

February 22, 2024

VIA ELECTRONIC FILING

Will Seuffert, Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: In the Matter of the Implementation of the New Distributed Solar Energy Standard Pursuant to 2023 Amendments to the Minnesota Statutes, Section 216B.1691

Dear Mr. Seuffert,

Clean Energy Economy Minnesota (“CEEM”) and the Minnesota Solar Energy Industries Association (“MnSEIA”) jointly as the Clean Energy Associations (“CEA”), respectfully submit these comments for PUC Docket Number E002, E015, E017/CI-23-403.

Please feel free to contact us with any questions that you may have. We hope that the comments below provide you with useful insights.

Regards,

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State of Minnesota
Before the
Minnesota Public Utilities Commission

Katie J. Sieben	Chair
Joseph K. Sullivan	Vice-Chair
Hwikwon Ham	Commissioner
Valerie Means	Commissioner
John Tuma	Commissioner

In the Matter of the Implementation of
the New Distributed Solar Energy
Standard Pursuant to 2023 Amendments
to the Minnesota Statutes, Section
216B.1691

CLEAN ENERGY ASSOCIATIONS'
REPLY COMMENTS

PUC Docket Number/s: E002, E015,
E017/CI-23-403

INTRODUCTION

Clean Energy Economy Minnesota (“CEEM”) is an industry led, nonpartisan, non-profit organization representing the business voice of energy efficiency and clean energy in Minnesota. The Minnesota Solar Energy Industries Association (“MnSEIA”) is a 501(c)(6) nonprofit association that represents our Minnesota’s solar and storage industry, with over 160 members, ranging from rooftop installers, non-profit organizations, manufacturers, developers, cooperative utilities and many others that support the industry, which employ, in total, over 4,500 Minnesotans. Collectively, CEEM and MnSEIA, as the Clean Energy Associations (“CEA”), respectfully submits the following reply comments in response to the Minnesota Public Utilities Commission’s (“Commission”) Notice of Extended Comment Period issued on December 22, 2023. The initial Notice of Comment Period was issued by the Commission on September 18, 2023.

TOPICS OPEN FOR COMMENT

Issue: What clarifications must the Commission make to operationalize the state’s distributed solar energy standard (DSES)?

1. Should customer-sited distributed solar and third-party community solar

gardens operating under a utility tariff count towards utility DSES compliance? How should they be considered in light of the requirement to acquire distributed solar through a competitive bid process?

2. Have the utilities provided reasonable estimates for their DSES obligations?
3. Have the utilities provided reasonable proposals for how the Commission should approve utilities' competitive bid process?
4. Have the utilities provided a reasonable proposal for how they will verify that the construction trade workers who constructed the solar energy generating system were all paid no less than the prevailing wage rate, as defined in section 177.42, and whose employer participated in an apprenticeship program that is registered under chapter 178 or Code of Federal Regulations, title 29, part 29?
5. Should utilities report annually on their progress toward meeting the DSES in this docket? If so:
 - a. Can utilities' SES compliance progress reports serve as a model for monitoring DSES compliance progress?
 - b. What information should be included in these annual progress reports?
 - c. When should the first reports be due?
6. Should RECs retired for the DSES count toward any of the other standard obligations under Minn. Stat. §216B.1691?
7. Are there other issues or concerns related to this matter?

REPLY COMMENTS

The CEA support policies that empower consumers and provide efficient pathways that expand business opportunities for clean energy resources to benefit consumers. With a focus on economic development in Minnesota, and for the benefit of consumers in Minnesota, The CEA respectfully offers these Reply Comments for the Commission's consideration.

1. Should customer-sited distributed solar and third-party community solar gardens operating under a utility tariff count towards utility DSES compliance? How should they be considered in light of the requirement to acquire distributed solar through a competitive bid process?

The CEA agree with the Minnesota Department of Commerce: "*Customer-sited Distributed Solar and Third-party Community Solar Gardens Operating under a Utility Tariff*"

*Should Not Count Towards Utility DSES Compliance.*¹ Based on our understanding of Xcel’s Solar Rewards Community Solar Gardens program and our reading of relevant law (Minn. Stat. § 216B.1691 Subd. 2h(e)), since Xcel’s Community Solar Gardens are not selected through a competitive bidding process, those CSG must not count toward compliance with the DSES.

The CEA also agree with previous comments filed regarding legislative intent: “...solar capacity procured under the DSES would be in addition to the solar capacity the IOUs are already required to procure under other approaches.”² This two-prong approach creates a pathway by which to accelerate decarbonization so as to reduce harms to life-sustaining ecosystems, Minnesotans, and the business environment in Minnesota.³

2. Have the utilities provided reasonable estimates for their DSES obligations?

The CEA have no practical method by which to accurately determine whether the utilities have provided reasonable estimates for their DSES obligations. The CEA, however, do have a strong interest in ensuring that the maximum amount of eligible retail sales, in accordance with the law, is used to determine the DSES obligations of utilities.

To ensure maximum compliance with the standard, the CEA suggest that the DOC give further consideration to the data provided by utilities⁴. To, for instance, state that a

¹ Minnesota Department of Commerce, *Comments of the Minnesota Department of Commerce Division of Energy Resources*, Minnesota Public Utilities Commission Docket No. E002, E015, E017/CI-23-403, at 2 (February 8, 2024) [hereinafter, “DOC”]

² Minnesota Solar Energy Industries Association, *In the Matter of the Implementation of the New Distributed Solar Energy Standard Pursuant to 2023 Amendments to Minnesota Statutes, Section 216B.1691*, Docket No. E002, E015, E017/CI-23-403, Initial Comments, at 6 (February 8, 2024) [hereinafter MnSEIA].

³ Fifth National Climate Assessment, Chapter 2, Climate Trends, (November 14, 2023), <https://nca2023.globalchange.gov/> (offering a key message: The more the planet warms, the greater the impacts—and the greater the risk of unforeseen consequences (very high confidence). The impacts of climate change increase with warming, and warming is virtually certain to continue if emissions of carbon dioxide do not reach net zero (very high confidence). **Rapidly reducing emissions would very likely limit future warming (very high confidence) and the associated increases in many risks (high confidence** [emphasis added]). While there are still uncertainties about how the planet will react to rapid warming and catastrophic future scenarios that cannot be ruled out, the future is largely in human hands.”).

⁴ Minnesota Power, *In the Matter of the Implementation of the New Distributed Solar Energy Standard Pursuant to 2023 Amendments to Minnesota Statutes, Section 216B.1691*, Minnesota Public Utilities Commission Docket No. E002, E015, E017/CI-23-403, Initial Comments, at 5 ((February 8, 2024) (focusing

difference between figures “appears” to be a rounding error or that an estimate “appears” to be reasonable⁵ suggests some uncertainty about the determination. That said, we believe the uncertainty can be resolved with answers to these questions: What state agency conducts an audit of the utilities’ data submissions, when is the audit performed, and where can the audit results be found?

For a point of clarification, as we read the law, the DSES law does not prohibit the use of an amount of distributed solar energy greater than that required by the law. In fact, the relevant statutory provision requiring specified proportions of a utility’s total retail electric sales in Minnesota to be generated from solar energy generating systems calls for “at least” certain percentages based on the utility’s number of retail electric customers.⁶

3. Have the utilities provided reasonable proposals for how the Commission should approve utilities’ competitive bid process?

The CEA believe the proposals require some adjustments given the DSES requirements in the law and the urgency with which more clean renewable energy needs to be developed for Minnesota. The Xcel process, for instance, includes steps that are not applicable to distributed generation or otherwise require irrelevant additional information which can throttle the work of distributed generation developers.

We include the “Current Xcel Process” below and then offer some suggestions to improve the structure and define the process.

Current Xcel Process:

This track provides an independent auditor's report, use of a standard contract as the starting point in every bidding process, and a contingency plan in the event of an unsuccessful bidding process. The main steps of the process for requesting proposals are as follows.

A. The Commission issues a resource plan order indicating the size, type, and timing of the resources Xcel needs.

on an update to “excluded retail sales data” to determine its DSES obligations.)

⁵ DOC at 2 -3.

⁶ Minn. Stat. § 216B.1691, Subd. 2h(b).

B. The Commission –

1. Approves a standard contract to be used by independent power producers for the intermediate, peaking, and wind resources;
2. Requires requests for proposals for the intermediate, peaking, and wind needs identified in the order;
3. Requires Xcel to use an independent auditor to certify that the company used an unbiased process for obtaining and evaluating responses to the request for proposals;
4. Sets the timing for Xcel to file its proposal for each separate resource; and
5. Potentially sets the timing for completion of the resource acquisition process.

C. A targeted request for proposals for peaking, intermediate, or renewable resources is issued (consistent with any timing specified in the Commission order). The request for proposals includes the standard contract.

D. Bidders file their proposals with Xcel pursuant to the request for proposals.

E. Xcel files the contingency plan on the same date that bids are due.

F. Xcel makes selections and begins negotiations with the selected vendor.

G. Xcel files the Independent Auditor certification within 20 days of the selections. (Xcel would not file a “selection report” or similar filing but would proceed directly to negotiations.)

H. Within one year of issuing its request for proposals (or other date specified by the Commission),

1. Xcel files for approval of a proposed power purchase agreement with the selected vendor. The petition for the power purchase agreement must demonstrate that the proposed contract and its cost recovery would be

reasonable.

2. Alternatively, Xcel files a statement of reasons why the negotiations have not been successfully completed. Under the alternative, the Commission could decide whether to have negotiations continue, to have the contingency plan pursued, or consider some other option

I. If the Commission approves the power purchase agreement, the project would proceed to obtain any remaining permits, but a Certificate of Need would not be required pursuant to Minn. Stat. § 216B.2422, subd. 5.

J. Upon receipt of all needed permits, the project proceeds with construction.⁷

The current process outlined above can be improved. In its current form, the actual Xcel process creates undue burdens on DG developers because it has several unnecessary steps and does not appear to provide information that would be necessary for a successful RFP, such as information on upgrade costs and timelines. To improve the process to meet the solar requirements under the law, the CEA respectfully request the Commission:

- Critique each process step and evaluate its relevance and applicability to distributed generation and to strike and/or modify the process to facilitate the efforts to decarbonize the electricity sector serving Minnesota with clean renewable energy;

- Include a stakeholder meeting;

- Require reporting in 2025, including suggested revisions if the first RFP did not produce sufficient bids; and

- Call for another RFP with a negative check-off, including those suggestions based upon stakeholder feedback.

Lastly, with regard to process, the CEA agree with comments of Nokomis Energy:

⁷ Minnesota Public Utilities Commission, *Order Approving Plan with Modifications and Establishing Requirements For Future Filings*, Docket No. E-002/RP-19-368, Appendix A, at 1-2 (April 15, 2022).

None of the interested parties, whether they are utilities, regulators, or developers, has significant experience proposing, reviewing, or procuring distributed generation through competitive bidding processes. The best and quickest way to change that is practice. Thus, the procurement cycles should begin soon, evaluated each time for improvements, and continue on a regular cadence moving forward. This, along with more robust stakeholder engagement between procurement cycles, will lead to better proposals, greater cost savings, and more efficient deployment of clean energy throughout Minnesota.⁸

4. Have the utilities provided a reasonable proposal for how they will verify that the construction trade workers who constructed the solar energy generating system were all paid no less than the prevailing wage rate, as defined in section 177.42, and whose employer participated in an apprenticeship program that is registered under chapter 178 or Code of Federal Regulations, title 29, part 29?

The CEA have no additional comments at this time.

5. Should utilities report annually on their progress toward meeting the DSES in this docket? If so:
 - a. Can utilities' SES compliance progress reports serve as a model for monitoring DSES compliance progress?
 - b. What information should be included in these annual progress reports?
 - c. When should the first reports be due?

Yes, utilities should be required, at minimum, to report annually.

6. Should RECs retired for the DSES count toward any of the other standard obligations under Minn. Stat. §216B.1691?

No. The CEA agree with the DOC.⁹ The DSES is a distinct provision in the law. The aim of the law is to be additive. To use the RECs for any other obligation under Minn.

⁸ Nokomis Energy, *In the Matter of the Implementation of the New Distributed Solar Energy Standard Pursuant to 2023 Amendments to Minnesota Statutes, Section 216B.1691*, Docket No. E002, E015, E017/CI-23-403, Initial Comments, at 1 (February 8, 2024)

⁹ DOC at 7.

Stat. § 216B.1691 would be double counting and thereby reduce the efficacy of the law requiring even greater use of solar energy.

7. Are there other issues or concerns related to this matter?

Xcel makes a number of assertions regarding its belief about what will be needed to achieve the DSES requirement. Xcel asserts, for instance, by 2030 its DSES will require about 500 MW of new qualifying distributed energy resources; its ability to achieve a 3% DSES requirement is contingent on a number of factors including the DER hosting capacity of individual feeders and substations; and based on the estimates it set forth in six paragraphs, interconnection costs will increase.¹⁰

The CEA respectfully request the Commission consider the totality of the situation. On the one hand, Minnesota has firm requirements for utilities to decarbonize and use clean renewable energy. On the other hand, the current utility models and business basis may have a strong interest in preserving the status quo. As such, any assumptions about costs and presumed barriers to greater use of DG should be challenged so as to rapidly attain the clean energy requirements for utilities serving Minnesotans.

CONCLUSION

The CEA respectfully request the Commission consider these reply comments and approach this particular docket so as to take great care in evaluating how to maximize DG's market potential and efficient delivery to benefit Minnesota energy consumers. Such an approach is consistent with the law¹¹ and holds the greatest potential by which to rapidly decarbonize the electricity sector with clean renewable energy and thereby help to reduce the harmful effects of climate change. Further, this approach can boost economic development and benefit consumers in Minnesota.

¹⁰ Xcel Energy, *In the Matter of the Implementation of the New Distributed Solar Energy Standard Pursuant to 2023 Amendments to Minnesota Statutes, Section 216B.1691*, Minnesota Public Utilities Commission Docket No. E002, E015, E017/CI-23-403, at 4-5 (February 8, 2024)

¹¹ See Minn. Stat. § 216B.164, subd. 1 (stating “This section shall at all times be construed in accordance with its intent to give the maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public.”); Minn. Stat. § 216B.1611, subd. 1 (stating that purpose of interconnection standards is to promote “the use of distributed resources in order to provide electric system benefits during periods of capacity constraints”).