

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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Betsy Wergin	Commissioner

In the Matter of the Petition of Northern States Power Company, dba Xcel Energy, for Approval of Its Proposed Community Solar Garden Program

Docket No. E-002/M-13-867

Date: 5/18/2015

**COMMENTS OF THE MINNESOTA
SOLAR ENERGY INDUSTRY ASSOCIATION
RE: MAY 18TH COMMENT PERIOD**

INTRODUCTION

MnSEIA is a membership organization comprised of over 75 solar affiliated organizations. We represent installers, developers, electricians, manufacturers and other ancillary solar services.

COMMENTS

I. Clarification Of Most Recent MnSEIA Comments

In our April 30th Reply Comments we outlined our distaste for how Xcel intends to unilaterally reject certain “deemed complete” garden applications from its processing queue. We supported the Solar Garden Community’s request for expedited relief, and asked for comments to be considered after the deadline.

The MnSEIA board determined that Xcel’s April 28th reply comments were extremely critical to respond to. MnSEIA wanted to ensure that our members and other relevant stakeholders could have an opportunity to speak about the radical programmatic changes. But due to the time constraints, we have decided to issue a clarification so that our last comments are not interpreted to mean anything we did not intend. Our April 30th comments should be treated as solely against Xcel’s unilateral alteration of the program and its disregard for Commission precedent.

We understand Xcel’s frustrations and appreciate their discomfort with an uncapped process. But regardless of why Xcel plans to remove roughly 80% of the gardens from the queue, any programmatic alteration of that magnitude should not be permitted without reasonable

opportunity for comments and Commission approval.¹ Expedited relief is also still necessary to determine this issue's outcome prior to Xcel's proposed CSG program dismantling.

Our members agree that Xcel should be required to follow the Commission's Orders. But they diverge on some of the issues that will be coming before the Commission on June 25th. Regardless of what conclusions the Commission comes to on the outstanding issues, we ask that it consider, and require, Xcel to provide sufficient time for developers and Xcel to negotiate solutions to their disagreements prior to removing applications from the queue.

We are also willing to participate in additional SR*C working group meetings to facilitate negotiations on any of the outstanding issues.

II. Our Assessment Of The Other Remaining SR*C Action Items And How The Commission Should Determine The Outcome Of Each One.

i. Queue Transparency

We have been vocal in our support for a public queue process, whereby any developer can look to determine exactly how much capacity a given substation can take. Xcel has expressed during working group discussions that they have the ability to implement a non-public process and could implement a public process eventually.² Based on what Xcel staff stated during SR*C working group meetings, the only things preventing a public process for queue transparency appears to be Xcel's staff's unwillingness and Xcel's ability to improve its website in a timely fashion.

An available public queue process would allow developers to determine whether a substation can handle their garden project, and to avoid submitting futile applications for substation capacity that is no longer available.³ Xcel is concerned about the large co-located gardens, but part of the reason large project proposals exist is because developers are unsure of the engineering capacity

¹ In a similar statement located in a footnote from our last comments we argued "[t]hat's because in *most* cases, the economics of land contracts, project site development, equipment procurement economies of scale, new distribution lines etc. designed to host multiple 1-MW CSGs would likely fall apart if the developer was only allowed to interconnect a single 1-MW garden at that site." To more accurately articulate our understanding of the expected outcome, we should have stated "[t]hat's because, in *some* cases [...]". While it is possible Xcel's unilateral action will have an impact on most gardens, we cannot currently stand by that assertion without more information about the queue's content. We apologize for the error and we did not intend to mislead the Commission. Our mistake, however, does not diminish our concern about the unintended consequences that may stem from Xcel's unilateral action.

² See COMPLIANCE FILING – STAKEHOLDER MINUTES, XCEL ENERGY, DOCKET NO. E002/M-13-867, Doc. ID. 20155-110365-01 at 2-3 (5/12/15).

³ See COMMENTS, MINNESOTA SOLAR ENERGY INDUSTRIES ASSOCIATION, DOCKET NO. E002/M-13-867, Doc. ID. 20152-107619-01 at 8 (2/24/15).

limits for a given area. When faced with uncertainty about substation-specific capacity limits, developers tend to overestimate their project size, because they would rather get rid of a garden application later than risk losing a project to another developer lower in the queue order.

Having the ability to more accurately determine how much a substation can take, and how many people and megawatts of proposed gardens are ahead of a given developer will provide for more information and will shrink the number of proposed gardens in the queue.

We thus ask Xcel to begin publication of the public substation queue report as soon as possible, or for the Commission to order the same.

ii. RECs for Unsubscribed Energy

Xcel has offered 1-cent RECs for unsubscribed energy in SRC Working Group Meetings. But the developers could not agree amongst themselves on whether to accept the offer. Thus the issue will likely go before the Commission.

We would ask the Commission to require Xcel to pay at least 1-cent for unsubscribed energy.

iii. REC treatment for Made in Minnesota and Solar Rewards Gardens in years 11 through 25

In its April 28th comments the Department of Commerce laid out three decision options for the Commission to consider. For reference those options are stated here:

The Department offers three options for the Commission to consider: 1) make clear that the Commission's previously-set solar REC prices apply for RECs generated by solar gardens receiving incentives after year 10; 2) require solar garden operators to obtain an active account with the Midwest Renewable Energy Tracking System (M-RETS) and require Xcel to transfer RECs to the solar operator for their use or sale in the REC market; or, 3) allow the solar garden operator to determine whether to retain the RECs or sell them to Xcel.⁴

We would ask that the Commission select option 1. From a contractual standpoint it is significantly easier and more financeable if the REC rate stays the same throughout the entire duration of the contract. A clear decision on REC treatment will allow for small gardens, including rooftop gardens, to move forward with more confidence.

We believe an agreement will be reached with Xcel prior to the June 25th hearing. We will provide further information as the process continues.

iv. Engineering Process for studying transmission system impact if needed

We understand that, in response to a detailed developer-proposed engineering process, the company is working to develop and implement a written counter-proposal that allows for more flexible application by its transmission engineering department. We are optimistic that an

⁴ REPLY COMMENTS--REVISED, DEPARTMENT OF COMMERCE, DOCKET NO. E002/M-13-867, Doc. ID, 20155-110043-01 at 4 (5/1/15).

agreement will be reached with Xcel prior to the June 25th hearing.⁵ We will provide further information as the process continues.

v. Tool for developers to be able to request a “snapshot” of substation capacity and Section 10 interconnection applications

Xcel has articulated that it will provide a pre-application substation-capacity ‘snapshot’ report that is similar to what it has instituted in Colorado. We believe an agreement will be reached with Xcel prior to the June 25th hearing. We will provide further information as the process continues.

We appreciate Xcel’s willingness to help on this issue and hope the information will be sufficient for our developers.

vi. One-time CSG site location change for a legitimate reason

There are a number of legitimate reasons for why a CSG project may have to change locations after its S*RC application has been deemed complete.⁶ MnSEIA supports a one-time site location change that would not force a “complete” application to be retroactively deemed incomplete. Allowing an application to retain its “deemed complete” status creates greater certainty for developers and helps to lock in a rate.

vii. Improved cash management for S*RC deposits

Xcel is not a bank, and has expressed an unwillingness to provide basic cash-management services such as monthly account statements, non-comingled deposit accounts, and direct return of the deposit to the bank that loaned the deposit to the applicant. This creates several problems for our developers because lenders prefer to have bank-quality safeguards around the management, tracking, and flow of funds for monies that they lend out.

Having a bank hold the money in escrow and/or allowing reasonable requests for deposit assignment would create more certainty for project financiers.

Moving the deposits to a bank or escrow agent could be a relatively simple undertaking, would be consistent with common industry practice, and would substantially lessen the risk to those interested in helping finance the projects.⁷ Effectively, the only thing preventing Xcel from

⁵ The Commission, Xcel, and the Chamber of Commerce all recently endorsed the idea of increased cost certainty within Xcel's interconnection process. *See* February 6, 2015 Order Approving Interconnection Tariff Modifications (E-002/M-14-648) (requiring Xcel to provide "firm cost estimates to perform interconnection studies."). Note, we do not believe that a new Commission order is necessarily required for Xcel to improve its service level and/or performance of its important interconnection duties.

⁶ COMMENTS, SUNSHARE DOCKET NO. E002/M-13-867, Doc. ID. 20152-107634-01 at 5 (2/24/2015).

⁷ *See Id.* at 6.

making the move is that the current plan is already in place, and it doesn't see enough value in investing the minor time and effort required to make this programmatic shift; they feel there isn't enough in it for them without more information.⁸

We thus ask the Commission to direct Xcel to provide lender-requested cash management services for the S*RC deposits, or outsource the job to an appropriate third-party escrow agent.

viii. Marketing Regulations

In our last comments, we did not highlight one of the outstanding SR*C working group tasks that the Commission specifically requested the group explore. Setting up a process to handle and observe Marketing Regulations is still an action item requiring completion. But, at the time we last commented, no discussion had taken place on the issue.

In the May 6th SR*C meeting, however, MnSEIA suggested that we create a CSG marketing code-of-ethics that the entire industry could adopt. One challenge we have for the program is that there is no method for enforcement of non-MnSEIA members. As such, we proposed the idea of having MnSEIA membership, or membership to some listed trade association, become a highly desirable benefit. This could be accomplished through advertising on Xcel's website or other similar means.

The SR*C working group asked us to come back with a list of marketing guidelines prior to making a determination. Xcel and the other members have been very receptive and we expect it will be resolved shortly. We bring this issue up today because if we fail to find an appropriate solution in the next month, it may require a Commission determination.

As with all of the other issues, if the SR*C working group develops a solution then we will alert the Commission in a filed note.

⁸ See COMPLIANCE FILING – STAKEHOLDER MINUTES, XCEL ENERGY, DOCKET NO. E002/M-13-867, Doc. ID. 20155-110365-01 at 4 (5/12/15).