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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**SCHEDULE TO**

**TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) OR 13(e)(1)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
(Amendment No. 2)**

**NRG ENERGY, INC.**

(Name Of Subject Company (Issuer))

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**XCEL ENERGY INC.**

**AND**

**NRG ACQUISITION COMPANY, LLC**

(Names Of Filing Persons (Offerors))

**COMMON STOCK, PAR VALUE \$0.01  
PER SHARE, OF NRG ENERGY, INC.**

(Title Of Class Of Securities)

**629377-10-2**

(Cusip Number Of Class Of Securities)

**XCEL ENERGY INC.**

**800 NICOLLET MALL**

**MINNEAPOLIS, MINNESOTA 55402**

**(612) 330-5500**

(Name, Address and Telephone Number of Person Authorized to Receive Notices and  
Communications on Behalf of Filing Persons)

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*Copies to:*

**ROBERT A. YOLLES, ESQ.**

**PETER D. CLARKE, ESQ.**

**Jones, Day, Reavis & Pogue**

**77 West Wacker**

**Chicago, Illinois 60601**

**(312) 782-3939**

**Check the appropriate boxes below to designate any transactions to which the statement relates:**

third-party tender offer subject to Rule 14d-1.

issuer tender offer subject to Rule 13e-4.

going-private transaction subject to Rule 13e-3.

amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

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This Amendment No. 2 (this "Amendment") amends and supplements the Tender Offer Statement on Schedule TO, as initially filed on March 13, 2002 and as amended on March 18, 2002 (as previously amended and amended hereby, the "Schedule TO") by Xcel Energy Inc., a Minnesota corporation ("Xcel Energy"), and NRG Acquisition Company, LLC, a Delaware limited liability company and an indirect, wholly owned subsidiary of Xcel Energy (the "Purchaser"), relating to the offer by Xcel Energy, on behalf of and as agent for the Purchaser, to exchange 0.4846 of a share of Xcel Energy common stock, par value \$2.50 per share, including the associated share purchase rights, for each outstanding share of common stock, par value \$0.01 per share, of NRG Energy, Inc., a Delaware corporation, on the terms and subject to the conditions set forth in Xcel Energy's prospectus, dated March 13, 2002, and in the related letter of transmittal (as they may be amended or supplemented), copies of each of which have been filed as an Exhibit to the Schedule TO.

#### **ITEM 11. ADDITIONAL INFORMATION.**

The information provided under the caption "Financial Forecasts" beginning on page 31 of the prospectus is hereby amended to add the following immediately after the table on page 32 labeled "Net Income (Loss) (\$millions)":

"On March 26, 2002, Xcel Energy announced that it had revised its forecasts for 2002 earnings per share. The revised forecasts and related additional assumptions are set forth in the press release filed as Exhibit (a)(9) to Xcel Energy's Tender Offer Statement on Schedule TO and incorporated herein by this reference."

The answer to the question "Have any lawsuits been filed in connection with the offer?" contained in the last paragraph on page 4 of the prospectus under the heading "Questions and Answers about the Offer" is hereby amended and restated to read in its entirety as follows:

"A. Yes. After we announced our plans to commence the offer, stockholders of NRG filed nine separate complaints in the Delaware Chancery Court purporting to commence class action lawsuits, which have subsequently been consolidated into a single proceeding, and a consolidated amended complaint was filed. In general, the amended complaint, like the original complaints but at greater length, alleges violations of fiduciary duties of care, loyalty and candor by the defendants in connection with the offer and merger, which the amended complaint asserts are being undertaken in an unfair and coercive manner, at an unfairly low price using inside information and with inadequate disclosure, all in furtherance of the interests of Xcel Energy at the expense of the public stockholders of NRG. An NRG stockholder has also filed a purported class action complaint in a Minnesota state court (which has subsequently been removed to federal court) advancing largely similar allegations. These actions seek injunctive relief and damages. See "The Offer — Stockholder Litigation" beginning on page 48 for a more detailed discussion of these lawsuits."

The discussion under the caption "The Offer — Stockholder Litigation" beginning on page 48 of the prospectus is hereby amended and restated to read in its entirety as follows:

"Shortly after we announced the offer and subsequent merger on February 15, 2002, individual stockholders of NRG filed nine separate but similar class action complaints in the Delaware Court of Chancery against Xcel Energy, NRG and the nine members of NRG's board of directors. Each of the actions was brought as a class action on behalf of all holders of NRG's shares, other than the defendants and persons related to or affiliated with the defendants. These actions were consolidated and plaintiffs filed a consolidated amended complaint on March 22, 2002. The consolidated action generally alleges

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that Xcel Energy and certain individual defendants breached fiduciary duties of care, loyalty and candor in connection with the offer and subsequent merger, which the complaint asserts is being undertaken in an unfair and coercive manner, at an unfairly low price, using inside information and with inadequate disclosure, all in furtherance of the interests of Xcel Energy at the expense of the individual stockholders of NRG. More specifically, the consolidated amended complaint alleges that:

- we are engaged in an improper plan or scheme to benefit Xcel Energy at the expense of NRG's minority stockholders;
- we are engaged in self-dealing and are not acting in good faith toward, or dealing fairly with, NRG's minority stockholders;
- we have clear and material conflicts of interest, and we have not taken adequate measures to protect the interests of NRG's minority stockholders by launching the offer without negotiating with, and before receiving a recommendation from, NRG's special committee of independent directors;
- we have used our access to internal financial information about NRG, its true value, expected increase in its value, and the benefits of 100% ownership of NRG, for our own benefit and to the detriment of NRG's minority stockholders, who are not privy to that information;
- we timed the offer and the subsequent merger to take advantage of a depressed price for NRG stock and to place an artificial lid or cap on that price, in order to justify an unreasonably low price to NRG's minority stockholders, which does not reflect NRG's intrinsic value, its progress or its future value, and represents an inadequate premium;
- we are using our control of NRG to force NRG stockholders to sell their Common Stock at an unfair price that is dictated by us;
- as a result of our stock ownership of NRG shares and representation on NRG's board, no third party will likely make a competing bid for NRG, and there is no opportunity for an auction or other type of market check;
- the documents provided to NRG's minority stockholders, including the registration statement, are materially false and misleading and fail to provide the information necessary for the minority stockholders to assess the proposed transaction;
- we have created a false image that NRG is in imminent danger of having its credit downgraded and failed to disclose that other financing is available to NRG; and
- we failed to disclose all material facts in connection with the offer and the subsequent merger, including but not limited to, misrepresenting the value of NRG and the exchange ratio; failing to disclose the grounds and justification for the proposed exchange ratio; failing to disclose a fairness assessment and supporting details; and failing to disclose the analysis and conclusions of our financial advisor.

The consolidated action seeks judgment declaring that it may be maintained as a class action, with plaintiffs as class representatives; enjoining the offer and subsequent merger or rescinding it or award rescissory damages; awarding unspecified sum in damages; accounting to plaintiffs and the class for all profits and special benefits obtained through the transaction; and awarding unspecified costs, disbursements, and attorneys' and experts' fees and expenses.

Acting on a motion filed by plaintiffs, the Delaware Court of Chancery has set a hearing for April 8, 2002, to consider plaintiffs' motion for a preliminary injunction, and has allowed discovery to go forward on an expedited basis in advance of that hearing.

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A similar class action complaint challenging the transaction was filed in a Minnesota state court by an NRG stockholder against Xcel Energy, NRG and seven of the nine NRG directors (excluding two of our present officers), advancing essentially the same charges of breach of fiduciary duty, unfairness and use of superior knowledge in furtherance of the interests of Xcel Energy at the expense of public stockholders of NRG, and characterizing the activities of the special committee and its advisers as a sham. The action seeks judgment declaring that it may be maintained as a class action; declaring the proposed transaction to be unfair, unjust and inequitable to plaintiff and members of the class, enjoining the defendants from taking any steps to accomplish or implement the proposed transaction without adequate safeguards for the interest of the public stockholders; awarding an unspecified sum in damages, plus interest; and awarding unspecified costs and disbursements, including attorneys', accountants', and experts' fees. Defendants removed this action from the Minnesota state court to the United States District Court for the District of Minnesota, and we subsequently moved to dismiss the complaint.

We believe that there are both factual and legal defenses available for all the above-mentioned actions and intend to pursue them actively.

This description of these actions is qualified in its entirety by reference to the allegations in the related complaints, which we have filed with the SEC and which we incorporate by reference into this prospectus."

## **ITEM 12. EXHIBITS.**

Item 12 is hereby amended and supplemented by adding the following exhibits:

(a)(8) Press Release of Xcel Energy announcing its commencement of the offer, dated March 13, 2002.

(a)(9) Press Release of Xcel Energy announcing revised earnings expectations, dated March 26, 2002.

(i)(1) Complaint titled Edward Novak vs. David H. Peterson; Pierson M. Grieve; Luella G. Goldberg; William A. Hodder; Wayne H. Brunetti; James J. Howard; Gary R. Johnson; Richard C. Kelly; Edward J. McIntyre; Xcel Energy and NRG Energy, Inc. filed on February 20, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19433) (incorporated by reference to Exhibit 99.27 to Xcel Energy's Registration Statement on Form S-4 filed with the SEC on March 13, 2002 (the "Form S-4")).

(i)(2) Complaint titled Howard Vogel vs. NRG Energy, Inc.; Pierson M. Grieve; William A. Hodder; James J. Howard III; Luella Gross Goldberg; Wayne H. Brunetti; Richard C. Kelly; David H. Peterson; Edward J. McIntyre; Gary R. Johnson and Xcel Energy, Inc. filed on February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19411) (incorporated by reference to Exhibit 99.28 to the Form S-4).

(i)(3) Complaint titled Bob Johnson vs. David H. Peterson; Pierson M. Grieve; Luella G. Goldberg; William A. Hodder; Wayne H. Brunetti; James J. Howard; Gary R. Johnson; Richard C. Kelly; Edward J. McIntyre; Xcel Energy and NRG Energy, Inc. filed on February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19412) (incorporated by reference to Exhibit 99.29 to the Form S-4).

(i)(4) Complaint titled Jeffrey Brenner vs. NRG Energy, Inc.; Wayne H. Brunetti; David H. Peterson; Edward Jim McIntyre; Gary R. Johnson; Richard C. Kelly; Luella Gross Goldberg; Pierson M. Grieve; William A. Hodder; James J. Howard, III and Xcel Energy Inc. filed on February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19413) (incorporated by reference to Exhibit 99.30 to the Form S-4).

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(i)(5) Complaint titled Richard Brand vs. NRG Energy, Inc.; Wayne H. Brunetti; David H. Peterson; Edward Jim McIntyre; Gary R. Johnson; Richard C. Kelly; Luella Gross Goldberg; Pierson M. Grieve; William A. Hodder; James J. Howard, III and Xcel Energy Inc. filed on February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19414) (incorporated by reference to Exhibit 99.31 to the Form S-4).

(i)(6) Complaint titled Daniel Kucera vs. David H. Peterson; Pierson M. Grieve; Luella G. Goldberg; William A. Hodder, Wayne H. Brunetti; James J. Howard; Gary R. Johnson; Richard C. Kelly; Edward J. McIntyre; Xcel Energy and NRG Energy, Inc. filed February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19415) (incorporated by reference to Exhibit 99.32 to the Form S-4).

(i)(7) Complaint titled Burke Trading, LLC vs. Pierson M. Grieve, William A. Hodder; Lucila Gross Goldberg; Wayne H. Brunetti; Richard C. Kelly; David H. Peterson; Edward Jim McIntyre; Gary R. Johnson; James J. Howard, III and Xcel Energy, Inc. and NRG Energy, Inc. filed February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19416) (incorporated by reference to Exhibit 99.33 to the Form S-4).

(i)(8) Complaint titled Roberta Casden vs. David H. Peterson; Pierson M. Grieve; Luella G. Goldberg; William A. Hodder; Wayne H. Brunetti; James J. Howard; Gary R. Johnson; Richard C. Kelly; Edward J. McIntyre; NRG Energy Inc. and Xcel Energy Inc. filed February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19417) (incorporated by reference to Exhibit 99.34 to the Form S-4).

(i)(9) Complaint titled Paula Wong and Curtis Floyd vs. NRG Energy, Inc.; Wayne H. Brunetti; David H. Peterson; Edward Jim McIntyre; Gary R. Johnson; Richard C. Kelly; Luella Gross Goldberg; Pierson M. Grieve; William A. Hodder; James J. Howard, III and Xcel Energy Inc. filed February 15, 2002, in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19418) (incorporated by reference to Exhibit 99.35 to the Form S-4).

(i)(10) Complaint titled Malcolm Rosenfeld vs. NRG Energy, Inc.; Xcel Energy, Inc.; David H. Peterson; Wayne M. Brunetti; Luella G. Goldberg; Pierson M. Grieve; William A. Hodder, James J. Howard; and Gary R. Johnson, filed March 7, 2002, in the District Court for the Fourth Judicial District of Minnesota (File No. 02-4089) (incorporated by reference to Exhibit 99.36 to the Form S-4).

(i)(11) Consolidated Amended Complaint titled In re: NRG Energy, Inc. Shareholder Litigation filed on March 22, 2002 in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19411 NC).

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After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

XCEL ENERGY INC.

By: /S/ EDWARD J. MCINTYRE

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Edward J. McIntyre  
*Vice President and Chief Financial Officer*

NRG ACQUISITION COMPANY, LLC

By: /S/ PAUL E. PENDER

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Paul E. Pender  
*Treasurer*

Dated the 27th day of March, 2002

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## EXHIBIT INDEX

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(i)(11) Consolidated Amended Complaint titled In re: NRG Energy, Inc. Shareholder Litigation filed on March 22, 2002 in the Chancery Court of the State of Delaware, County of New Castle (C.A. No. 19411 NC).

### **Xcel Energy Begins Exchange Offer for Publicly Held Shares of NRG Energy, Inc.**

MINNEAPOLIS—March 13, 2002—Xcel Energy today filed materials with the Securities and Exchange Commission and commenced the exchange offer under which Xcel Energy would acquire all of the publicly held outstanding common stock of NRG Energy, Inc. Xcel Energy now owns 74 percent of NRG.

"We're confident our exchange offer is fair and is in the best interests of the stockholders of both NRG and Xcel Energy," said Wayne Brunetti, chairman, president and chief executive officer of Xcel Energy. "As I have said before, our original intent in forming NRG was to create value for shareholders. In this environment, which is difficult for NRG and other independent power producers, we believe our plan is the best alternative to deliver shareholder value. Our action today is a step in that direction."

In the offer, which initially was announced Feb. 15, 2002, NRG's public stockholders would receive 0.4846 shares of Xcel Energy common stock in a tax-free exchange for each outstanding share of NRG common stock they hold.

Based on the closing price of Xcel Energy's shares on Feb. 14, 2002, the day prior to the announcement of the exchange offer, the exchange ratio represents a value of \$11.50 per NRG share, which is a 15.0 percent premium to the closing price of NRG's shares on that date. In addition, based on the March 12, 2002, closing price of Xcel Energy shares, the exchange ratio represents a value of \$12.33 per NRG share, which represents the following premiums:

- 23.3 percent premium to NRG's closing price on Feb. 14, the day prior to the announcement of the exchange offer;
- 24.0 percent premium to NRG's average closing price over the 10 trading-day period ending Feb. 14; and
- 64.2 percent premium to NRG's recent 52-week low of \$7.51 on Feb. 6.

Jim McIntyre, Xcel Energy vice president and chief financial officer, said, "Even under our scaled-back business plan for NRG, NRG will need a \$600 million equity infusion. Xcel Energy has the financial wherewithal to provide this support in a cost-effective manner."

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McIntyre added that the transaction allows public stockholders of NRG to continue to participate in its growth, plus receive the recurring \$1.50 per share annual dividend paid by Xcel Energy. NRG does not pay a dividend.

The exchange offer is conditioned upon the tender of a number of shares sufficient to bring Xcel Energy's ownership interest in NRG to at least 90 percent, when taken together with the shares of NRG common stock that Xcel Energy would hold upon conversion of its Class A shares. After successful completion of the exchange offer, Xcel Energy intends to complete a "short-form" merger of NRG with a subsidiary of Xcel Energy. In the merger, each remaining share of NRG common stock will be converted (subject to the exercise of appraisal rights) into 0.4846 shares of Xcel Energy common stock.

Lehman Brothers is acting as the financial adviser to Xcel Energy in the exchange offer.

Xcel Energy is a major U.S. electricity and natural gas company with operations in 12 Western and Midwestern states. Formed by the merger of Denver-based New Century Energies and Minneapolis-based Northern States Power Co., Xcel Energy provides a comprehensive portfolio of energy-related products and services to 3.2 million electricity customers and 1.7 million natural gas customers through its regulated operating companies. In terms of customers, it is the fourth-largest combination natural gas and electricity company in the nation. Company headquarters are located in Minneapolis. More information is available at [www.xcelenergy.com](http://www.xcelenergy.com).

NRG is a leading global energy company engaged primarily in the development, construction, acquisition, ownership and operation of power generation facilities. NRG's operations use such diverse fuel sources as natural gas, oil, coal and coal seam methane, biomass, landfill gas and hydro, as well as refuse-derived fuel. NRG's headquarters are located in Minneapolis. More information is available at [www.nrgenergy.com](http://www.nrgenergy.com).

#### Additional Information and Where To Find It

In connection with the proposed transaction, Xcel Energy has filed an exchange offer prospectus and related materials with the Securities and Exchange Commission.

**INVESTORS AND SECURITY HOLDERS ARE ADVISED TO READ THESE DOCUMENTS BECAUSE THEY CONTAIN IMPORTANT INFORMATION.**

Investors and security holders may obtain a free copy of the exchange offer prospectus and other documents filed by Xcel Energy with the commission at the commission's Web site at <http://www.sec.gov>. Free copies of the exchange offer prospectus, as well as Xcel Energy's related filings with the commission, also may be obtained from Xcel Energy by directing a request to Xcel Energy's information agent for this offer, Georgeson Shareholder Communications, Inc., 111 Commerce Road, Carlstadt, N. J. 07072 or call toll-free at (866) 800-0230.

#### Forward-Looking Information

The terms "intends," "plans" and similar terms identify forward-looking information. Although Xcel Energy believes its expectations are based on reasonable assumptions, it can give no

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assurance that its goals will be achieved. Important factors that could cause actual results to differ materially from those contained in the forward-looking statements include the satisfaction of all conditions to the exchange offer that cannot be waived and the satisfaction or waiver of conditions to the exchange offer that may be waived. Some of the conditions to the exchange offer will include the receipt of all required regulatory approvals, the tender by the public stockholders of the majority of their shares and the absence of an injunction or litigation concerning the exchange offer. In light of these uncertainties, there can be no assurances that the exchange offer will be completed.

*Contact:*

Xcel Energy, Minneapolis

E J McIntyre, 612/215-4515

or

R J Kolkmann, 612/215-4559

or

P A Johnson, 612/215-4535

or

News media inquiries only:

Xcel Energy media relations, 612/215-5300.

Xcel Energy  
U.S. Bancorp Center  
800 Nicollet Mall  
Minneapolis, MN 55402-2023

March 26, 2002

**Xcel Energy Expects to Fall Short of First Quarter Consensus and Lowers Guidance For the Year**

MINNEAPOLIS, MN Xcel Energy Inc. today announced that it expects a number of factors, primarily at its 74 percent-owned subsidiary NRG Energy Inc, to adversely impact first quarter and annual earnings for 2002.

Several factors are combining to depress NRG's income to the point where it will show a loss in the first quarter of 2002. Adverse factors include the following.

- **Unfavorable weather.** Much of NRG's operating territory around the U.S. has experienced mild weather thus far this year, which reduces energy sales.
- **A weakened economy.** The economic slowdown in the US since mid-2001 has generally decreased energy demand.
- **Low power prices.** The lower prices have lowered the profitability of NRG sales.
- **The impacts of FAS 133 (derivative accounting).** The lower power prices are resulting in adverse mark to market adjustments in first quarter 2002, relative to 2001.
- **Higher interest expense.** The increased costs relate to financing project acquisitions since first quarter of 2001 and providing added liquidity at the request of rating agencies.

As previously discussed in Xcel Energy's annual earnings guidance, earnings from Xcel Energy's regulated utility operations were expected to be lower in the first quarter of 2002, due to lower trading margins. Trading margins were unusually high in the first quarter of 2001 due to favorable market conditions and it was not expected that those conditions would reoccur in 2002.

In addition, warmer-than-normal weather in Xcel Energy's utility service territory is expected to reduce earnings by approximately 3 cents per share compared to normal and 5 cents per share compared to first quarter of 2001.

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The combined effect of these items on Xcel Energy's estimated first quarter 2002 earnings per share, as compared with actual results for the first quarter of 2001, is detailed in the following table.

	2002 Q1	2001 Q1
Utility	\$ 0.40 - \$0.45	\$ 0.56
NRG	(\$0.10) - (\$0.05)	\$ 0.08
Other	(\$0.04) - (\$0.02)	(\$0.03)
Xcel Energy	\$ 0.30 - \$0.35	\$ 0.61

On March 13, 2002, Xcel Energy commenced an offer to exchange Xcel Energy shares for all of the NRG shares it does not own. The exchange offer is scheduled to expire on April 10, 2002. The registration statement filed with the SEC for the NRG exchange offer included a forecast of expected Xcel Energy earnings for 2002 to be in the range of \$2.40 to \$2.50 per share, assuming the exchange offer and merger are completed. This forecast included 2002 net income contribution from NRG of approximately \$345 million to \$364 million, representing a contribution range of \$0.90 to \$0.95 per Xcel Energy share.

We are now revising the expected 2002 earnings contribution from NRG to a range of \$0.80 to \$0.90 per Xcel Energy share. This outlook reflects the following factors.

- The adverse impacts experienced in the first quarter of 2002.
- Further cost reductions and enhanced margins after completion of the exchange offer due to consolidation and integration of NRG's trading, generation and corporate support functions will increase net income in 2002 by an estimated \$20 million.
- The minimal impacts of lower NRG project earnings from planned asset sales, net of lower NRG financing costs resulting from capital restructuring, consistent with carrying out the Xcel Energy business plan for NRG.

We are now revising our 2002 guidance for Xcel Energy earnings to a range of \$2.30 to \$2.40 per share, based on the updated NRG outlook for the rest of the year.

"Our 2002 regulated earnings plan had anticipated lower energy trading margins, however, it will be difficult to make up the margins NRG has lost thus far this year," said Jim McIntyre, Xcel Energy's Vice President and Chief Financial Officer.

"While we are continuing to look for ways to achieve our original annual earnings target, we felt it was appropriate to revise our guidance for our investors," McIntyre added.

**INVESTORS AND SECURITY HOLDERS ARE ADVISED TO READ THE EXCHANGE OFFER DOCUMENTS BECAUSE THEY CONTAIN IMPORTANT INFORMATION.**

In connection with the proposed exchange offer for NRG shares, Xcel Energy has filed a prospectus and related materials with the SEC. Investors and security holders may obtain a free copy of the exchange offer prospectus and other documents filed by Xcel Energy with the SEC at the commission's Web site at <http://www.sec.gov>. Free copies of the exchange offer prospectus, as well as Xcel Energy's related filings with the commission, also may be obtained from Xcel Energy by directing a request to Xcel Energy's information agent for this offer, Georgeson Shareholder Communications, Inc., 111 Commerce Road, Carlstadt, N. J. 07072 or call toll-free at (866) 800-0230.

**Forward-Looking Information**

The statements regarding expectations or estimates of earnings and earnings per share, integration synergies and similar statements of future results identify forward-looking statements. Although Xcel Energy believes its expectations are based on reasonable assumptions, it can give no assurance that its goals will be achieved. Important factors that could cause actual results to differ materially from those contained in the forward-looking statements include the satisfaction of all conditions to the exchange offer that cannot be waived and the satisfaction or waiver of conditions to the exchange offer that may be waived. Some of the conditions to the exchange offer will include the receipt of all required regulatory approvals, the tender by the public stockholders of the majority of their shares and the absence of an injunction or litigation concerning the exchange offer. In light of these uncertainties, there can be no assurances that the exchange offer will be completed.

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For more information, contact:

E J McIntyre, Vice President & Chief Financial Officer (612) 215-4515  
R J Kolkmann, Managing Director, Investor Relations (612) 215-4559  
P A Johnson, Director, Investor Relations (612) 215-4535

News media inquiries only:

Please call Xcel Energy media relations: (612) 215-5300

IN THE COURT OF CHANCERY IN THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

IN RE: NRG ENERGY, INC.  
SHAREHOLDERS LITIGATION

CONSOLIDATED  
CA. No. 19411 NC

CONSOLIDATED AMENDED COMPLAINT

For their Amended Complaint, plaintiffs allege upon personal knowledge with respect to themselves, and upon information and belief based, inter alia, upon the investigation of counsel, as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This is a stockholders' class action on behalf of the public stockholders of NRG Energy, Inc. ("NRG" or the "Company") for injunctive and other appropriate relief in connection with the proposed acquisition of the publicly owned shares of NRG's common stock by its controlling shareholder, defendant Xcel Energy Inc. ("Xcel").

2. On February 15, 2002, Xcel announced that it was launching a tender offer (the "Tender Offer") to acquire the outstanding shares of NRG that it did not then already own for 0.4846 shares of Xcel common stock for each outstanding share of NRG common stock (the "Exchange Ratio"). Xcel, which already controls about 74.3% of the outstanding shares of NRG Class A and common stock on a combined basis and 96.7% of the voting power, plans to effectuate a short-form merger (the "Merger") in the event it obtains over 90% ownership as a result of the Tender Offer (together, the Tender Offer and the Merger are referred to as the "Proposed Transaction"). Thus 61% of the publicly held shares of NRG need to be tendered under the terms of

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the Proposed Transaction to effectuate the Merger. Significantly, Xcel has precipitously launched the Tender Offer without awaiting a recommendation from or engaging in any negotiations with any special committee of the Board of Directors of NRG (even assuming that a properly constituted special committee could have been formed). Moreover, there can be no effective market check concerning NRG's value since Xcel has publicly stated that it has no intention to sell its shares of NRG Class A common stock.

3. The consideration that Xcel has offered to members of the Class (as defined below) in the Tender Offer is unfair and inadequate because, among other things, the intrinsic value of NRG's publicly owned stock is materially in excess of the amount offered, giving due consideration to the Company's growth and anticipated operating results, net asset value and future profitability.

4. Importantly, the documents disseminated to NRG's public shareholders in connection with the transaction, including the Form S-4 Registration Statement (the "Registration Statement"), are materially false and misleading and fail to provide NRG's minority shareholders with essential and meaningful information they need to assess the fairness and reasonableness of the proposed transaction. In a transaction such as the one at issue here, the majority shareholder bears the burden of making complete disclosure of all material facts relevant to the minority shareholders' decision whether to accept the consideration offered. Among other things, Xcel has violated its disclosure obligations by:

—falsely stating that the Proposed Transaction is "in the best interests of the stockholders of both NRG and Xcel Energy;"

—failing to disclose that the premium implied by the Exchange Ratio is materially inadequate in comparison to comparable transactions;

—misrepresenting the value of the Exchange Ratio by touting its worth to NRG's minority

shareholders while failing to disclose that a contribution analysis reveals that NRG historically contributes nearly 40% of Xcel's profits, while the Exchange Ratio values NRG at less than 22% of the combined entity;

—misrepresenting the value of NRG and the Exchange Ratio by failing to disclose that a contribution analysis based on market capitalization values the contributions of both companies to a combined company at 74% (Xcel) and 26% (NRG), whereas the Exchange Ratio values the companies at 78.2% (Xcel) and 21.8% (NRG);

—failing to disclose that an exchange ratio properly reflecting NRG's contribution to a combined company would require a significant increase in the Exchange Ratio;

—failing to disclose the significant difference between the investment in NRG's unregulated independent power producing business as compared to Xcel's highly regulated public utility industry;

—failing to disclose all material information regarding the value, results, operations and prospects of NRG and Xcel;

—failing to disclose Xcel's justification or grounds for the Exchange Ratio or the valuation methodologies used in determining the Exchange Ratio;

—failing to disclose Xcel's assessment of whether the Proposed Transaction is fair and a reasonably detailed discussion regarding the bases for such assessment;

—falsely creating the image that NRG is in imminent danger of having its credit rating downgraded;

—failing to disclose that additional financing is available to NRG through asset based lending which is the customary means of financing projects in the independent power producing sector of the market;

—falsely stating that the reason for the timing of the Exchange Offer is a concern for the viability of NRG while failing to disclose that the real reason for the timing of the Exchange Offer is to take advantage of NRG's stock price that has recently been significantly impaired due to recent trends in the industry and the bankruptcy of Enron, along with the revelations of accounting irregularities at other companies in the energy production industry which has disproportionately depressed the market price of all companies in the independent power producing sector of the market;



—failing to disclose information regarding the analyses and conclusions of Lehman Brothers, Xcel's financial advisor.

5. In sum, Xcel is attempting to acquire the public shareholders' stake in NRG without affording them fair consideration for their shares and full and candid disclosures. Injunctive relief in this action is essential to protect the interests of NRG's minority shareholders.

#### THE PARTIES

6. Plaintiffs have been the owners of the common stock of the Company since prior to the transaction herein complained of and continuously to date.

7. NRG is a corporation duly organized and existing under the laws of the State of Delaware. NRG is a leading global energy company, primarily engaged in the acquisition, development, ownership, and operation of power generation facilities and the sale of energy, capacity and related products. NRG has interests in power generation facilities, district heating and cooling systems and steam transmission operations.

8. Defendant Xcel is a corporation duly organized and existing under the laws of Minnesota. Xcel owns 100% of the outstanding Class A common stock of NRG, which represents approximately 96.7% of the combined voting power of the Company. Each share of Class A common stock is entitled to ten votes and is convertible into one share of NRG common stock. If converted, Xcel would own 74% of all NRG common stock. On February 28, 2002, NRG issued a \$300 million subordinated convertible note to Xcel, which allows Xcel to demand conversion of the note into NRG common stock. Xcel has threatened that if the Tender Offer is not accepted, it will demand conversion of the note which will further dilute the shareholdings and voting power of the Class, if the Class does not acquiesce in the terms of the Proposed Transaction.

9. Defendant Wayne H. Brunetti is a director of the Company. He is also Chief

Executive Officer, President and Chairman of the Board of Xcel.

10. Defendant David H. Peterson is Chairman of the Board, President and Chief Executive Officer of the Company.
11. Defendant Edward Jim McIntyre is a director of the Company. He is also Vice President and CFO of Xcel.
12. Defendant Gary R. Johnson is a director of the Company. He is also Vice President of General Counsel of Xcel.
13. Defendant Richard C. Kelly is a director of the Company. He is also President of Enterprises of Xcel.
14. Defendants Luella Gross Goldberg, Pierson M. Grieve, William A. Hodder and James J. Howard, III are directors of the Company.
15. The Individual Defendants are in a fiduciary relationship with plaintiffs and the other public stockholders of NRG and owe them the highest obligations of good faith and fair dealing.
16. Defendant Xcel, through its approximately 74% ownership of NRG, its exercise of 96.7% voting control and representation on NRG's board controls NRG. As a consequence, defendant Xcel is in a fiduciary relationship with plaintiffs and the other public stockholders of NRG and owes them the highest obligations of good faith and fair dealing.

CLASS ACTION ALLEGATIONS

17. Plaintiffs bring this action on their own behalf and as a class action, pursuant to Rule 23 of the Rules of the Court of Chancery, on behalf of all NRG stockholders (except defendants herein and any person, firm, trust, corporation or other entity related to or affiliated with any of the defendants) and their successors in interest, who are or will be threatened with injury

arising from defendants' actions as more fully described herein.

18. This action is properly maintainable as a class action.
19. The class is so numerous that joinder of all Class members is impracticable. Thousands of Class members beneficially own NRG stock.
20. There are questions of law and fact which are common to the Class including, inter alia, the following:
  - (a) whether Xcel and the Individual Defendants have breached their fiduciary duties owed by them to plaintiffs and the members of the Class; and
  - (b) whether plaintiffs and the other members of the Class will be damaged irreparably by the wrongs complained of herein.
21. Plaintiffs are committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature. The claims of plaintiffs are typical of the claims of the other members of the Class and plaintiffs have the same interests as the other members of the Class. Accordingly, plaintiffs will fairly and adequately represent the Class.
22. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class and establish incompatible standards of conduct for the party opposing the Class.
23. Defendants have acted and are about to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.

## SUBSTANTIVE ALLEGATIONS

### **A. Background**

24. In August 2000, Northern States Power Co. ("Northern States") and New Century Energies, Inc. merged to form Xcel. Xcel is a public utility holding company. Xcel also owns or has an interest in a number of non-regulated businesses, the largest of which is NRG.

25. NRG was formed in 1989 as an independent power producer ("IPP"). Prior to June 2000, NRG was a wholly owned subsidiary of Northern States, the predecessor in interest to Xcel. In June 2000, Northern States conducted an initial public offering of 32,395,500 shares of NRG common stock at a price of \$15.00 per share. Northern States retained all of the Class A shares of NRG common stock, which were transferred to Xcel upon consummation of the merger.

26. Following NRG's initial public offering, the Company reported significant growth, stating in its Annual Report on SEC form 10-K for the year ended December 31, 2000 that:

NRG Energy had total revenues and equity earnings of \$2,157.9 million, compared to \$500.0 million for the year ended December 31, 1999, an increase of \$1,657.9 million or 331.6%. NRG Energy's operating revenues from majority-owned operations were \$2,018.6 million compared to \$432.5 million, an increase of \$1,586.1 million or 366.7%.

27. Further, Defendant Peterson, in the Annual Report to Shareholders for calendar year 2000 stated:

We're confident we can sustain our growth momentum well into the future. Significant opportunities for expansion exist in several of the key markets in which we operate. Worldwide, we will continue to deploy a diverse fleet of power generation facilities. In the United States, the acquisition and construction of new plants will continue.

\* \* \* \* \*

We are confident we will achieve our 25 percent per year growth target in earnings and megawatts through at least the next five years. We appreciate the efforts of our employees around the globe. And we thank our shareholders for their support during this exceptional year.

28. In large part due to this success and its demonstrated ability to expand in the independent power production industry, in March 2001 NRG was able to complete a secondary public offering of 18,400,000 shares of its common stock at \$27.00 per share. The market continued to respond favorably to the success of the Company as its common stock reached an all time high of \$36.85 per share on April 2, 2001. NRG was so profitable that while NRG has only 30% of the market capitalization of Xcel, and is only 23% and 25% the size of Xcel's on EBITDA and EBIT bases, respectively, it provided 42% of Xcel's net income as of September 30, 2001.

**B. Xcel Decides To Purchase NRG's Public Shares**

29. On December 13, 2001, Xcel announced that its board had authorized an equity investment of \$300 million in NRG, subject to approval by the finance committee of its board related to the timing and pricing of that investment. In January 2002, Xcel engaged Lehman Brothers Inc. as its financial advisor to evaluate the issues facing NRG then and in the near future as well as various strategic options with respect to NRG.

30. On February 13, 2002, the executive officers of Xcel who served on the NRG

board informed the other members of the NRG board of the intention of Xcel management to present to the Xcel board the next day a recommendation to acquire the outstanding public shares of NRG. On February 14, 2002, Xcel's board, with two members absent, met to consider management's recommendation. After presentations by senior management, the Tender Offer and the Merger were unanimously approved by the Xcel directors present at the meeting. On the morning of February 15, 2002, Xcel delivered a letter to the NRG board outlining the offer and issued a press release disclosing the offer and its material terms to the public. The essential terms of the Proposed Transaction provided that Xcel intended to acquire all of the outstanding shares of NRG, it did not already own, for .4846 shares of Xcel common for each NRG share owned by the public shareholders. At the trading price of Xcel common stock as of the day of the announcement, this amounted to an offer of \$11.50 per share for the publicly traded shares of NRG.

31. On February 15, 2002, the NRG board met. At that meeting, the executive officers of Xcel who also served as directors of NRG answered questions with respect to Xcel's offer and discussed the formation of a special committee of the board. On March 4, 2002, at an NRG board meeting, NRG management presented NRG's financial results for 2001 and its outlook for 2002, including their key assumptions. At that meeting, the NRG board appointed a special committee consisting of purportedly "independent" directors to evaluate the Offer.

32. On February 28, 2002, Xcel completed a secondary offering of 23 million shares of Xcel common stock at a price of \$22.50 per share with aggregate net proceeds of approximately \$500 million. Lehman Brothers, Xcel's financial advisor in the Proposed Transaction, also served as an underwriter in Xcel's secondary offering.

33. On March 13, 2002, Xcel filed its Registration Statement on Form S-4 with the SEC and issued a press release which stated in relevant part:

"We're confident our exchange offer is fair and is in the best interests of the stockholders of both NRG and Xcel Energy," said Wayne Brunetti, chairman, president and chief executive officer of Xcel Energy. "As I have said before, our original intent in forming NRG was to create value for shareholders. In this environment, which is difficult for NRG and other independent power producers, we believe our plan is the best alternative to deliver shareholder value. Our action today is a step in that direction."

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Jim McIntyre, Xcel Energy vice president and chief financial officer, said, "Even under our scaled-back business plan for NRG, NRG will need a \$600 million equity infusion. Xcel Energy has the financial wherewithal to provide this support in a cost-effective manner." McIntyre added that the transaction allows public stockholders of NRG to continue to participate in its growth. (Emphasis added)

34. The Registration Statement and the press release were false and misleading, because as further alleged herein, the Registration Statement failed to disclose fully and fairly all material information regarding the prospects and value of both NRG and Xcel so that the NRG minority shareholders can make an informed decision whether or not to tender their shares to Xcel. Moreover, the Tender Offer and Merger were not designed to afford the minority NRG shareholders the opportunity to continue to participate in the growth of NRG, but were designed by Xcel to usurp the intrinsic value of the Company and to deprive the public shareholders of the benefits of the growth produced by NRG's expansion of its production capacity.

35. While defendant Xcel through its chairman, president and chief executive officer, Wayne Brunetti, made the affirmative statement on March 13, 2002 that the Tender Offer is "fair", Xcel provided no material information in the Registration Statement to assist NRG shareholders in assessing why Xcel believes the Tender Offer is fair to them. There is no fairness opinion or any meaningful

analysis to support Xcel's statement that the Tender Offer is fair. Moreover, the Registration Statement does not even disclose Xcel's own rationale for the Exchange Ratio or the valuation methodologies used by Xcel in determining the Exchange Ratio. Having made the statement that the Exchange Offer is fair Xcel is obliged to provide information as to why it is fair.

**C. The Proposed Transaction Undervalues NRG**

36. The consideration proffered to Class members in the Proposed Transaction is unfair and inadequate because, among other things, the intrinsic value of NRG's common stock is materially in excess of the value of the consideration offered for those securities in the proposed acquisition given the stock's current trading price and the Company's prospects for future growth and earnings.

37. Xcel unfairly timed the Proposed Transaction to take advantage of the decline in the market price of NRG's stock resulting from industry trends and the highly publicized demise of Enron. The proposed Transaction was purposefully timed to occur before the independent power producing industry could recover from the impact of the Enron debacle and to occur before NRG could report the results of its recent expansion program. Xcel knows that since NRG operates in the unregulated segment of the power industry, in contrast to Xcel which is in the regulated segment, its stock price would respond quickly to changes and trends within the industry. As a result, as the unregulated power producing segment of the industry starts its recovery, the market price of NRG's common stock will recover its value much more quickly than companies such as Xcel which operate in the highly regulated public utility industry. At the same time, Xcel knows that NRG has engaged in aggressive expansion through highly leveraged transactions under a



business plan adopted and approved by Xcel as the controlling shareholder with extensive representation on NRG's Board of Directors. Xcel purposely timed the Tender Offer to occur before NRG could report the positive results of this expansion program and the revenues from its new power generating assets and to capture the benefits from the expansion program before NRG's debt levels could achieve equilibrium with the market. In sum, the Tender Offer has the effect of capping the market for NRG's stock to facilitate Xcel's plan to obtain the public interest in NRG as cheaply as possible.

38. The Tender Offer, which values the shares of NRG at \$11.50 per share, represents a paltry 15% premium based on the closing price of NRG and Xcel common stock on February 14, 2002, the day before the announcement of the Tender Offer.

39. Significantly, the Registration Statement omits well-established yardsticks by which to measure the import of this meager premium. For example, missing from the Registration Statement is any minority acquisition analysis. Such standardized investment banking methodology, which is customarily utilized in transactions such as the one here, would show that the minimum reasonable premium for NRG's public shares would be in the 20-30% range. Under such an analysis, it is clear that the Exchange Ratio and the premium it represents fall substantially short of the fair value of the Company's shares. The failure to disclose that the premium is low as compared to other comparable freeze-out transactions is highly material. Xcel has failed to disclose whether a minority acquisition analysis was performed and, if one was performed, what the results were. Alternatively, if such an analysis was not performed, Xcel has failed to advise the Class as to the lack of such an analysis and the reason why it was not undertaken. The omission of this material information disables NRG's public shareholders from making an informed judgment on value.

40. Furthermore, based on premiums paid in comparable transactions, the Exchange Ratio is inadequate. For example an analysis of all merger transactions involving public companies in 2000 indicates an average premium paid over the five days preceding the announcement of the transaction of 41%; an analysis of all merger transactions involving public companies in 2001 indicates an average premium paid over the five days preceding the announcement of the transaction of 46.9%; an analysis of all merger transactions involving stock-for-stock mergers of public companies over the past two years indicates an average premium paid over the five days preceding the announcement of the transaction of 37.0%; an analysis of all merger transactions involving public companies over the past two years in which the seller's stock price is \$10-\$25 indicates an average premium paid over the five days preceding the announcement of the transaction of 38.8%; an analysis of all merger transactions involving public companies in the last two years in which the transaction value is greater than \$500 million indicates an average premium paid over the five days preceding the announcement of the transaction of 38.2%. Under each of these analyses, the premium offered by the Exchange Ratio is inadequate.

41. Also demonstrative of the inadequate premium reflected in the Proposed Transaction is the recent transaction between Orion Power Holdings ("Orion") and Reliant Resources ("Reliant"). Orion is an acquisitive unregulated power producer with relatively similar size characteristics to NRG. In that deal, Reliant paid a premium of approximately 30% for the acquisition of Orion; double the premium offered to NRG shareholders. None of this information appears in the Registration Statement, thereby disabling Class members from drawing any relevant comparisons to other deals. By discussing the asserted premium in the Proposed Transaction, Xcel assumed the duty to make full disclosure of relevant data putting the premium in perspective.

Failure to do so makes the Registration Statement materially false and misleading.

42. The Registration Statement further fails to set forth a contribution analysis. Even though NRG is only 22% of the size of Xcel on a revenue basis and 23% and 25% the size of Xcel on EBITDA and EBIT bases, respectively, NRG is 42% the size of Xcel on a net income basis. As a result, NRG has contributed significantly to the net income of Xcel, providing nearly one-half of the profits of Xcel. As of February 20, 2002, the total market capitalization of a combined Xcel and NRG company amounts to \$8.7 billion (100%), comprised of contributions of \$2.3 billion or 26% from NRG and \$6.4 billion or 74% from Xcel. However, despite this market capitalization ratio between the two companies of 74% (Xcel) to 26% (NRG), the Exchange Ratio under the Proposed Transaction reflects a valuation ratio of 78.2% (Xcel) to 21.8% (NRG). In order to properly reflect NRG's contribution to a combined entity the Exchange Ratio should be increased significantly.

43. Furthermore, the paltry 15% premium over market does not reflect the inherent value of the recent additions to NRG's power production assets. Under the control and with the approval of Xcel, through its representatives on the Board and its absolute voting power, NRG has engaged in an aggressive expansion plan, dramatically increasing its power production capacity through debt financed acquisitions. This increased production capacity is not accounted for in the Exchange Ratio.

44. The Proposed Transaction is a blatant attempt by Xcel to usurp unfairly from the NRG minority stockholders their proportionate interest in NRG's current value and in the future growth in NRG's business and future gains in NRG stock. The Proposed Transaction, for inadequate consideration, will deny plaintiffs and the other members of the class of their right to

share fairly in NRG's real current value and in the future success of NRG.

45. Plaintiffs and all other minority stockholders of NRG will be damaged in that they will not receive in the Proposed Transaction their fair portion of the value of NRG. The Exchange Ratio is unfair and inadequate from both a financial and process perspective. From a financial perspective, the fair value of NRG common stock, as determined by any objective valuation measure is materially in excess of the value of the consideration being offered by Xcel. The "premium" is totally inadequate by reference to any standardized benchmark used for comparison. The Proposed Transaction does not offer consideration approaching NRG's going concern value. From a process perspective, Xcel has decided to proceed with the Exchange Offer, unilaterally dispensing with the usual procedure of first obtaining approval by a special committee of NRG's directors. Xcel determined the Exchange Ratio on its own without negotiating with anyone purporting to represent the interests of the NRG minority shareholders. This defective process has directly contributed to the unfair and inadequate Exchange Ratio. Xcel has further publicly stated that it has no intention of selling its shares of NRG Class A common stock to any third parties, effectively preventing any auction or other means for the market to openly and fairly value the Company.

**D. Defendants Fail To Disclose All Material Information Needed By The NRG Minority Stockholders To Make Informed Decisions Regarding The Tender Offer And The Merger**

46. Xcel has a duty to disclose fully and fairly all material information regarding the prospects and value of both NRG and Xcel so that the NRG minority shareholders can make an informed decision whether or not to tender their shares into the Tender Offer.

47. The Registration Statement provides wholly inadequate information regarding

the value, results, operations and prospects of NRG and the value, results, operations and prospects of Xcel. Given that the consideration in the Proposed Transaction is shares of Xcel common stock, Xcel's business, prospects and financial condition are material to the NRG minority stockholders, as Xcel itself admits in the Registration Statement. The Registration Statement fails, however, to provide sufficient information needed for the NRG minority shareholders to make an informed decision regarding the Exchange Offer.

48. For example, the Registration Statement contains very limited financial projections for NRG and Xcel. Although the Registration Statement contains a section entitled "Financial Forecasts," that section merely contains limited information regarding 2002 and Xcel's views on the challenges facing the independent power production industry in general and the debt levels of NRG in particular, without disclosing any multi-year projections and/or the underlying assumptions which would be used to generate such projections. To be truly meaningful to the NRG minority stockholders, who will be receiving stock of Xcel in the Tender Offer, multi-year projections for NRG and Xcel should be disclosed and the details regarding and the assumptions underlying such projections must be provided, and any differences in assumptions and methodologies expressly noted and explained.

49. Xcel no doubt has in its possession detailed stand-alone projections for both NRG and Xcel. Any projections relied upon or created by Xcel and/or NRG in connection with the Proposed Transaction are material to the NRG stockholders and, therefore, must be disclosed.

50. Moreover, the Registration Statement does not even disclose Xcel's own bases for the Exchange Ratio or the valuation methodologies used by Xcel in determining the Exchange Ratio.

51. Xcel also creates the false image that NRG is in imminent danger unless

Xcel steps in and saves it through the Proposed Transaction. The Registration Statement creates a false sense of urgency for NRG shareholders by generating a misleading image of a company with serious debt problems and the risk of credit downgrading without Xcel's intervention. NRG is no different than any other company in an industry that is very asset intensive. NRG's debt is non-recourse and fully collateralized. NRG has no problem with access to capital markets and is in no imminent danger of downgrading. Xcel's statements regarding NRG's debt are rendered further misleading by the failure to disclose in the Registration Statement that additional financing is available to NRG through asset based lending which is the customary means of financing projects in the independent power producing sector of the market. Furthermore, Xcel's heavy emphasis on debt rating is a red-herring because everyone in the industry is rated the same. Xcel is creating a false impression regarding NRG's debt in an attempt to scare NRG's shareholders into accepting the Proposed Transaction and tendering their shares to Xcel.

52. NRG is a growth company that has taken on debt due to its many recent acquisitions and funding commitments for new generation assets. The Registration Statement is misleading in that it highlights and exaggerates NRG's high debt levels without qualifying these statements by the necessary corollary i.e. that such debt was built up as part of a massive growth strategy that will result in huge returns in the near future. Xcel is trying to have it both ways in the Registration Statement, in that it wants to highlight current debt levels built up during this growth phase without discussing the growth opportunities and future returns on NRG's investments

53. A summary of the misrepresentations and omissions in the Registration Statement is as follows:

—falsely stating that the Proposed Transaction is “in the best interests of the stockholders of both NRG and Xcel Energy;

—failing to disclose that the premium implied by the Exchange Ratio is materially inadequate in comparison to comparable transactions;

—misrepresenting the value of the Exchange Ratio by touting its worth to NRG's minority shareholders while failing to disclose that a contribution analysis reveals that NRG historically contributes nearly 40% of Xcel's profits, while the Exchange Ratio values NRG at less than 22% of the combined entity;

—misrepresenting the value of NRG and the Exchange Ratio by failing to disclose that a contribution analysis based on market capitalization values the contributions of both companies to a combined company at 74% (Xcel) and 26% (NRG), whereas the Exchange Ratio values the companies at 78.2% (Xcel) and 21.8% (NRG);

—failing to disclose that an exchange ratio properly reflecting NRG's contribution to a combined company would require a significant increase in the Exchange Ratio;

—failing to disclose the significant difference between the investment in NRG's unregulated independent power producing business as compared to Xcel's highly regulated public utility industry;

—failing to disclose all material information regarding the value, results, operations and prospects of NRG and Xcel;

—failing to disclose Xcel's justification or grounds for the Exchange Ratio or the valuation methodologies used in determining the Exchange Ratio;

—failing to disclose Xcel's assessment of whether the Proposed Transaction is fair and a reasonably detailed discussion regarding the bases for such assessment;

—falsely creating the image that NRG is in imminent danger of having its credit rating downgraded;

—failing to disclose that additional financing is available to NRG through asset based lending which is the customary means of financing projects in the independent power producing sector of the market;

—falsely stating that the reason for the timing of the Exchange Offer is a concern for the viability of NRG while failing to disclose that the real reason for the timing of the Exchange Offer is to take advantage of NRG's stock price that has recently been significantly impaired due to recent trends in the industry and the bankruptcy of Enron, along with the revelations of accounting irregularities at other companies in the energy production industry which have disproportionately depressed the market price of all companies in the independent power producing sector of the market;

—failing to disclose information regarding the analyses and conclusions of Lehman

Brothers, Xcel's financial advisor.

54. Xcel is the majority owner of NRG and is, therefore, well aware of the status of NRG's expansion program and future business prospects. In making its inadequate offer to acquire the publicly owned stock of NRG, Xcel has tried to take advantage of the fact that the market price of NRG stock does not fully reflect the progress and inherent and future value of the Company.

55. The intrinsic value of the stock of NRG is materially in excess of the value produced by the Exchange Ratio, giving due consideration to the prospects for growth and profitability of NRG in light of its business, earnings and earnings power, present and future. The Exchange Ratio offers an inadequate premium to the public stockholders of NRG; and the Exchange Ratio is not the result of arm's-length negotiations, but was fixed arbitrarily by Xcel to "cap" the market price of NRG stock, as part of its plan to obtain complete ownership of NRG's assets and business at the lowest possible price.

56. Because Xcel is in possession of proprietary corporate information concerning NRG's value and future financial prospects, the degree of knowledge and economic power between Xcel and the class members is unequal, making it inherently unfair for Xcel to obtain the remaining 26% of NRG's shares at the unfair and inadequate consideration it has proposed with inadequate disclosure.

57. Because Xcel controls 74.3% of NRG and exercises 96.7% voting control of NRG, no auction or market check can be effected to establish NRG's transactional worth, particularly in light of Xcel's announced refusal to sell its interest in NRG. Thus, Xcel has the power and is exercising its power to acquire NRG's minority shares and dictate terms which are in Xcel's best interest, without competing bids and regardless of the wishes or best interests of Class



members or the intrinsic value of NRG's stock.

58. All the Individual Defendants are affiliated with or beholden to Xcel, Thus, they are incapable and/or unwilling to take the measures necessary to protect the interests of NRG's minority shareholders.

59. Plaintiff's and the Class will suffer irreparable harm unless Xcel, with the acquiescence of the Individual Defendants, is enjoined from breaching its fiduciary duties to the Class and from carrying out its plan to deprive the minority shareholders of their fair proportionate interest in NRG.

60. Plaintiffs and the other class members are immediately threatened by the acts and transactions complained of herein, and lack an adequate remedy at law.

WHEREFORE, plaintiffs demand judgment as follows:

- A. declaring this to be a proper class action and designating plaintiffs as Class representatives;
- B. enjoining, preliminarily and permanently, the Proposed Transaction;
- C. to the extent, if any, that the Proposed Transaction is consummated prior to the entry of this Court's final judgment, rescinding the same or awarding rescissory damages to the Class;
- D. directing that defendants account to plaintiffs and the Class for all damages caused to them and account for all profits and any special benefits obtained by defendants as a result of their unlawful conduct;
- E. awarding to plaintiffs the costs and disbursements of this action, including a reasonable allowance for the fees and expenses of plaintiff's attorneys and experts; and
- F. granting such other and further relief as the Court deems appropriate.

CHIMICLES & TIKELLIS, LLP

By: /s/

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