addressing Environmental, Social and Governance (ESG) risk”<sup>43</sup> and “direct[ing] the [M]SBI’s Executive Director to, among other things, report on ESG risks and review options for reducing long-term carbon risk in the [M]SBI’s investment portfolio.”<sup>44</sup> The following year, “the MSBI dedicated a senior full-time staff person to Stewardship and ESG integration. In 2023, this role was elevated to an independent division reporting directly to the Executive Director and Chief Investment Officer.”<sup>45</sup>

Furthermore, “to conduct many of its stewardship and ESG integration activities, the MSBI maintains membership in several investor organizations,” including the “Ceres Investor Network” and “Climate Action 100+.”<sup>46</sup> In fact, “[t]he [M]SBI’s engagement activities are *all* associated with institutional investor coalitions.”<sup>47</sup> As a member of the Ceres Investor Network, the MSBI contributes to Ceres’s “net-zero” campaign “to harness the extraordinary power of financial system leaders to accelerate the transition of the global economy to net-zero by steering massive flows of capital . . . away from investments that lock in greenhouse gas emissions.”<sup>48</sup> Likewise, as part of Climate Action 100+, the MSBI colludes with climate cartel investors “to spur companies” on the Climate Action 100+ focus list of 170 target companies “to accelerate their emission reductions” by abandoning carbon-based energy production.<sup>49</sup> Climate Action 100+ organizes collusive investor engagements designed to ensure that “[a]ll companies on [its] focus list have committed to net zero or gone out of business as investors are no longer providing them with capital.”<sup>50</sup> The MSBI reports that “[a]s a member of the Climate Action 100+, [it] supports engagements with many companies on Climate Change risk related topics.”<sup>51</sup>

---

<sup>42</sup> *Resolution of the Minnesota State Board of Investment Concerning Environmental, Social, and Governance Initiatives*, *supra* note 9, at 1.

<sup>43</sup> *Id.*

<sup>44</sup> MSBI June 2020 ESG Report, *supra* note 16, at 1.

<sup>45</sup> Schurtz, *supra* note 40, at 2.

<sup>46</sup> *Id.*

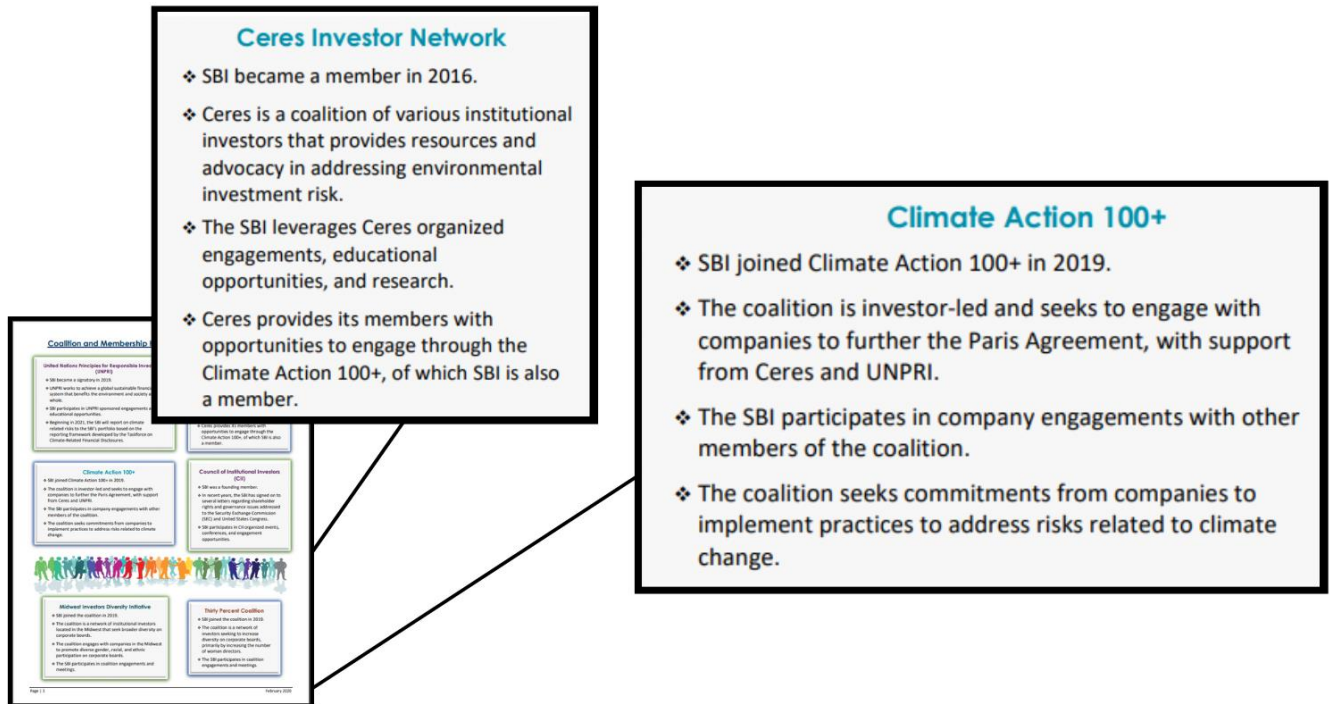
<sup>47</sup> MINN. STATE BD. OF INV., ESG STEWARDSHIP REPORT 4 (2021), <https://msbi.us/sites/default/files/2022-01/MSBI%20ESG%20Stewardship%20Report%20FY2021.pdf> (emphasis added).

<sup>48</sup> CERES37663 at CERES37668.

<sup>49</sup> CERES72388 at CERES72388; *see generally* CERES72399 at CERES72399–413.

<sup>50</sup> CERES51901 at CERES51908.

<sup>51</sup> ESG STEWARDSHIP REPORT, *supra* note 47, at 13; *see also* CERES108016.



The MSBI publicly admits that it is an investor signatory of the Ceres Investor Network and Climate Action 100+.<sup>52</sup>

In addition to coordinating ESG engagements with the MSBI, Ceres has worked for years to further Governor Walz’s radical “net-zero” climate agenda in Minnesota. In 2019, Governor Walz’s first year in office, Ceres and its networks engaged the Minnesota state government to enact radical “net-zero” climate legislation.<sup>53</sup> Soon after that, Governor Walz pledged that Minnesota would reach “net zero by 2050 or sooner”<sup>54</sup> and “signed one of America’s most aggressive climate laws, mandating that 100% of the state’s electricity come from carbon-free sources by 2040,”<sup>55</sup> boasting twice afterward about the Ceres-coordinated engagement in support of the law’s enactment.<sup>56</sup> In the years since, the MSBI has collaborated with Ceres and Climate Action 100+ to extend its “net-zero” agenda beyond Minnesota by pressuring the largest companies in the U.S. power sector to rid themselves of carbon-based energy sources.<sup>57</sup>

<sup>52</sup> MSBI Feb. 2020 ESG Report, *supra* note 11, at 3. “SBI” or State Board of Investment, as used here, refers to the Minnesota State Board of Investment (MSBI). *Id.* at 1.

<sup>53</sup> See CERES97694 at CERES97695–96.

<sup>54</sup> JOSHUA ANTONINI & JASON HAYES, SHORTING THE GREAT LAKES GRID: HOW NET ZERO PLANS RISK ENERGY RELIABILITY 38 (2024), <https://www.mackinac.org/archives/2024/s2024-04.pdf>.

<sup>55</sup> *Walz’s Climate Policies Could Leave the Midwest in the Dark*, *supra* note 15; see also H.F. 7, 93rd Leg. (Minn. 2023).

<sup>56</sup> See CERES97694 at CERES97696.

<sup>57</sup> See ESG STEWARDSHIP REPORT, *supra* note 47, at 13.



## ***The Climate Cartel Has Targeted the U.S. Electric Power Sector to Eliminate Affordable and Reliable Carbon-based Energy***

While its “net-zero” campaign targets all corners of the U.S. economy,<sup>58</sup> Climate Action 100+ believes electric “power is arguably the most important sector to decarbonise over the next decade.”<sup>59</sup> This is because America’s vast power sector relies primarily on affordable, carbon-based energy sources, such as coal and natural gas.<sup>60</sup> More than sixty percent of the energy used to generate electricity in the United States comes from fossil fuels.<sup>61</sup> Every day, U.S. electric utilities use affordable carbon-based energy sources to generate electricity to heat and cool millions of American homes and power a rising number of American electric vehicles.<sup>62</sup> The U.S. power sector also provides the electrical lifeline for American industry, manufacturing, and technological innovation.<sup>63</sup> America’s economy is so reliant on affordable electricity that there is nearly a 90% correlation between total retail electricity sales and U.S. economic growth.<sup>64</sup>

In recent years, however, the U.S. power sector has struggled to keep up with historic increases in electricity demand. Electric power demand is “rising faster than at any time in the past five or more years,” leading to “clear evidence of growing resource adequacy concerns over the next 10 years.”<sup>65</sup> Climate Action 100+ itself recognizes that “electricity demand [is] predicted to grow over 166% globally by 2050.”<sup>66</sup> As a result, the average American already experiences an average of five and a half hours of electrical failures annually,<sup>67</sup> and large swaths of the United States currently stand at a “high” or “elevated” risk for electrical blackouts in the next four years.<sup>68</sup>

Despite the growing need for affordable electrical generation and the fact that fossil fuels are by far the most inexpensive way to generate electricity,<sup>69</sup> the climate cartel aims to carry out

---

<sup>58</sup> See H. COMM. ON THE JUDICIARY, *supra* note 3, at 32–40.

<sup>59</sup> INST. INV. GRP. ON CLIMATE CHANGE, *supra* note 18, at 6.

<sup>60</sup> See *id.* at 21.

<sup>61</sup> *Transformative Power Systems*, OFF. OF FOSSIL ENERGY & CARBON MGMT., <https://www.energy.gov/fecm/transformative-power-systems> (last visited Oct. 22, 2024).

<sup>62</sup> See *Electricity Explained: Use of Electricity*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/energyexplained/electricity/use-of-electricity.php> (last updated Dec. 18, 2023).

<sup>63</sup> See *id.*

<sup>64</sup> See VIPIN ARORA & JOZEF LIESKOVSKY, *ELECTRICITY USE AS AN INDICATOR OF U.S. ECONOMIC ACTIVITY 7* (2014), [https://www.eia.gov/workingpapers/pdf/electricity\\_indicator.pdf](https://www.eia.gov/workingpapers/pdf/electricity_indicator.pdf).

<sup>65</sup> N. AM. ELEC. RELIABILITY CORP., *2023 LONG-TERM RELIABILITY ASSESSMENT 6* (Dec. 2023), [https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC\\_LTRA\\_2023.pdf](https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2023.pdf).

<sup>66</sup> *Climate Action 100+ Sets Decarbonisation Expectations for Electric Utility Companies to Achieve Net Zero Emissions Globally by 2040*, CLIMATE ACTION 100+ (Oct. 20, 2021), <https://www.climateaction100.org/news/climate-action-100-sets-decarbonisation-expectations-for-electric-utility-companies-to-achieve-net-zero-emissions-globally-by-2040/>.

<sup>67</sup> *U.S. Electricity Customers Averaged Five and One-half Hours of Power Interruptions in 2022*, U.S. ENERGY INFO. ADMIN. (Jan. 25, 2024), <https://www.eia.gov/todayinenergy/detail.php?id=61303>.

<sup>68</sup> N. AM. ELEC. RELIABILITY CORP., *supra* note 65, at 6–9.

<sup>69</sup> See NAT. COAL COUNCIL, *POWER RESET: OPTIMIZING THE EXISTING COAL FLEET TO ENSURE A RELIABLE AND RESILIENT GRID 6, 10* (Sept. 4, 2018), <https://www.burnmorecoal.com/wp-content/uploads/2018/10/NCC-Power-Reset-2018.pdf>.

a “transformation in the global power sector”<sup>70</sup> where “[b]oth coal and gas fired [electrical] generation . . . [are] phased out to achieve global net-zero emissions by mid-century.”<sup>71</sup> In 2021, to “inform the engagement activities of [its] signatories,”<sup>72</sup> Climate Action 100+ announced a set of “decarbonisation expectations for electric utility companies to achieve net zero emissions globally by 2040.”<sup>73</sup> In its report, Climate Action 100+ called on climate cartel investors to pressure U.S. power companies to take “bold action now” by setting a “company-wide emissions target,” requiring “annual emissions from electricity generation [to] reach[] net zero by 2035.”<sup>74</sup> To achieve this “net-zero” commitment, Climate Action 100+ emphasized that U.S. power companies must “immediate[ly] halt . . . the construction of coal-fired power plants” and begin a “phase out of [existing] coal” power generation.<sup>75</sup> Additionally, Climate Action 100+ declared that electricity generation from natural gas must fall by 79 percent globally between 2030 and 2040, with “advanced economies” like the United States entirely “decarbonis[ing] [its] power sector[] by 2035.”<sup>76</sup> In total, to achieve its “net-zero” ambitions, Climate Action 100+ declared that it expected global fossil-fuel-based generation to shrink by a staggering 41 percent, “from 17 m[illion] GWh [(gigawatt hours)] to 10 m[illion] GWh by 2030, largely driven by coal.”<sup>77</sup>

---

<sup>70</sup> INST. INV. GRP. ON CLIMATE CHANGE, *supra* note 18, at 6.

<sup>71</sup> GFANZ13103 at GFANZ13146.

<sup>72</sup> INST. INV. GRP. ON CLIMATE CHANGE, *supra* note 18, at 18.

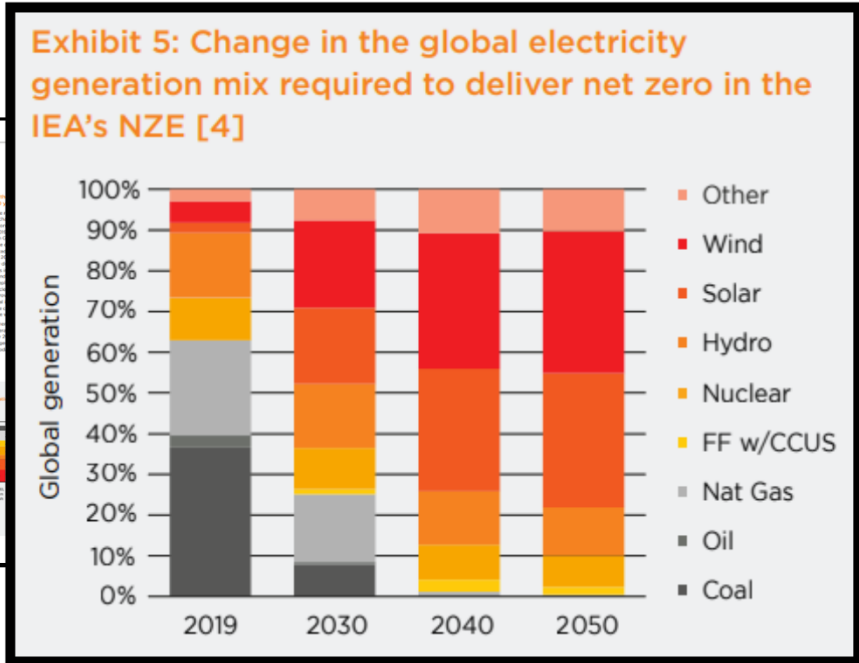
<sup>73</sup> *Climate Action 100+ Sets Decarbonisation Expectations for Electric Utility Companies to Achieve Net Zero Emissions Globally by 2040*, *supra* note 66.

<sup>74</sup> INST. INV. GRP. ON CLIMATE CHANGE, *supra* note 18, at 12.

<sup>75</sup> *Id.* at 6.

<sup>76</sup> *Id.* at 23; *see also id.* at 4 (defining “[a]dvanced economies” to include “the OECD regional grouping); *see also* INT’L ENERGY AGENCY, NET ZERO BY 2050: A ROADMAP FOR THE GLOBAL ENERGY SECTOR 214 (Oct. 2021), [https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroBy2050-ARoadmapfortheGlobalEnergySector\\_CORR.pdf](https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroBy2050-ARoadmapfortheGlobalEnergySector_CORR.pdf) (defining “OECD” to include the United States).

<sup>77</sup> INST. INV. GRP. ON CLIMATE CHANGE, *supra* note 18, at 22. A gigawatt hour (GWh) is the “electrical energy unit of measure equal to” one billion watts of power “supplied to, or taken from, an electric circuit steadily for one hour.” *Glossary*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/tools/glossary/index.php?id=W> (last visited Oct. 22, 2024) (defining “Watthour”); *accord Glossary*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/tools/glossary/index.php?id=G> (last visited Oct. 22, 2024) (defining “Gigawatthour”). The 7 million GWh of global fossil-fuel-based generation that Climate Action 100+ aims to eliminate is equivalent to the electric power generated by 1.5 billion Photovoltaic (PV) Solar Panels or 234,931 utility-scale wind turbines. *See How Much Power Is 1 Gigawatt*, U.S. DEP’T OF ENERGY (Aug. 21, 2024), <https://www.energy.gov/eere/articles/how-much-power-1-gigawatt>; *see also* Zach Stein, *Gigawatt (GW)*, CARBON COLLECTIVE (last modified Oct. 1, 2024), <https://www.carboncollective.co/sustainable-investing/gigawatt-gw> (“To convert [gigawatt hours (GWh)] into gigawatts (GW), you would divide the GWh value by the number of hours in a year (8,760 hours).”).



*Climate Action 100+ concedes that the climate cartel’s “net-zero” goal shrinks electricity generation from unabated fossil fuels from more than 60% to zero.*<sup>78</sup>

To secure “net-zero” commitments and drain the U.S. power sector of fossil fuels, Climate Action 100+ calls for its investor signatories to pressure U.S. companies to “establish credible net zero transition plans”<sup>79</sup> and have a “retirement date assigned to each coal or gas unit” they operate.<sup>80</sup> While Climate Action 100+ admits that its “net-zero” pressure campaign against the U.S. power sector could result in the “[d]isplacement of well-paid jobs” and “electricity price increases,”<sup>81</sup> it nevertheless directs its investor signatories to “[s]et out escalation strategies (e.g. . . . vote on directors) for companies that do not respond to engagement and for those accentuating [net-zero] transition risks by constructing new fossil fuel generation.”<sup>82</sup> Climate Action 100+ warns: “[a]s with other sectors, in cases where companies resist stepped-up investor pressure . . . we will work to hold Boards and C-Suites accountable.”<sup>83</sup>

### ***The MSBI and Climate Cartel Investors Pressured Xcel Energy to Commit to “Net Zero” and “Retire” Carbon-based Energy***

As part of its “net-zero” campaign against the U.S. power sector, the MSBI and climate cartel investors have targeted Minneapolis-based Xcel Energy, one of the largest electric and gas utilities in the United States.<sup>84</sup> Operating in eight states—Colorado, Michigan, Minnesota, New

<sup>78</sup> INST. INV. GRP. ON CLIMATE CHANGE, *supra* note 18, at 22.

<sup>79</sup> *Id.* at 15.

<sup>80</sup> GFANZ13103 at GFANZ13146.

<sup>81</sup> INST. INV. GRP. ON CLIMATE CHANGE, *supra* note 18, at 38.

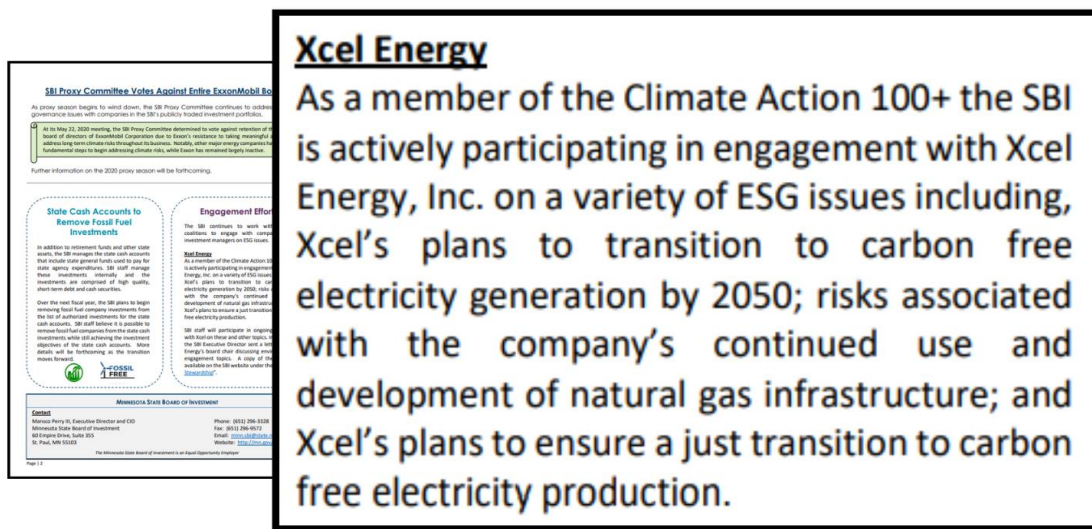
<sup>82</sup> *Id.* at 15.

<sup>83</sup> CERES43806 at CERES43819.

<sup>84</sup> See *Company Assessment: Xcel Energy Inc.*, CLIMATE ACTION 100+, <https://www.climateaction100.org/company/xcel-energy-inc/> (last visited Oct. 22, 2024).

Mexico, North Dakota, South Dakota, Texas, and Wisconsin—Xcel Energy “provides a comprehensive portfolio of energy-related products and services to 3.8 million electricity customers and 2.1 million natural gas customers.”<sup>85</sup> For the last six years, the climate cartel has waged a “net-zero” pressure campaign against Xcel Energy using a familiar sequence of engagement tactics employed against all other companies across the U.S. economy.<sup>86</sup> To begin, the climate cartel labels U.S. companies as “focus companies” to “trigger” and “start . . . the [engagement] process.”<sup>87</sup> The climate cartel then coordinates collusive investor engagements to pressure U.S. companies to disclose, reduce, and enforce “net-zero” climate commitments.<sup>88</sup>

In July 2018, Climate Action 100+ announced that Xcel Energy was one of thirty-one electric utility “focus companies” it planned to target through coordinated investor engagements.<sup>89</sup> Labeling Xcel Energy as a “focus company” allowed Climate Action 100+ to organize an “engagement group” to push it to adopt “net-zero” commitments.<sup>90</sup> As of 2021, the engagement group was led by Morgan Stanley subsidiary Calvert Research & Management and included at least eight investor signatories.<sup>91</sup> Beginning in 2019, the MSBI joined the Climate Action 100+ engagement group to “actively participat[e] in engagement with Xcel Energy, Inc. on a variety of ESG issues including[] Xcel’s plans to transition to carbon free electricity generation by 2050[] [and] risks associated with the company’s continued use and development of natural gas infrastructure.”<sup>92</sup>



As a Climate Action 100+ investor signatory, the MSBI actively engages Xcel Energy.<sup>93</sup>

<sup>85</sup> 2023 INVESTOR FACT BOOK, *supra* note 17, at 2.

<sup>86</sup> See H. COMM. ON THE JUDICIARY, *supra* note 3, at 18–23.

<sup>87</sup> CERES62869 at CERES62952.

<sup>88</sup> See H. COMM. ON THE JUDICIARY, *supra* note 3, at 18–23.

<sup>89</sup> See GFANZ13103 at GFANZ13143.

<sup>90</sup> See *Engagement Process*, CLIMATE ACTION 100+, <https://www.climateaction100.org/approach/engagement-process/> (last visited Oct. 22, 2024).

<sup>91</sup> See CERES382 at CERES401.

<sup>92</sup> MSBI June 2020 ESG Report, *supra* note 16, at 2; see also MSBI Feb. 2020 ESG Report, *supra* note 11, at 3.

<sup>93</sup> MSBI June 2020 ESG Report, *supra* note 16, at 2.

Almost immediately after the climate cartel branded it as a “focus company” and began coordinated investor engagement, Xcel Energy began making “net-zero” commitments. In August 2018, one month after being branded a “focus company,” Xcel Energy confirmed plans for “the early closure of coal-fired units 1 and 2 at Xcel’s Comanche Generating Station in Pueblo County[, Colorado]” that were “capable of producing a combined 660 megawatts of coal-fired generation,”<sup>94</sup> enough electricity to power hundreds of thousands of homes annually.<sup>95</sup> Xcel Energy later explained that it is intent on “leading the clean energy transition,” but “[a]chieving [its] vision requires retiring coal plants that [it] [has] relied upon for years and transitioning to cleaner sources of power.”<sup>96</sup>

In December 2018, five months after Climate Action 100+ branded Xcel Energy as a “focus company,” Xcel Energy “committed to reduce carbon emissions to zero by 2050.”<sup>97</sup> Ceres boasted that Xcel Energy’s commitment was “one of the most ambitious climate commitment[s] to date in the US electric power industry.”<sup>98</sup> The announcement was “notable for coming from an investor-owned utility, rather than from a state mandate.”<sup>99</sup> At the time, Xcel Energy “produce[d] 60 percent of its power from fossil fuels,”<sup>100</sup> and the company’s “net-zero” commitment was even more striking given that it admitted in its announcement that reaching “net zero” would “require[] technologies that are not cost effective or commercially available today.”<sup>101</sup>

In internal communications, Ceres privately bragged that Xcel Energy’s “net-zero” commitment appeared to have been caused by the collusive investor engagements.<sup>102</sup> Before Xcel Energy’s “net-zero” commitment, Ceres explained that it had “engag[ed] Xcel for several years, and in July 2018 placed Xcel on the Climate Action 100+ focus list. Hours before a scheduled meeting with the lead Climate Action 100+ investors . . . , Xcel made its announcement” to achieve “net zero” by 2050.<sup>103</sup> Ceres declared, “[T]he equilibrium change in the US electric power industry has become unmistakable—with the 9th largest utility, [Xcel], committing to become carbon neutral by 2050 . . . [which] [was] simply not part of the

---

<sup>94</sup> Julia Pyper, *Xcel to Replace 2 Colorado Coal Units with Renewables and Storage*, GREENTECH MEDIA (Aug. 29, 2018), <https://www.greentechmedia.com/articles/read/xcel-retire-coal-renewable-energy-storage#gs.o3g3UMo>. In 2022, Xcel Energy followed through and closed Comanche 1. It has scheduled Comanche 2 to close next year. Clarion Energy Content Directors, *Committee Calls for Xcel Energy to Replace Closing Colorado Coal Plant with Advanced Nuclear*, POWER ENG’G (Jan. 8, 2024), <https://www.power-eng.com/news/committee-calls-for-xcel-energy-to-replace-closing-colorado-coal-plant-with-advanced-nuclear/#gref>.

<sup>95</sup> See *What Is a Megawatt?*, U.S. NUCLEAR REG. COMM’N 1–2 (Feb. 24, 2012), <https://www.nrc.gov/docs/ML1209/ML120960701.pdf>.

<sup>96</sup> *Transitioning out of Coal Responsibly: Working with Communities and Employees Affected by Energy Transitions*, XCEL ENERGY 1 (2022), <https://www.xcelenergy.com/staticfiles/xcel-responsive/Environment/Responsible-Coal-Transition-info-sheet.pdf>.

<sup>97</sup> CERES9175 at CERES9179.

<sup>98</sup> *Id.*

<sup>99</sup> Jeff St. John, *Xcel Energy Fast-Forwards Minnesota Coal Plant Closures but Extends Nuclear Window*, GREENTECH MEDIA (May 20, 2019), <https://www.greentechmedia.com/articles/read/xcel-energy-accelerates-coal-plant-closures-to-meet-100-clean-energy-goal>.

<sup>100</sup> CERES39113 at CERES39151.

<sup>101</sup> *Id.*

<sup>102</sup> See CERES9175 at CERES9179.

<sup>103</sup> *Id.*

conversation as little as three to five years ago.”<sup>104</sup> The climate cartel emphasized that “under Climate Action 100+ pressure,” Xcel Energy has “made [a] precedent-setting commitment[] that raise[s] the bar for [its] sector.”<sup>105</sup>

After Xcel Energy’s “net-zero” announcement in December 2018, Ceres declared that it “w[ould] now seize on Xcel’s new commitment to further reinforce [its] efforts to advance climate-related policies at the state level,” including in “Minnesota . . . [a] target state[] from Ceres’ state policy program.”<sup>106</sup> Ceres’s state policy program works alongside its collusive investor pressure campaigns to “galvanize businesses and investors to step out and advocate for climate” policies in states across America.<sup>107</sup> Following Xcel Energy’s “net-zero” commitment, Ceres worked with “Minnesota businesses[, which] have historically been reluctant to step out,” to call for Minnesota to adopt “net-zero” policies.<sup>108</sup> Subsequently, in March 2019, just three months after Xcel Energy surrendered to the climate cartel, Governor Walz “unveil[ed] [his] plan for all carbon-free electricity by 2050” in Minnesota.<sup>109</sup> In February 2023, Governor Walz signed his “net-zero” plan into state law.<sup>110</sup>



*Following Xcel Energy’s “net-zero” commitment, Governor Walz mandated “net-zero” electricity for Minnesota by 2040.*<sup>111</sup>

<sup>104</sup> CERES59890 at CERES59903.

<sup>105</sup> CERES47434 at CERES47461.

<sup>106</sup> CERES9175 at CERES9179.

<sup>107</sup> CERES97694 at CERES97695.

<sup>108</sup> *Id.*

<sup>109</sup> Elizabeth Dunbar & Cody Nelson, *Walz Unveils Plan for All Carbon-free Electricity by 2050*, MPR NEWS (Mar. 4, 2019), <https://www.mprnews.org/story/2019/03/04/walz-carbon-free-electricity-2050>.

<sup>110</sup> *Governor Walz Signs Bill Moving Minnesota to 100 Percent Clean Energy by 2040*, MINN. COM. DEP’T (Feb. 7, 2023), <https://mn.gov/commerce/news/?id=17-563384>; see also H.F. 7, 93rd Leg. (Minn. 2023).

<sup>111</sup> Governor Tim Walz (@GovTimWalz), X (Feb. 7, 2023), <https://publish.twitter.com/?query=https%3A%2F%2Ftwitter.com%2FGovTimWalz%2Fstatus%2F1623054111053586440&widget=Tweet>.

In 2019, just one year after Xcel Energy caved to the climate cartel’s collusive pressure, the MSBI signed onto Climate Action 100+ and soon joined its engagement group targeting Xcel Energy.<sup>112</sup> Additionally in 2019, “Xcel released a climate scenario report,”<sup>113</sup> and in May of that year, the company announced “plans to close its last two coal-fired power plants in Minnesota by 2030, a decade earlier than scheduled” as part of its “plan to reach 100 percent carbon-free electricity by 2050.”<sup>114</sup> The climate cartel identified Xcel Energy’s “net-zero” commitments as instrumental in the growing “Climate Action 100+ [m]omentum” where “[m]oney managers [are] the new warriors of climate change.”<sup>115</sup>

With this momentum, the climate cartel vowed to continue its pressure campaign against Xcel Energy, explicitly targeting its natural gas business. Toward the end of 2019, Ceres noted that, at that time, “[t]he company’s [net-zero] goal . . . focus[ed] on its electricity business and [had] not yet include[d] its natural gas distribution.”<sup>116</sup> As a result, the climate cartel set as an engagement objective extending Xcel Energy’s net-zero “commitment to Scope 3 emissions [*i.e.*, emissions it indirectly contributes to up and down its value chain] and natural gas distribution.”<sup>117</sup> Additionally, the climate cartel planned to “call[] for ambitious emissions reduction targets,” forcing the company to detail action steps to reach “net zero” more explicitly.<sup>118</sup>

Subsequently, in November 2021, Xcel Energy committed to “provid[e] net-zero gas service by 2050,” with a target to “reduce greenhouse gas emissions 25% by 2030 from the supply, delivery[,] and customer use of natural gas.”<sup>119</sup> Following the announcement, Ceres explained that “Climate Action 100+ efforts . . . [were] integral in securing significant, first-of-their-kind commitments,” including Xcel Energy’s pledge.<sup>120</sup> Specifically, the “[c]ommitment[] followed steadfast Climate Action 100+ collaborative engagement with [Xcel Energy] on GHG targets and ambition, and coalesced around the withdrawal of targeted resolutions (filed by [Climate Action 100+ member] As You Sow) partly due to pressure from the Climate Action 100+ flagging process.”<sup>121</sup> After Xcel Energy announced its “net-zero” promise following Climate Action 100+’s engagement, the climate cartel boasted that its “new commitment ma[de] Xcel Energy one of the first North American Climate Action 100+ electric power focus companies to set a comprehensive Scope 3 GHG target.”<sup>122</sup>

---

<sup>112</sup> ESG STEWARDSHIP REPORT, *supra* note 47, at 13.

<sup>113</sup> CERES60474 at CERES60483.

<sup>114</sup> St. John, *supra* note 99.

<sup>115</sup> See CERES75072 at CERES75077.

<sup>116</sup> CERES60474 at CERES60483.

<sup>117</sup> *Id.*

<sup>118</sup> CERES8188 at CERES8219.

<sup>119</sup> 2021 SUSTAINABILITY REPORT, *supra* note 23, at 6.

<sup>120</sup> CERES62685 at CERES62690.

<sup>121</sup> *Id.* In general, the climate cartel “flags” shareholder resolutions that call for its “focus companies” to adopt “net-zero” commitments to “[s]trengthen[] [its] ability to win key votes.” CERES10442 at CERES10447. As was the case in 2021 with Xcel Energy, the climate cartel believes that “[t]he threat of flagging . . . resolutions prove[s] successful in pushing companies to make commitments ahead of [annual general meetings] in return for a withdrawal.” CERES62708 at CERES62709.

<sup>122</sup> CERES62669 at CERES62675 (emphasis omitted).

Since Xcel Energy’s 2021 “net-zero” commitment for its natural gas business, the MSBI and climate cartel investors have sought to leverage their success to collusively pressure other U.S. power companies to make similar “net-zero” pledges. The climate cartel believes it is “nearly at the tipping point needed to push the whole sector forward to rapidly decarbonize.”<sup>123</sup> According to Ceres, this “equilibrium change is,” at least in part, due to “increasing investor pressure.”<sup>124</sup> Specifically, the climate cartel plans to extend its pressure campaign beyond its current Climate Action 100+ “focus list” to target even more U.S. companies.<sup>125</sup> Ceres believes that “[i]n order to engage the large number of companies on [its] [expanded] focus list, it is critical that [it] expand and deepen the bench of investors . . . . This has largely taken the form of mobilizing investors who are already part of the Ceres Investor Network,” including “large state pension funds” such as “Minnesota . . . to significantly increase their engagement with these focus companies and become much more active as lead engagers.”<sup>126</sup>

The climate cartel’s plan to escalate and broaden its “net-zero” pressure campaign, however, does not mean it is finished with Xcel Energy. Recently, Xcel Energy revealed that it is “[c]halleng[ing] to make significant near-term [GHG-emission reduction] target[s] and/or accelerate coal plant retirements [without] regulatory approval,”<sup>127</sup> and it “now . . . [is] wary that [it] do[es]n’t want to get too far ahead of [its] peers.”<sup>128</sup> Furthermore, Ceres noted that as of July 2022, Xcel Energy “[e]ngagement [was] . . . stalled due to company unresponsiveness,” and the Climate Action 100+ engagement group’s lead investors would “have to escalate if no response.”<sup>129</sup> In the future, the climate cartel vows to pressure Xcel Energy to deepen its commitment to a “net-zero” agenda:

[n]ow that the company has set a scope 3 target [to reduce indirect emissions from its value chain], the engagement team is focused on the topics of decarbonization strategy and capital alignment. In addition, a high priority is climate lobbying as peer companies have begun producing climate lobbying reports and Xcel will soon become a laggard.<sup>130</sup>

Additionally, the lead investors “are focusing engagement on greater clarity on [Xcel Energy’s] coal retirement schedule, . . . reporting, and addressing emissions from natural gas plants.”<sup>131</sup>

---

<sup>123</sup> CERES62685 at CERES62689.

<sup>124</sup> CERES59890 at CERES59903.

<sup>125</sup> See CERES115490 at CERES115514.

<sup>126</sup> *Id.* at CERES11516.

<sup>127</sup> CERES382 at CERES401.

<sup>128</sup> CERES110913.

<sup>129</sup> CERES29861.

<sup>130</sup> *Id.*

<sup>131</sup> CERES110913.



## Case Study: Xcel



### CA100+ Engagement Team

- **Sector:** Electricity Utilities
- **Lead:** Calvert Research & Management
- **Collaborating Investors:** 8



### Significant Progress to Date:

- Set Net Zero by 2050 electricity target in 2018, expanded in Nov. 2021 to include natural gas utility business.
- Set 80% by 2030 GHG reduction target for electricity; could accelerate to 85% by 2030, pending outcome of regulatory proceedings
- Just transition legislation in CO supports early retirement of coal plants, mandates transition plans

### Engagement Priorities:

- Impact of net zero goals (electricity & gas) on financial modeling and strategy
- Understand new net zero goal at the gas utility business
  - What technology is needed?
  - What policy supports are needed?
  - How will Xcel measure Scope 3 emissions?
- Climate lobbying
- Just transition

### Lessons Learned / Strategy:

- CA100+ Benchmark and related goals provide good discussion points; but company takes issue with methodology for certain indicators
- Challenged to make significant near-term target and/or accelerate coal plant retirements w/o regulatory approval
- Despite significant progress, Management expressed fatigue regarding multiple stakeholder engagement asks <sup>19</sup>

Following “net-zero” commitments, Climate Action 100+ continues to engage Xcel Energy.<sup>132</sup>

Since 2021, Xcel Energy has made additional fossil energy “retirements” to abide by its “net-zero” pledge. After it shut down the first two Comanche coal-fired generators in Colorado in 2018 after the climate cartel branded it a “focus company,” Xcel Energy announced in 2021 plans to “retire” the third and last-remaining Comanche power generating plant “three decades earlier than expected.”<sup>133</sup> It now plans to “retir[e] [its] remaining coal operations in Colorado” by “Jan. 1, 2031.”<sup>134</sup>

Following these announcements, state regulators have warned Xcel Energy that the early closure of its coal-fired generators may lead to serious consequences. In January 2024, the South Dakota Public Utilities Commission urged Xcel Energy to reconsider its decision to “prematurely close the King and Sherco generating plants” that provide electricity to South Dakota residents.<sup>135</sup> The Commission explained to Xcel Energy that “closing these plants w[ould] take nearly three gigawatts of reliable dispatchable electricity generation off the Midcontinent Independent System Operator (MISO) grid,” an area spanning fifteen states,<sup>136</sup> “precisely at a time when those resources w[ould] be needed the most to keep electricity flowing

<sup>132</sup> CERES382 at CERES401.

<sup>133</sup> Miguel Otárola, *Pueblo’s Comanche Coal Plant Is Closing Earlier than Expected. Is Its Future with Nuclear, or Renewables?*, CPR NEWS (Sept. 13, 2021), <https://www.cpr.org/2021/09/13/pueblo-comanche-coal-plant-closing-early-nuclear-renewable-energy/>.

<sup>134</sup> *Transitioning out of Coal Responsibly: Working with Communities and Employees Affected by Energy Transitions*, *supra* note 96, at 1.

<sup>135</sup> Letter from S.D. Pub. Utils. Comm’n to Ryan Long, President, Xcel, *supra* note 24, at 1.

<sup>136</sup> Robert Walton, *South Dakota PUC Asks Xcel Energy to Reconsider Closing King, Sherco Coal Plants*, UTIL. DIVE (Jan. 17, 2024), <https://www.utilitydive.com/news/south-dakota-asks-xcel-energy-reconsider-closing-king-sherco-coal-plants/704687/>.

24/7/365.”<sup>137</sup> It warned Xcel Energy that “[e]vidence is mounting that the premature closure of dispatchable generation w[ould] elevate the risk of electricity outages . . . . These events are likely to pose a threat to life and property.”<sup>138</sup>

### ***After Surrendering to the Climate Cartel, Xcel Energy’s “Net-zero” Commitments Have Raised Electricity Costs***

In recent years, American consumers have started to feel the cost of Xcel Energy’s “net-zero” climate commitments. In 2022 and 2023, the Colorado Public Utilities Commission approved electricity rate increases of 6.4 percent and 4.4 percent, respectively, for Xcel Energy’s 1.6 million Colorado customers, totaling \$278 million.<sup>139</sup> In 2023, Xcel Energy lobbied for the rate increases, which were “need[ed] . . . to pay for previous investments and to cover the cost of retiring a handful of coal-fired power plants.”<sup>140</sup>

In June 2023, the Minnesota Public Utility Commission raised electricity prices for Xcel Energy’s 1.3 million Minnesota customers by 9.6 percent or \$306 million over the following three years.<sup>141</sup> However, Xcel Energy had initially asked the Commission to raise electricity costs by a staggering 21.2 percent or \$677.4 million.<sup>142</sup> In a statement following the Commission’s decision, Xcel Energy tied its plea to raise electricity rates directly to its “net-zero” commitments, announcing that the Commission’s refusal to increase electricity costs to 21.2% would “limit [Xcel Energy’s] ability to continue to lead the clean energy transition.”<sup>143</sup> Overall, in 2024, the average annual Xcel Energy electricity bill for customers in Minnesota is expected to rise by \$63 from 2022 levels.<sup>144</sup> According to Xcel Energy, “substantial and sustained investments” in alternatives to fossil fuel energy as it transitions to “net zero” are a large driver behind the rate increases.<sup>145</sup>

In April 2024, Xcel Energy announced a proposal to charge even higher electricity rates as a default during “peak” usage periods for its customers, “from 3 to 8 p.m. on weekdays.”<sup>146</sup> Strikingly, under the proposal, Xcel Energy “[c]ustomers will pay seven times more per kilowatt hour for electricity during peak hours on summer weekdays than during the off-peak period.”<sup>147</sup> According to Xcel Energy, “[w]hat’s behind the thinking is really trying to drive behavior changes and usage changes, and getting customers to shift their usage to those off-peak periods

---

<sup>137</sup> Letter from S.D. Pub. Utils. Comm’n to Ryan Long, President, Xcel, *supra* note 24, at 1.

<sup>138</sup> *Id.*

<sup>139</sup> Brasch, *supra* note 27; Jaffe, *supra* note 27.

<sup>140</sup> Brasch, *supra* note 27.

<sup>141</sup> Hazzard, *supra* note 28.

<sup>142</sup> Kent Erdahl, *Xcel Energy Requests 21% Increase in Electricity Rates; Here’s What That Could Mean*, CITIZENS UTIL. BD. (Oct. 26, 2021), <https://cubminnesota.org/xcel-energy-requests-21-increase-in-electricity-rates-heres-what-that-could-mean/>.

<sup>143</sup> Hazzard, *supra* note 28.

<sup>144</sup> See Emma Nelson & Walker Orenstein, *Minnesotans Take Big Hits on Non-negotiable Bills Like Electricity, Insurance*, MINN. STAR TRIB. (Jan. 3, 2024), <https://www.startribune.com/minnesotan-non-negotiable-electricity-gas-insurance-trash-property-tax-services-inflation-cost-bill/600332038>.

<sup>145</sup> *Id.*

<sup>146</sup> Marohn, *supra* note 29.

<sup>147</sup> *Id.*

where energy is more affordable and it's actually cheaper to generate and deliver.”<sup>148</sup> As it closes down numerous power plants to reach its “net-zero” goals, Xcel Energy hopes the proposal will “allow [it] to avoid building a new power plant to meet peak demand.”<sup>149</sup>

---

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

---

## CONCLUSION

---

Despite the harm to American consumers, the MSBI and other climate cartel investors plan to continue pressuring U.S. companies to surrender to “net-zero” demands. Evidence uncovered by the Committee demonstrates that the climate cartel’s collusive pressure campaign against Xcel Energy is but one example of a larger climate crusade to rid the U.S. economy of the affordable and accessible energy products that millions of Americans use and need.<sup>150</sup> The climate cartel remains intent to “step up investor engagement with the most carbon-intensive electric utilities and independent power producers to make new public commitments” that “reduc[e] investment in, and deployment of, fossil fuel-fired generation resources and related infrastructure.”<sup>151</sup> In light of this clear evidence of collusion with economically disastrous consequences, the Biden-Harris Administration’s failure to enforce existing U.S. antitrust law is striking.

Following the Committee’s investigative efforts, at least 70 U.S.-based investors have withdrawn from Climate Action 100+.<sup>152</sup> For instance, after the release of the Committee’s June 2024 interim staff report, the lead investor for Climate Action 100+’s Xcel Energy engagement, Morgan Stanley subsidiary Calvert Research & Management, suspended its involvement and confirmed to the Committee that it “is no longer a member of Climate Action 100+ and will not be participating in any of its initiatives.”<sup>153</sup> Still, the most radical members of the climate cartel remain steadfast in their pursuit of a “net-zero” agenda. In particular, after the Committee wrote to the MSBI on July 30, 2024, requesting it to “preserve documents and provide documentation” related to its climate cartel involvement, the MSBI failed to substantively respond to any of the Committee’s investigative inquiries.<sup>154</sup> The Committee remains committed to investigating the climate cartel’s anticompetitive behavior to inform potential legislative reforms to U.S. antitrust laws.

---

<sup>150</sup> See H. COMM. ON THE JUDICIARY, *supra* note 3, at 32–39.

<sup>151</sup> CERES43806 at CERES43819.

<sup>152</sup> *Compare Investor Signatories*, CLIMATE ACTION 100+ (Nov. 14, 2022), <https://web.archive.org/web/20221114184301/https://www.climateaction100.org/whos-involved/investors/>, with *Investor Signatories*, CLIMATE ACTION 100+, <https://www.climateaction100.org/whos-involved/investors/> (last visited Oct. 22, 2024); see also letters from former Climate Action 100+ investor signatories to Comm. (on file with the Comm.).

<sup>153</sup> E-mail from Calvert to Committee Staff, *supra* note 32.

<sup>154</sup> See Letter from Jill Schurtz, Exec. Dir. & Chief Inv. Officer, Minn. State Bd. of Inv. to Rep. Jim Jordan, Chairman, Comm. on the Judiciary, & Rep. Thomas Massie, Chairman, Subcomm. on the Admin. State, Regul. Reform, and Antitrust 1–2 (Aug. 13, 2024).