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PRESS RELEASE

FOR IMMEDIATE RELEASE – July 12, 2005

FIDUCIARY LIABILITY COVERAGE

Xcel Energy Inc. in Minneapolis was glad it had an obscure type of insurance when it recently settled two class-action lawsuits. Its fiduciary liability coverage paid the entire \$8 million bill.

This type of insurance is not new Xcel has had it for about 20 years but it has taken on new life with a significant increase in lawsuits related to employee benefits, especially big drops in retirement fund assets touched off by corporate scandals such as those at Enron and WorldCom. "It's important for companies of our size and the nature of what we do to have it," said Ed Legge, a spokesman for Xcel, Minnesota's largest electric utility. Employees filed the suits in 2002 after Xcel stock fell in value; they alleged breach of fiduciary duty by the company in letting employees buy Xcel common stock in retirement savings and employee stock ownership plans and making misleading statements or omissions about such investments. Industry insiders say the high cost of such suits is driving increased demand for fiduciary liability coverage. Such coverage not only pays for possible settlements and judgments, but also legal expenses. "When companies read about what's going on with United Airlines and its benefit programs, they think 'Hmm, is this something that might affect me?'" said Kristin Roger, a vice president of executive liability underwriting for St. Paul Travelers Cos. The St. Paul - based insurer sells fiduciary liability coverage and has seen increased demand from new and existing customers. Public companies will find higher premiums (up as much as 300 percent in the past few years), significantly larger deductibles (up to \$5 million for large companies) and stricter policy terms. The increases haven't been as steep for private companies, experts say. A typical Fortune 1000 public company today has fiduciary liability coverage of about \$25 million and a larger Fortune 500 public company may have coverage for up to \$100 million, according to industry experts. Public and private companies face suits under ERISA (Employee Retirement Income Security Act), passed by Congress in 1974 to protect participants in employee benefit plans, such as pension, 401(k) retirement and ESOP plans. More than 30 ERISA class-action suits against companies such as AIG, HealthSouth, Krispy Kreme Doughnuts and Pfizer are listed on an ERISA litigation Web site managed by Seattle law firm Keller Rohrback. Local companies involved in ERISA suits include 3M Co. and ADC Telecommunications Inc.

"Most claims stem from situations where employees were forced to buy stock as part of a retirement plan," said Susan Bukowski, a senior vice president of insurance broker Marsh Inc. in Minneapolis. Suits that follow securities suits filed against company officials are called "ERISA tag-along" claims. Enron Corp. may be the best-known case. Some 11,000 Enron employees invested 62 percent, or \$1.3 billion, of a 401(k) plan in company stock, which lost about \$1 billion after Enron's collapse. Employees sued, claiming company officials failed their fiduciary duty by not warning against investments in company stock when they allegedly knew it was imprudent. In May, workers won a partial settlement of \$85 million to be paid into their plan. Increased lawsuits and higher insurance premiums are prompting some companies to re-evaluate and diversify their retirement-plan investment options to reduce their risk, Bukowski said. Xcel, for example, in its recent settlement, agreed to revise its employee 401(k) plan and other plans to let employees diversify Xcel stock in the plans to other investment options.

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Contact: Philip L. Blais
Phil@blaisexcess.com

Houston Office
820 Gessner, Suite 1750
Houston, Texas 77024
(713) 780-7787 Phn (713) 780-3533 Fax

Dallas Office
4570 Westgrove, Suite 245
Addison, Texas 75001
(972) 818-4090 Phn (972) 818-4088 Fax

Austin Office
P.O. Box 92824
Austin, Texas 78709
(512) 894-3460 Phn (512) 858-1266 Fax

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