

Exhibit K



May 21, 2021

Via Email: Alice.Jackson@xcelenergy.com

Alice K. Jackson
President, Xcel Energy - Colorado
1800 Larimer Street, 11th Floor
Denver, CO 80202

Re: CLAIMS RE: COMANCHE UNIT 3

Dear Alice,

Following our meeting on April 13, you requested an updated claim/dispute so that PSCo could properly assess any counteroffer of settlement prior to our filing a lawsuit. As I had explained in our discussion, and as set forth in my March 29th letter, the settlement terms proposed with that letter related solely to the January and June 2020 outages. But IREA continues to learn more information relating to the deficient operating and maintenance practices at Comanche 3 and we expect additional potential IREA claims to arise from continuing investigations by us, the PUC and others.

Since our last discussions IREA has received the PUC Staff's Report and PSCo's response to same. Both documents confirm our contentions. Further, certain aspects of PSCo's response to the PUC are inconsistent with what Xcel told us during our investigation, particularly in our March 4th conference call with [REDACTED] regarding the construction and operation of the oil cooler valve, as well as the alleged cause of the stop pin failure, which [REDACTED] attributed to a contractor.

PSCo materially defaulted in its obligations under the Comanche 3 Project Agreements by failing to operate the plant consistent with prudent utility practices. This assertion extends back to the date Comanche 3 commenced commercial operation. IREA had no knowledge of these practices until recently receiving the Structural Integrity report, because PSCo withheld information from IREA's representative on the E&O Committee regarding the operating procedures and prior failures, as required by the Project Agreements. Further, PSCo failed to pursue insurance coverage for repairs to the steam turbine from water intrusion events in 2018, instead forcing IREA and Holy Cross to bear expense of these repairs. PSCo's unilateral

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refusal to pursue coverage was based on its self-interest in characterizing the turbine damage as normal wear and tear as opposed to PSCo's deficient operations.

The Structural Integrity report, commissioned by PSCo, documents poor water chemistry and incomplete and outdated operating procedures since the plant began operation. The PUC Staff Report similarly found that "Comanche 3's cycle chemistry during the first ten years of operation has not met the standards expected for a supercritical unit." Further, "Comanche 3 operations during the first 10-years allowed Operators to ignore alarms and shut down situations, not using optimum chemistry treatment, ineffective monitoring of total iron as the key indicator of chemistry and chemistry instrumentation." General Electric, which PSCo hired to analyze and repair the damage to the high-pressure turbine blades from the 2018 water intrusion events, found that "in general, deficient maintenance practices, questionable operating procedures and poor steam quality were observed throughout the machine."

We know that in 2020, IREA incurred approximately \$24 million in damages for repair costs and replacement power due to the turbine and TLO failure.

Before 2020 however, PSCo's substandard operation and maintenance practices resulted in numerous unplanned outages and an availability factor at Comanche 3 that is the worst among PSCo's fleet of generation facilities. Between 2010 and 2020, Comanche 3 suffered an average of 91.5 outage days per year, with an availability factor of 71%. In contrast, PSCo represented to the PUC that it would have an expected availability factor of 95% in its application for a Certificate of Public Convenience and Necessity. Because of the numerous and repeated outages, IREA spent upwards of \$100 million in additional maintenance and repair costs as well as replacement power costs. This does not consider additional capital expenditures incurred due to PSCo's imprudence, which have yet to be determined.

Because IREA's PPA with PSCo requires IREA to purchase backup power from PSCo when Comanche 3 is unavailable, PSCo directly benefitted from breaching its contracts with IREA because IREA bought additional wholesale electrical power from PSCo that was more expensive than its expected output from Comanche 3.

In addition to the historic losses, the value of IREA's investment in Comanche 3 has been impaired due to PSCo's failure to properly operate the plant. The useful lifespan of the plant, which was projected to be 60 years, has been substantially shortened. The plant never has produced, and likely never will produce, at projected levels. Indeed, the problems with steam tube leaks (which can be directly attributed to poor water chemistry) are continuing as we have seen with the most recent outage. IREA's loss of value in Comanche 3 amounts to millions more on top of all these expenses.

Finally, as you know the Project Agreements contain provisions for a withdrawal and buyout remedy in the event of an uncured PSCo Default. PSCo's failure to follow prudent utility practices constitutes a breach of the material terms or conditions in the Project Agreements. IREA has not yet determined if we will pursue the withdrawal remedy, which is in our sole discretion. If we do pursue this remedy however, PSCo must pay to IREA a sum equal to the appraised value of the Facility Assets multiplied by IREA's ownership share

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and assume ownership of IREA's interest in Comanche 3 and the Project Agreements. Again, IREA has not yet decided to trigger the withdrawal and buyout at this time, and we are conducting further analysis to determine whether pursuing this remedy is in IREA's best interest.

As I stated at our meeting, IREA's claims to be pursued in litigation will exceed \$124 million with capital costs and diminished value yet to be determined. And we have the right to trigger the withdrawal and buyback remedy should we chose to do so.

Hopefully this gives PSCo sufficient information about IREA's claim for you to properly assess your settlement offer as you requested. I look forward to receiving same. In the meantime, should you have any questions please feel free to contact me.

Best,

Jeff Baudier

Jeff Baudier
Chief Executive Officer

JMB/dlr

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