



# ELECTRIC SERVICE AGGREGATOR AGREEMENT PEAK FLEX CREDIT

Aggregator Name ("Aggregator") \_\_\_\_\_  
 Mailing Address \_\_\_\_\_  
 Email Address \_\_\_\_\_ Telephone number \_\_\_\_\_  
 Demand Reduction Obligation (Total per Control Event): \_\_\_\_\_ kW Peak Flex Credit Agreement Term ("Term") \_\_\_\_\_

**Customer Allocations<sup>1</sup>:**

Account/ Premise Number	Customer Name	Firm Demand <sup>2</sup>	Load Reduction Obligation estimated (kW)	Response Time (Standard/Fast) <sup>3</sup>	Annual Control Hours (Level 1/Level 2) <sup>4</sup>	Summer/ All Year

<sup>1</sup> Aggregator may attach additional documentation as necessary and make amendments from time to time to reflect changes in customer allocations. Customer Allocations do not need to be identified at the time of signing this agreement.  
<sup>2</sup> Firm Demand shall be specified as a fixed demand level agreed to by the customer or aggregator and Company. Customers and aggregators must agree to limit load to the firm demand level during a Control Event.  
<sup>3</sup> If Standard Response Time is selected, Company will use reasonable efforts to provide Aggregators with a minimum one-hour advance notice of Control Events. If Fast Response Time is selected, Aggregator will have the ability to automatically control electric load within ten minutes of notice from Company using Company-approved equipment. Customers that do not respond to a control event within ten minutes will be considered Standard Response Time Customers.  
<sup>4</sup> Level 1 indicates a maximum of 64 annual Control Hours, with a maximum of 20 buy-through hours. Level 2 indicates a maximum of 100 annual Control Hours, with a maximum of 64 buy-through hours.

THIS PEAK FLEX CREDIT PROGRAM AGGREGATOR AGREEMENT ("PFC Aggregator Agreement") is entered into on the Effective Date set forth above, by Northern States Power Company, a Minnesota corporation and wholly owned subsidiary of Xcel Energy Inc., (hereafter called "Company") and Aggregator. The Company and Aggregator may be referred to individually as a "Party" or together as the "Parties." This PFC Aggregator Agreement incorporates by this reference the PEAK FLEX CREDIT PILOT PROGRAM – AGGREGATOR TERMS AND CONDITIONS attached hereto as Exhibit A. This PFC Aggregator Agreement is effective on the Effective Date and, unless terminated in accordance with its terms, shall continue for the Term set forth above ("Term"). Under no circumstances may the Term of this PFC Aggregator Agreement extend beyond the availability of the Company's Peak Flex Credit Tariff, and this PFC Aggregator Agreement will automatically terminate if the Company's Peak Flex Credit Tariff is terminated. By their signatures below, the Parties have executed this PFC Aggregator Agreement in their respective names, by their duly authorized representatives as of the Effective Date .

AGGREGATOR \_\_\_\_\_  
 Authorized Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

NORTHERN STATES POWER COMPANY d/b/a Xcel Energy \_\_\_\_\_  
 Authorized Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

**EXHIBIT A: FLEX CREDIT PILOT PROGRAM - AGGREGATOR TERMS AND CONDITIONS****1. PEAK FLEX CREDIT PROGRAM – GENERALLY.**

Northern States Power Company, a Minnesota corporation doing business as Xcel Energy (“Company”) offers an experimental rate for a load control incentive called the Peak Flex Credit Pilot (“PFC Pilot”). Company offers the PFC Pilot to Company’s commercial customers located within Company’s service territory (each a “Customer”) that are qualified to participate in the PFC under Company’s Peak Flex Credit Rider Pilot (Rate Code A28) (the “Peak Flex Credit Tariff”) on file with the Public Utility Commission of Minnesota (“Commission”). A Customer may participate in the PFC Pilot directly with Company or through a qualified demand response (DR) aggregator as defined in the Peak Flex Credit Tariff (“DR Aggregator”). DR Aggregators participating in the PFC Pilot will be responsible for meeting PFC Pilot obligations and commitments and will achieve these commitments by engaging and incentivizing Customers to participate in the PFC Pilot, and will use the Customers’ aggregate energy reductions to achieve the DR Aggregator’s commitments set forth in this PFC Aggregator Agreement. Aggregator desires to participate in the PFC Pilot as a DR Aggregator and agrees to the terms and conditions set forth in this PFC Aggregator Agreement.

**2. PEAK FLEX CREDIT PILOT TARIFF.**

The PFC Pilot, this PFC Aggregator Agreement and Aggregator’s participation in the PFC Pilot are subject to and governed by the terms and conditions set forth in the Peak Flex Credit Tariff as may be updated from time to time with the Commission as well as any other applicable rates, rules and regulations on file with the Commission. This PFC Aggregator Agreement hereby incorporates the Peak Flex Credit Tariff by this reference. Any capitalized terms used but not otherwise defined shall have the meaning provided in the Peak Flex Credit Tariff. In the event any term of this PFC Aggregator Agreement conflicts with the terms and conditions set forth in the Peak Flex Credit Tariff, the terms and conditions set forth in the Peak Flex Credit Tariff shall supersede and control over the conflicting terms and conditions contained in this Peak Flex Aggregator Agreement.

**3. AGGREGATOR GENERAL OBLIGATIONS.**

During the Term, Aggregator shall: (a) reduce electric load by the total kW noted above which should be at least 50 kW aggregated across the electric loads of all Customers set forth on the first page of this PFC Aggregator Agreement during defined Control Events; (b) meet all required criteria as identified in the Peak Flex Credit Tariff; (c) ensure that each Customer, whose electricity reductions are being aggregated under this PFC Aggregator Agreement, meets the requirements of the Peak Flex Credit Tariff, and (c) shall provide its services and conduct its business as a DR Aggregator in compliance with all applicable laws, rules and regulations.

**4. AGGREGATOR PARTICIPATION REQUIREMENTS.**

On the Effective Date and throughout the Term: (i) Aggregator represents and warrants that it is an active DR Aggregator experienced in demand response aggregation in at least one retail market and two wholesale markets in the United States; (ii) Aggregator will maintain and operate a Network Operations Center (NOC) which operates 24 hours per day, 365 days per year and is capable of monitoring and dispatching aggregations of demand response resources; (iii) Aggregator represents and warrants that it is not, and will not, be banned from doing business in any Regional Transmission Operation (RTO) or Independent System Operator (ISO) approved by the Federal Energy Regulatory Commission (FERC); and (iv) Aggregator shall meet all other availability criteria for the voluntary curtailment pilot as set forth in the Peak Flex Credit Tariff.

**5. LOAD REDUCTION.**

During the Term and in accordance with the Peak Flex Credit Tariff: (a) Aggregator shall aggregate groups of Customers who collectively can reduce electric demand on Company’s systems by at least 50 kW during defined Control Events. The Customer aggregation groups are set forth on the first page of the PFC Aggregator Agreement under “Customer Allocation” and further defined in the Peak Flex Credit Tariff. Aggregator commits to the electric load reduction option selected for each Customer by the amount set forth on the Customer. Allocation table. Customers and Customer Allocations must be as set forth on the 1st page of this PFC Aggregator Agreement, prior to Aggregator using a Customer’s load for purposes of the PFC Pilot. Throughout the Term, the Parties may update the Customer Allocation table by mutual written agreement (including updated Customer Allocations); (b) Aggregator shall ensure each Customer included in the Customer Allocation agrees: (i) to participate in the PFC Program through Aggregator rather than directly with Company; (ii) to forfeit any right such Customer may have to receive any direct payment or bill credit under the Peak Flex Credit Tariff; (iii) to Company paying Aggregator any credit or payment allowed under the Peak Flex Credit Tariff; (iv) Customer accepts payment or other benefit provided for in Customer’s agreement with Aggregator as Customer’s sole and exclusive compensation for Customer’s participation in the PFC Pilot through Aggregator; (c) Aggregator shall deliver the total electric load reductions specified by the sum of the Customer Allocations.

**6. AGGREGATOR SHALL INDEMNIFY AND HOLD COMPANY HARMLESS**

from any and against any claim by a Customer participating in the PFC Program through Aggregator relating to amounts Customer may claim to be owed under the PFC Program or as a result of Customer’s energy curtailment. The Customer Allocation sets forth the load reduction obligations for each Customer being aggregated, as well as the applicable Response Times and control Levels. Aggregator event performance compliance will be measured at the total aggregate level, not per Customer. Aggregator must give Company ten (10) business days written notice before making a monthly subtraction and/or addition to Customer Allocations. The Company will evaluate Customer demand reductions during Control Events for compliance with the Load Reduction Obligations set forth in the Customer Allocation. In the event of non-compliance with the Load Reduction Obligations set forth in the Customer Allocation, Company may require the PFC Aggregator Agreement to be modified to reflect the correct Customer Allocations. Company will require a Customer-specific test event be conducted whenever a new Customer (with (1) new load reduction capability or (2) a significant change into the Customer Allocation. Such newly added Customer must meet the Load Reduction Obligations set forth in an update Customer Allocation for Aggregator to start receiving payment under the Peak Flex Credit Tariff. Aggregator will provide ten (10) business days written notice to Company when the test is complete to confirm new electric load.

**7. CUSTOMER DATA**

Prior to receiving any Customer data from Company (“Customer Data”), including any Customer energy usage data, Aggregator shall obtain and provide the Company with written consent and approval from each Aggregator Customer to receive Customer Data from Company, through required forms outlined in the Peak Flex Credit Tariff. As a condition of Aggregator’s receipt and use of the Customer Data, Aggregator shall not use or process the Customer Data for any purpose that is unlawful or prohibited or for any use or purpose beyond the authorization and consent provided to Aggregator by the relevant Customer. Aggregator shall

indemnify and hold Company harmless for all claims, damages, liabilities or costs arising out of Aggregator's use of the Customer Data or Aggregator's breach of its obligations under this paragraph. COMPANY MAKES NO REPRESENTATIONS ABOUT THE CUSTOMER DATA FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO THE ACCURACY, QUALITY OR VALIDITY OF THE CUSTOMER DATA. ALL CUSTOMER DATA IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. COMPANY HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH REGARD TO THE CUSTOMER DATA. COMPANY DOES NOT WARRANT THAT ANY CUSTOMER DATA PROVIDED WILL BE UNINTERRUPTED OR ERROR-FREE.

## 8. DIRECT CREDITS AND PENALTIES.

a) Aggregator will maintain the load reduction obligations for each Customer throughout the Term as set forth in the Customer Allocation. Each Customer set forth on the Customer Allocation agrees to have ongoing bill reductions which are available under the Peak Flex Credit Tariff assessed and paid to Aggregator. (b) Aggregator is responsible for any PRC Program penalties which are applicable under the Peak Flex Credit Tariff as a result of an aggregated Customer's non-compliance during Control Events measured by Customer interval meter data. Company will invoice Aggregator for any such Penalty, and any Penalty must be paid by Aggregator within 30 days of Aggregator's receipt of an invoice from Company. Aggregators may net these penalties from Aggregator's monthly invoice for Direct Credits which may be achieved by Aggregator under the Peak Flex Credit Tariff; however, if the penalties exceed the amount of the Direct Credit owed during the month, Company will send an additional invoice to Aggregator for payment of the difference within 30-days of Aggregator's receipt of such invoice. (c) Any Direct Credit earned and due to Aggregator under the Peak Flex Credit Tariff will be paid or credited to Aggregator as set forth in this PFC Aggregator Agreement after the end of the billing month in which the energy reduction occurred. Aggregator shall invoice Company for any Direct Credit owed to Aggregator in accordance with this Section. Aggregator will be paid through a check or electronic payment method. Company verified billing data will confirm Aggregator's Direct Credit invoice amount is accurate. If there are inaccuracies the Parties will work to validate invoice against billing data. Direct Credits will be calculated according to the selected load reduction options for each Customer set forth in the Customer Allocation based on the selected: Response Time (Standard or Fast), Control availability (All months or the four months during the summer which include June through September); and the maximum annual control hours (Level 1 or Level 2). (d) Aggregator is responsible for its timely invoice submittals to the Company based on pricing structure set forth in the Peak Credit Tariff and based on the load reduction options set forth in the Customer Allocation. Aggregator shall not invoice Company in whole or in part prior to approval from Company. All invoices shall be submitted to Company in compliance with Company's then current policies and procedures, including but not limited to the Supplier Invoicing Instructions and Procedure Manual posted by Company, as revised from time to time.

## 9. FINANCIAL REVIEW.

Aggregator must submit to financial evaluation performed by the Company. Such evaluation will include Company review of Aggregator's financial statements, senior unsecured long-term debt (un-enhanced by third party support), rating(s) from credit reporting agency(ies), and/or other information relating to Aggregator's creditworthiness. The results of the financial evaluation will determine Aggregator eligibility. Company within its sole but reasonable discretion will determine whether or not an Aggregator meets the necessary financial requirements. Aggregators who do not meet this criterion will be unable to participate.

## 10. REGISTRATION WITH MISO.

Company will register all eligible Aggregator Customer load as a Demand Resource Load Modifying Resource (Demand Resource) with MISO and will convert the capacity into Zonal Resource Credits (ZRCs). Aggregators agree to abide by all applicable requirements for Demand Response LMR not directly tied to Market Participant responsibilities as set forth in MISO's Tariff and MISO's Demand Response Business Practices Manual (BPM-026) and outlined in the Peak Flex Credit Tariff. All Aggregator Customer load must have revenue-quality interval metering to enable assessment of performance, per the standards in MISO's Tariff and Demand Response Business Practices Manual (BPM-026). All load registered for the PFC Pilot are required to participate in an annual testing event, as specified in the MISO Tariff and BPM026. Aggregator must supply the Company with hourly load curtailment capability for each day of the chosen Control Availability Option.

## 11. MARKETING MATERIALS.

Aggregator shall conduct the marketing, recruitment and retention activities required to market to, recruit and retain Customers. Prior to publishing, Aggregator shall give Company a reasonable opportunity to review all PFC Pilot marketing plans and materials to be distributed, published or disseminated to third parties or to the public. Aggregator shall not, without the prior written approval of Company (a) use the name, trademarks or logo of Xcel Energy Inc. or Company on any marketing materials, (b) state, imply or in any way represent to third parties, or customers that Xcel Energy Inc. or Company has endorsed or approved Aggregator. Any use of Company's name, trademarks or logo shall comply with Company's then current guidelines. Approvals will not be unreasonably withheld, and the Company shall use reasonable efforts to review marketing materials within a 10-business day timeframe.

## 12. PUBLICITY.

The Company and Aggregator shall consult with each other and receive the other Party's approval before issuing any press release about this Agreement that expressly references the other Party, Xcel Energy Inc., or the dispatch of a Control Event under this Agreement. Neither the Company nor Aggregator shall issue any such press release prior to such consultation and approval, except to the extent required by applicable law or the requirements of any exchange on which Xcel Energy Inc.'s or Aggregator's common stock is then listed. If, during the Term, either Party is contacted by the media concerning this Agreement, the contacted Party shall inform the other Party of the existence of the inquiry, any questions asked, and the substance of any information provided to the media.

## 13. REPORTING.

Aggregators are obligated to provide information concerning services to the Peak Flex Credit Tariff customers to the Minnesota Public Utilities Commission, Department of Commerce or Attorney General as requested. Aggregators must provide a yearly report to the Company by January 1 including number of Customers aggregated; number of customers participating in fast versus standard response time; number of customers opting for seasonal participation; number of customers opting-out of Aggregation, reporting on known complaints and the resolution of these complaints; lessons learned and any potential changes to the PFC Pilot. The yearly report will be public and provided as part of our pilot analysis during reporting requirements under Docket No. E002/20-421.

## 14. FAIR DISCLOSURE.

Prior to any person or entity becoming a Customer participating the PFC Pilot through Aggregator, Aggregator will fairly disclose the future costs

and benefits of the PFC Pilot and provide such costs and benefits to the Customer. The Aggregator shall comply with all other requirements of the Commission and applicable laws with respect to communications and dealings with Customers.

**15. COMPANY MAY STOP PROVIDING ELECTRICITY TO AGGREGATOR'S CUSTOMERS DURING A SYSTEM EMERGENCY EVENT.**

Company will not discriminate against the Aggregator when it stops providing electricity or when it resumes providing electricity. Emergency Event is defined in MISO's tariff.

**16. REPRESENTATIONS AND WARRANTIES.**

Aggregator represents and warrants to the Company that: (i) the execution, delivery and performance of this PFC Aggregator Agreement has been duly authorized by all requisite action on the part of Aggregator, and Aggregator has full power and authority to enter into this PFC Aggregator Agreement (ii) this PFC Aggregator Agreement constitutes the legal, valid, and binding obligation of Aggregator; (iii) Aggregator is and will remain duly licensed, authorized or qualified to do business, and in good standing; and (iv) Aggregator is and will remain in compliance with all applicable laws applicable to it in connection with performance under this PFC Aggregator Agreement.

**17. INDEMNIFICATION.**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND IN ADDITION TO ANY OTHER INDEMNIFICATION REQUIRED UNDER THIS PFC AGGREGATOR AGREEMENT, AGGREGATOR SHALL AT ALL TIMES INDEMNIFY, DEFEND, AND SAVE COMPANY HARMLESS FROM ANY AND ALL THIRD PARTY DAMAGES, LOSSES, CLAIMS, COSTS AND EXPENSES, REASONABLE ATTORNEYS' FEES AND COURT COSTS, ARISING OUT OF OR RESULTING FROM: (A) AGGREGATOR'S PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR ITS AGREEMENT WITH CUSTOMERS TO PROVIDE DEMAND ENERGY RESPONSE AGGREGATION SERVICES; AND (B) AGGREGATOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR AGGREGATOR'S FRAUDULENT OR UNLAWFUL ACTIONS.

**18. LIMITATION OF LIABILITY.**

SUBJECT TO THE LIMITATIONS CONTAINED IN THIS PFC AGGREGATOR AGREEMENT, EACH PARTY AGREES THAT IT WILL BE RESPONSIBLE FOR ITS OWN ACTS AND THE RESULTS THEREOF TO THE EXTENT AUTHORIZED BY APPLICABLE LAWS AND SHALL NOT BE RESPONSIBLE FOR THE ACTS OF THE OTHER PARTY AND THE RESULTS THEREOF. EACH PARTY'S LIABILITY TO THE OTHER PARTY FOR FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS PFC AGGREGATOR AGREEMENTS SHALL BE LIMITED TO THE AMOUNT OF DIRECT DAMAGE ACTUALLY INCURRED AS A RESULT OF SUCH NONPERFORMANCE. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY PUNITIVE, INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, INCLUDING FOR LOSS OF BUSINESS OPPORTUNITY OR PROFITS, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEN. NOTWITHSTANDING ANY OTHER PROVISION, WITH RESPECT TO THE COMPANY'S DUTIES OR PERFORMANCE OR LACK OF PERFORMANCE UNDER THIS CONTRACT, THE COMPANY'S LIABILITY TO AGGREGATOR SHALL BE LIMITED AS SET FORTH IN THE COMPANY'S RATE BOOK AND TERMS AND CONDITIONS FOR ELECTRIC SERVICE AND SHALL NOT BE AFFECTED BY THE TERMS OF THIS PFC AGGREGATOR AGREEMENT. WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL THE COMPANY

BE LIABLE TO AGGREGATOR FOR ANY CLAIMS, EXPENSES, LOSSES, DAMAGES, OR LAWSUITS ARISING OUT OF ANY INTERRUPTIONS OR DISTURBANCES IN ELECTRIC SERVICE AND COMPANY'S LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM THIS PFC AGGREGATOR AGREEMENT, OR FROM PERFORMANCE OR BREACH THEREOF, shall in no case exceed the total dollar amount of the Direct Credits owed to Aggregator minus any penalty owed under the Peak Flex Credit Tariff.

**19. NOTICE.**

Any notice required or permitted by this PFC Aggregator Agreement shall be deemed given (1) when delivered by hand or email with receipt confirmed, (2) on the next business day after being sent by a reputable overnight courier service for next business day delivery, or (3) on the third business day after being sent by prepaid United States mail, return receipt requested, in each case to the Party at the address specified as follows. Notices to Aggregator shall be sent to the mailing or email set forth on the first page of this PFC Aggregator Agreement. Notices to the Company shall be sent to Northern States Power Company of Minnesota, Attention: Peak Flex Credit Program, 401 Nicollet Mall, Minneapolis, MN 55401.

**20. ASSIGNMENT.**

Aggregator shall not assign this PFC Aggregator Agreement or delegate any of its obligations without written consent of Company. Company's consent will be conditioned upon the proposed assignee meeting the requirements of any applicable tariff provisions, and expressly assuming remaining liabilities of Aggregator hereunder, together with such other requirements as may be set forth by Company. Any prohibited assignment shall be void.

**21. AMENDMENT.**

This PFC Aggregator Agreement shall be amended only by a written agreement executed by both the Company and the Aggregator.

**22. WAIVER.**

No delay by the either Party in enforcing any of its rights shall be deemed a waiver of such rights, nor shall a waiver by either Party of any of the other Party's defaults be deemed waiver of any other or subsequent defaults.

**23. COMPLETE AGREEMENT.**

This PFC Aggregator Agreement, together with its attachments, the Peak Flex Credit Tariff and the rules and regulations set forth in the Company's tariffs governing electric service (as these tariffs and schedules may change from time to time), constitute the complete and exclusive agreement and understanding of Parties concerning its subject matter. This PFC Aggregator Agreement supersedes all prior agreements, representations, understandings, and communications, written or oral, between the Parties as to the subject matter of this PFC Aggregator Agreement.

**24. APPLICABLE LAW AND VENUE.**

This PFC Aggregator Agreement shall be interpreted in accordance with and governed by the laws of the State of Minnesota and the rules and regulations of the Minnesota Public Utilities Commission. The Parties agree that any claim or dispute arising out of this PFC Aggregator Agreement shall be subject to and decided by the state and federal courts located within Hennepin County, Minnesota.

**25. ELECTRONIC COMMUNICATIONS.**

Aggregator consents to receive communications from Company relating to the PFC Pilot in electronic format sent to Customer's email address set forth on the first page of this PFC Aggregator Agreement. No Third-Party Beneficiary. This PFC Aggregator Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this PFC Aggregator Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise, to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

**26. ELECTRONIC SIGNATURE AND ELECTRONIC RECORDS.**

Both Parties consent to the use of electronic signatures. This PFC Aggregator Agreement and any other documents requiring signature hereunder may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the PFC Aggregator Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the PFC Aggregator Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.