Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: January 31, 2013 .... **Agenda Item #**__5__**

Company: Xcel Energy (Xcel or the Company)

Docket No. **E-002/M-12-1278**

In the Matter of a Request by Xcel Energy to Issue a Renewable Development Fund Cycle 4 Request for Proposals and Petition for Approval of a Standard Grant Contract

Issue: Should the Commission approve Xcel's request to issue a Request for Proposals (RFP) to begin Cycle 4 of the Company's Renewable Development Fund (RDF)?

Staff: Susan Mackenzie ....(651) 201-2241

Relevant Documents

Xcel petition .... November 29, 2012
Newport Partners .... December 20, 2012
Metropolitan Council .... December 21, 2012
Department of Commerce .... December 21, 2012
MnSEIA .... December 28, 2012
Xcel reply .... January 11, 2013
Department of Commerce reply .... January 22, 2013

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Statement of the issue

Should the Commission approve Xcel's request to issue a Request for Proposals (RFP) to begin Cycle 4 of the Company's Renewable Development Fund (RDF)?

Background

On November 29, 2012, Xcel filed a notice of intent to proceed with the fourth funding cycle for the Company's RDF program. As part of the filing, the Company indicated that if no comments were offered by the Commission or the Department within a 30 day review period the Company would issue its Cycle 4 RFP.

On November 30, 2012, the Commission issued a notice seeking comments on the petition, including the proposed selection criteria, preference awards, process changes and use of updated standard contracts. The notice set out expedited comment periods.

On December 20, 2012, Newport Partners, LLC filed initial comments. On December 21, 2012, the Department of Commerce (DOC or the Department) and the Metropolitan Council filed initial comments. On December 28, 2012, the Minnesota Solar Energy Industries Association (MnSEIA) filed initial comments.

On January 11, 2013, Xcel filed reply comments. On January 22, 2013, the Department filed reply comments.

Parties' positions

Xcel's petition

Included with Xcel's notice of intent to issue the Cycle 4 RFP was a request for approval proposed RFPs and updated standard grant contracts for energy production (EP) and research and development (RD) projects. Xcel indicated that the statutory authority for the renewable development fund (Minn. Stat. §116C.779[1]) was modified in the last legislative session. As part of its petition, the Company provided a summary of the updated legislation. In addition, it provided a summary of the Cycle 3 lessons learned and an explanation of how these lessons will be applied in Cycle 4. Xcel explained that if the two standard grant contracts are approved by the Commission, the Company proposed to file only those completed contracts that deviate from the approved standard contracts.[2]

Background information. The RDF program was established in 1994 and the first grant funding cycle began in 2001. Since 2001, the RDF program has provided about $78 million for RDF

[1] Attached to these Briefing Papers.

[2] Under the current process, Xcel files all completed grant contract with the Department for compliance review. If the Department identifies issues with the negotiated grant contracts, it brings the issues to the Commission.

grant projects across three grant cycles and about $71 million for specific legislative mandates. The three grant cycles include:

- 2001 - Cycle 1 - $15.5 for 19 projects (11 research projects, 8 energy production projects)
- 2005 – Cycle 2 - $37 million for 29 projects (18 research projects, 11 energy production projects)
- 2007 – Cycle 3 - $22.6 million for 22 projects (17 research projects, 5 energy production projects)

RDF funding for legislative initiatives has included over $35 million for Renewable Energy Production Incentive (REPI) payments, $12.25 million for the Next Generation grant program, $13.5 million for the University of Minnesota Initiative for Renewable Energy and the Environment (IREE) and $6 million to date for Minnesota Bonus solar PV rebates.

In 2009, the Office of the Legislative Auditor initiated an evaluation of the RDF program and in 2010 submitted a report to the legislature. Hearings on the RDF fund followed, culminating in legislation in 2012 that provided clearer direction for the RDF program.

2012 RDF program legislation

Fund expenditure and Minnesota preference. The revised RDF statute includes specific language on how funds may be spent. Minn. Stat. §116C.779, subd. 1 (d) specifies that the fund may be expended only for the following purposes:

- to increase the market penetration within the state of renewable electric energy resources at reasonable costs
- to promote the start-up, expansion and attraction of renewable electric energy projects and companies within the state
- to stimulate research and development within the state into renewable electric energy technologies
- to develop near-commercial and demonstration scale renewable electric projects or near-commercial and demonstration scale electric infrastructure delivery projects if those delivery projects enhance the delivery of renewable electric energy

Minn. Stat. §116C.779, subd. 1 (f) explains that "In the process of determining request for proposal scope and subject and in evaluating responses to request for proposals, the public utility must strongly consider, where reasonable, potential benefit to Minnesota citizens and businesses and the utility's ratepayers." The statute also now requires that a request for proposal "for renewable energy generation projects must, when feasible and reasonable, give preference to projects that are most cost-effective for a particular energy source."

Commission approval. Previously, the RDF statute specified that fund expenditures could only be made after approval by order of the Commission. However, the 2012 legislation gives the Commission broader authority so that it may now "approve proposed expenditures, may disapprove proposed expenditures that it finds to be not in compliance with this subdivision or otherwise not in the public interest, and may, if agreed to by the public utility, modify proposed expenditures. The commission may approve reasonable and necessary expenditures for administering the account in an amount not to exceed five percent of expenditures." Minn. Stat. §116C.779, subd. 1 (e).

Advisory Board. The new legislation specifically defines the roles for Xcel and the RDF Advisory Board (referred to in legislation as the "advisory group"):

> The account shall be managed by the public utility but the public utility must consult about account expenditures with an advisory group that includes, among others, representatives of its ratepayers. The commission may require that other interests be represented on the advisory group. The advisory group must be consulted with respect to the general scope of expenditures in designing a request for proposal and in evaluating projects submitted in response to a request for proposal. In addition to consulting with the advisory group, the public utility must utilize an independent third-party expert to evaluate proposals submitted in response to a request for proposal, including all proposals made by the public utility. Minn. Stat. §116C.779, subd. 1 (f).

Xcel pointed out that the new language clarifies the roles of Xcel and the advisory group, as follows: "The utility should attempt to reach agreement with the advisory group after consulting with it but the utility has full and sole authority to determine which expenditures shall be submitted to the Commission for approval." Minn. Stat. §116C.779, subd. 1 (f).

Higher education institutions. Another new statutory provision is a request for proposals from Minnesota institutions of higher education. This request for proposals for research and development may be limited to or include a request to institutions located in Minnesota for multiple projects [authorized under paragraph (d), clause (3)], as follows:

> research and development . . . may be limited to or include a request to higher education institutions located in Minnesota for multiple projects . . . . The request for multiple projects may include a provision that exempts the projects from the third-party expert review and instead provides for project evaluation and selection by a merit peer review grant system. Minn. Stat. §116C.779, subd. 1 (f).

In order to implement this new statutory provision, Xcel included a request for proposals for institutions of higher education in Minnesota as part of its notice of intent/petition (see Attachment B, Xcel's initial petition).

Annual reporting. Under statute, Xcel "must annually, by February 15, report to the chair and ranking minority member of the legislative committees with jurisdiction over energy policy on projects funded by the account for the prior year and all previous years. The report must, to the extent possible and reasonable, itemize the actual and projected financial benefit to the public utility's ratepayers of each project." Minn. Stat. §116C.779, subd. 1 (i).

Project reporting. Xcel noted that there were requirements in the legislation for project reporting, as follows:

> A project receiving funds from the account must produce a written final report that includes sufficient detail for technical readers and a clearly written summary for non-technical readers. The report must include an evaluation of the project's financial, environmental, and other benefits to the state and the public utility's ratepayers. Minn. Stat. §116C.779, subd. 1 (j).
>
> Final reports, any mid-project status reports, and renewable development account financial reports must be posted online on a public Web site designated by the commission. Minn. Stat. § 116C.779, subd. 1 (k).
>
> All final reports must acknowledge that the project was made possible in whole or part by the Minnesota renewable development fund, noting that the fund is financed by the public utility's ratepayers. Minn. Stat. § 116C.779, subd. 1 (l).

Xcel reviewed all previous Commission Orders regarding the RDF program (see Attachment E, Xcel's petition) and was unable to identify any conflicts between previous Orders and the 2012 RDF legislation. However, Xcel observed:

Fund purpose: The Commission's 2006 RDF Order adopted the Advisory Board's proposed mission statement for the renewable development fund.[3] However, the new RDF legislation specifies that funds may be spent for specific purposes and adds one purpose not included in the mission statement adopted in 2006. Specifically, Minn. Stat. §116C.779, subd. 1(d) (4) provides that RDF funds may be spent "to develop the near commercial-demonstration of renewable electric projects or electric infrastructure delivery projects if those delivery projects enhance the delivery of renewable electric energy." Xcel's proposed RFP for Cycle 4 implements this new directive by allowing energy delivery projects to bid for RDF funding.

Other new statutory language directly authorizes the use of RDF dollars, to "promote the start-up, expansion and attraction of renewable electric energy companies in the state."[4] Xcel interpreted the charge "to promote" to include providing loans and grants and other start-up funding to renewable energy companies within Minnesota, including manufacturing enterprises. Given the direct guidance of the legislature to pursue the use of RDF funds to support renewable energy companies, including manufacturing companies, Xcel plans to continue to explore such options. However, Xcel noted the RDF program is not currently organized or prepared to act as

[3] Order issued October 5, 2006, in Docket No. 00-1583, Ordering Paragraph 9. Mission Statement: "The overall purpose of the fund is to increase the market penetration of renewable energy resources at reasonable costs in the Xcel Energy service territory, promote the start-up, expansion and attraction of renewable energy projects and companies in the Xcel Energy service territory and stimulate research and development into renewable technologies that support this mission."

[4] Minn. Stat. §116C.779, subd. 1(d) (2).

a business incubator or to provide debt financing to manufacturing companies. Therefore, the Cycle 4 RFP will continue to focus on supporting renewable electric energy technology projects.

Advisory Group. The Commission has issued three Orders specifying the number and composition of the current, seven-member RDF Advisory Group.[5] The new law specifies that this group must include ratepayer representatives and other representatives required by the Commission. Xcel does not see the need for the Commission to take further action regarding the composition of the Advisory Group. However, the Company at a later time may suggest additional ratepayer representatives to serve on the group.

Reporting. In 2001, the Commission issued an Order requiring the submittal of a biennial report to the Commission and the legislature.[6] New legislation requires the submission of an annual report to the chairs of the Senate and House energy committees. Xcel intends to use the annual report to the legislative committee chairs and ranking members as fulfillment of the Commission's Order for a biennial report. Beginning with the annual report, due no later than February 15, 2013, Xcel explained that a general financial statement will be included in the report.

Xcel proposed that, as directed by the new legislation, the Commission may wish to designate the Company's RDF web site (www.xcelenergy.com/rdf) as the public site for posting RDF project reports and financial information. New legislation also requires that all final reports must include a clear written summary for non-technical readers.

Xcel has taken a number of steps to improve the dissemination of RDF project information, including final reports that are clearer and project information sheets. However, to ensure compliance with the 2012 legislation, Xcel will include language in the Cycle 4 standard grant contracts specifying that final reports must provide a general project summary in for non-technical readers.

Commission approval. Xcel clarified that language in the 2012 legislation allowing the Commission to approve or disapprove of fund expenditures [subd. 1 (e)] applies only to project grant awards and does not affect the Commission's authority to modify the Company's filing for approval of the annual RDF true-up report and rate rider factor.

Cycle 3 lessons learned

Xcel believes overall the RDF Cycle 3 was successful. However, Xcel identified certain improvements that could be made to ensure greater success in future funding cycles.

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[5] In Docket No. 00-1583, the Commission established a four-member Board consisting of two environmental community representatives (April 20, 2001 Order). The Board was expanded to five members with the addition of a representative from the Prairie Island Indian Community (August 7, 2003 Order), and was expanded to seven members with the addition of a residential and a commercial ratepayer representative (October 5, 2006).

[6] Docket No. 00-1583, Order dated April 20, 2001.

- *Project completion schedule*. Xcel proposed to have a final end-date by which the success or failure of a project can be assessed. In the updated standard contracts, Xcel included a provision that allows RDF Administration to terminate a contract if a project is not completed within three years of the originally scheduled contract end date. If this option is exercised and the grant award is rescinded, the project funds will then be available in the next grant cycle. Xcel believes this change will help to ensure that projects are completed in a timely fashion, lead to more capable project sponsors, not tie up funds that could be used for other projects and put fewer RDF dollars at risk as part of failed projects. In addition, Xcel proposed to provide a preference to all project proposals for Energy Production (EP) that are willing to accept full grant payment at the time of project completion. This change will help motivate contractors to complete projects on time, bring the RDF grant structure more in line with federal grants, and help to ensure that financially viable entities are selected. Providing a scoring preference for payment upon completion will remain a preference and not a project requirement.

- *Contracting entities and co-applicant conflicts*. Xcel proposed that going forward it may not be prudent to award a grant to co-applicants unless the two parties have already resolved their contractual roles and responsibilities. Therefore, in the Cycle 4 RFP for RD and EP projects there is language advising applicants that Xcel will only contract with the entity applying for the project and that applications from co-applicants will not be accepted. To the extent that a project is predicated on a key third-party partner, Xcel will require some form of contractual guarantee from the third-party to help ensure that a project is properly managed and completed. Xcel will contract with an entity specifically formed for generation projects but only under specific conditions.

- *Power Purchase Agreement (PPA) issues*. Xcel made significant changes to the standard form grant contract and the RFP in order to address the issue of PPA pricing changes for EP projects. Following Cycle 3, the Company concluded that: (1) it may be administratively more expedient to provide a preference for energy production proposals designed for self-use only, (2) RDF grant contracts should include language that holds the Company harmless if parties are not able to agree upon a PPA price, and (3) it may be prudent to offer a larger grant award sufficient to cover project costs to ensure a PPA price more in line with current market pricing. In short, the RDF fund should not fund project costs beyond that which the project sponsor can finance privately to accommodate a reasonable and prudent PPA price. Therefore, Xcel developed two standard form contracts to better account for the differences that arise with EP and RD projects. The Cycle 4 EP grant contract contains language that holds Xcel harmless if a project sponsor and Xcel cannot agree to terms of a PPA. Language in the standard grant contract for EP projects make clear that the RDF administration function of the Company and the PPA function of the Company are considered separate contracting parties. Also, the proposed RFP provides guidance to bidders that Xcel considers the project pricing proposed in a bid to be binding upon the awardee and will only consider entering into a PPA with the winning bidders at the pricing proposed. Lastly, the proposed RFP provides guidance to bidders that they should request a grant award large enough to ensure that their PPA pricing is in line with reasonable pricing as measured against a benchmark of the Company's avoided costs.

- *Project sponsor administrative costs.* For Cycle 4, Xcel proposed to cap administrative costs for both RD and EP projects at 25% of total project costs. Xcel recognized that for institutions of higher education proposed projects will have to be administered within their own institution. It therefore proposed an administrative cap of 35% for these projects.

- *Reserve project options*. In Cycle 3, the Commission approved 22 projects and two reserve projects. Both reserve projects (the Best Power/St. John's solar PV project and the MN DNR solar PV project) were able to move forward due to the voluntary decision of other grant awardees to "return" their grant award. The reserve project option worked well and Xcel plans to propose two or more reserve projects in Cycle 4.

- *Project sponsor capabilities*. In Cycle 3, the Project Team Qualifications criteria included: (1) an evaluation of project team structure, (2) an evaluation of team member skills, and (3) experience and knowledge. Team member skills were assigned a more significant weight than all but one of the core criteria. Xcel believes institutional or organizational factors may be just as important as key personnel. Therefore, for Cycle 4, Xcel adjusted scoring weights to emphasize team member qualifications, measurable goals and management strategy.

- *Standard grant contract approval*. Under the current process, once a grant contract is negotiated with a project sponsor, Xcel submits the contract to the Department for compliance review. The DOC is required to provide compliance approval within 30 days. If the DOC recommends approval no further action is required. No grant activity may commence prior to the DOC issuing a letter recommending compliance approval. Xcel has proposed to change this process and for Cycle 4 submitted standard form grant contracts for EP and RD. These contracts contain standard terms and conditions for the administration of a particular project and the payment of a grant. These standard form contracts provide for attachments that specifically describe scope of work, project budget, insurance requirements and additional terms and conditions that may be unique to a particular project. Xcel believes that the standard terms and conditions should be universally applicable to all projects and are those terms and conditions required to ensure the project is appropriately managed and ratepayers are reasonably protected. Xcel proposed that if a contractor signs the standard contract without changes, finalized grant contracts will no longer be filed with the DOC for compliance approval. If any material changes are made to the standard contract, Xcel will submit the modified contract to the DOC for final compliance review.

Xcel is not proposing the same process for grants awarded to institutions of higher education. Instead, to provide the maximum flexibility for higher education, Xcel did not prepare a standard form contract for these programs as each proposed project will be significantly different. However, once a proposed higher education project is approved, Xcel will work with the selected institution to develop a grant contract and once a program contract is completed, Xcel will submit the contract to the DOC for review and compliance approval.

- *Intellectual property*. Project sponsors are concerned about their ability to monetize inventions resulting from the RDF research and development projects. Often these projects are financed only partly by the RDF fund. Xcel believes addressing these interests will benefit all RDF stakeholders. Therefore, Xcel proposed that royalties generated in conjunction with the subject invention be shared between the project sponsor and the RDF fund. Because each project is different (and may have several funding sources), the Cycle 4 RFPs do not require a certain percentage split. Instead, each bidder must propose an appropriate sharing percentage and provide a justification for the percentage proposed. Xcel proposed to provide a preference for those proposed projects that have a high likelihood of being monetized and a preference for those project sponsors that propose the most generous royalty sharing.

Cycle 4 Request for Proposals (RFP)

Xcel explained that its Cycle 4 RFP reflects the new 2012 legislation and incorporates the lessons learned described above. For Cycle 4, Xcel proposed to make available a total of up to $30 million for projects that fall within the following broad categories:

- near commercial-scale demonstration projects that produce and/or deliver renewable electric energy
- renewable energy projects that will increase the market penetration of electric energy resources within the state
- projects to stimulate research and development into renewable energy technologies within the state
- research programs that may be proposed by Minnesota institutions of higher education

As noted, the Company is proposing to issue two RFPs. The first will solicit bids for energy production (EP) and research and development (RD) projects. The second will solicit renewable energy research and development programs from Minnesota institutions of higher education.[7]

[7] RFPs are included in Xcel's initial petition as Attachments A and B.

The Company also proposed new standard form grant contracts[8] and a change in the compliance review process used for grant contract approval.

Selection process and criteria

Xcel proposed a modified selection process that reflects both past Commission Orders but also 2012 legislation. The Company provided the following discussion of selection criteria and preferences:

- the overall goal of Cycle 4 will be to encourage the: (1) development of renewable energy projects that are otherwise unable to secure public and private financing sufficient to proceed with development, and the (2) advancement of new technology that when feasible and reasonable are most cost-effective for a particular energy source

- the Cycle 4 RFP will focus on near-commercial energy production technologies that demonstrate biomass-based generation[9], small wind technology (less than 1,000 kW), performance testing of innovative wind technology, solar PV systems (between 100 kW – 1,000 kW), solar electric systems, hydroelectric power, and anaerobic digester systems

- projects that use non-agricultural residue for a feedstock such as yard waste and food waste will receive a preference; projects that use agricultural crop residue are eligible but will not receive a preference

- a preference will be provided for projects within the Energy Innovation Corridor and for projects supported by the Prairie Island Indian Community

- energy production (EP) projects developed for self-generation may be located anywhere within the states of Minnesota or Wisconsin; however, EP self-generation projects within Xcel's service territory will receive a preference compared to projects outside the Xcel service area

- energy production (EP) projects that wish to sell power to Xcel will need a power purchase agreement (PPA) with the Company, and Xcel will place a more stringent limit on the energy price to be included in the PPAs than in previous grant cycles

- further deployment of solar PV technology may feature a performance based approach and Company-owned systems

- Xcel anticipates allocating more funding toward energy production (EP) projects than electric infrastructure delivery projects but it reserves the right to adjust these allocations depending on the responses received to the Cycle 4 RFP

[8] Standard form grant contracts are included in Xcel's initial petition as Attachments C and D.

[9] Biomass as defined by Minn. Stat. 216B.1691, subd. 1.

- there is no maximum grant amount but cost-sharing is encouraged
- all renewable energy credits generated by a Cycle 4 project will be owned by Xcel
- Cycle 4 RFP will focus on the demonstration of near commercial projects that more efficiently deliver renewable electric energy

RFP for research funding for Minnesota institutions of higher education

Xcel plans to issue a separate RFP for projects for institutions of higher education.[10] The intent of the RFP is to have the applicant propose a process by which they will identify, evaluate, select, and oversee research initiatives that fit within the mission of the RDF. The higher education RFP includes the following:

- higher education institutions may request multi-year funding up to a maximum of three years. Xcel reserves the right to recommend less than the dollar amount and number of years requested by a higher education institution, as well as to place a cap on facility and administrative costs
- RDF funding for higher education institution research endeavors are limited to renewable electric energy
- program activities that are not directly research-related will be permissible but they will count against the indirect and administrative cost cap of 35%
- indirect costs for higher education projects are capped at 35%
- there is no cap on the grant that may be requested but the block grant timeframe is limited to three years
- progress reports will be required at regular intervals and will be posted on the RDF web page

Next steps

Xcel intends to issue an RFP to retain an external, independent consultant to assist in the review and scoring of projects seeking Cycle 4 grant funding. Once Cycle 4 proposals are received, Xcel anticipates a 60 to 90 day period to review and recommend specific projects and to prepare the necessary filing for consideration by the Commission.

[10] As noted, Xcel has not prepared a standard form contract for higher education RFP as it expects each proposed program to be significantly different. However, once the higher education institution RFP has been issued and contracts have been negotiated, Xcel will submit the contracts to the Department and the Commission for review.

Department of Commerce (Department or DOC)

On December 21, 2012, the Department filed comments on Xcel's petition, including the proposed grant contracts, selection criteria and preference awards for Cycle 4.

Grant contracts. The Department compared the proposed standard grant contracts for EP and RD projects to those used in Cycle 3. Based on this review, it concluded that both are an improvement and provide additional protection to Xcel and its ratepayers in comparison to Cycle 3.[11] The DOC recommended approval of the standard form contract for EP projects.

For the standard form grant contract for RD projects, the DOC asked that Xcel explain in reply why the section on "March-In Rights"[12] was deleted. The DOC questioned why Xcel would not retain this right on behalf of ratepayers and withheld its approval of the RD standard grant contract until Xcel addressed this point.

Scoring approach. The Department noted that, while the selection criteria[13] are similar to those used for Cycle 3, the Cycle 4 RFP does not contain an explicit scoring approach. The DOC believes that the proposed scoring approach does not provide a sufficient level of clarity to allow the Commission and bidders to understand how projects will be scored.[14]

Xcel's proposed scoring approach relies on five broad categories:

- Project Method, Scope, and Deliverables
- Technical Requirements
- Management Team, Schedule and Cost
- Potential Benefits to Minnesota and Ratepayers
- Preferences

The DOC explained that each of the first four categories is assigned an approximate scoring weight, with a total weight of 100%. However, the "Preferences" category is separated and not assigned any scoring weight. As a result, it is not clear how this category would be used in ranking and selecting projects.

Moreover, it is not clear how the scoring would be applied within each category. For example, scoring for the subcategories "Team Structure" and "Energy Pricing" is not clear. The only

[11] The Department provided a list of the differences between the proposed standard grant contracts and those used in Cycle 3 on pages 2-3 of initial comments.

[12] The "March-In Rights" section of the standard contract assigned Xcel all rights to an invention if the inventor fails to apply for a patent in a timely fashion or does not take effective steps to practically apply the invention.

[13] See "Technical Scoring Process," Section XI of the proposed RFP.

[14] The DOC provided the scoring used in Cycle 3 and that proposed for Cycle 4 in Attachments 1 and 2 of initial comments.

information is that the general category to which these subcategories belong (i.e. "Management Team Schedule and Cost") is assigned a weight of about 15%.

The DOC understands the need for flexibility and the fact that the scope of potential projects is difficult to define given their experimental nature. Allowing a broad range of projects to be considered is important. Also, the DOC recognized that recent revisions to the RDF statute may shift more decision rights to Xcel, permitting it to use more of its own judgment in the final selection of projects.

However, the DOC argued that the Cycle 4 process should be as transparent as possible for the following reasons:

- Transparency helps ensure the process is fair and reasonable. Showing clearly upfront how scoring works and what weight or bonus will be applied for preference criteria is part of a fair and reasonable process.
- Transparency will provide signals to potential applicants of the relative importance of various aspects of the proposed projects.
- Unspecified scoring makes it difficult for an independent third party hired to evaluate proposals to provide an objective ranking of projects. Without transparent scoring criteria, further documentation will be required to support what might appear to be a subjective selection process.
- Unspecified scoring will make it more difficult for the Commission to assess the reasonableness of Xcel's final selection.

For these reasons, the Department recommended that Xcel be required to include a scoring approach with the same level of clarity as that provided in the Cycle 3 RFP.

Lastly, the Department recommended that Xcel be required to fully describe all of its preference criteria in one place in the proposed RFP.

Newport partners, LLC

Newport Partners, LLC is the majority owner of Silicon Energy, a Minnesota manufacturer of solar photovoltaic (PV) modules. Silicon Energy came to Minnesota under the legislative initiative designed to entice manufacturing and jobs to Minnesota. Part of this incentive as directed by the legislature was to come from the Xcel RDF account. Given this, Newport Partners is surprised that Xcel did not make it a priority in Cycle 4 to increase renewable solar market penetration for its consumers. Specifically, Newport Partners is concerned that there is no provision under the proposed RFP to continue to expand the Made in Minnesota Solar Bonus program.

Newport Partners is concerned that all decisions in the RDF process appear to be controlled by Xcel. It commented:

> Our experience with the Company [Xcel Energy] in regards to the administration of the Solar Rewards and Made in Minnesota Solar Bonus program has been their unique ability to tune out our concerns as a solar manufacturer and the concerns of the solar installer community.

Newport Partners noted that Xcel was easy to work with during the legislative session and believes there is common ground for promoting renewable solar market penetration for consumers and for focusing on manufacturing jobs in Minnesota. It asked that the Commission to require Xcel to open the RFP process to include an expansion of the Made in Minnesota Bonus solar program so as to increase solar market penetration.

Minnesota Solar Energy Industries Association (MnSEIA)

MnSEIA believes there are RFP guidelines that should be modified to more clearly follow the legislative intent of Minn. Stat. §116C.779. It provided the following comments:

- Promoting Minnesota renewable electric energy companies was a central piece of 2012 legislation and should receive a clearly stated preference for RDF project funding in order to fulfill the legislative intent. Although Xcel has provided a specified preference for projects such as the Energy Innovation Corridor, which are not stated in Minn. Stat. §116C.779, it has not provided a preference for projects that use products and technology from Minnesota companies despite the stated intent in Minn. Stat. §116C.779, subd. 1(2): "to promote the start up, expansion, and attraction of renewable electric energy companies within the state."

- The RDF Cycle 4 RFP should be clarified to enable Minnesota distributed self-generation projects outside of Xcel's service territory to be eligible for RDF funding. While MnSEIA believes a preference for RDF projects within Xcel's service territory as stated in the RFP is appropriate to show benefit to Xcel ratepayers, it requested that the RFP be amended to state, as Xcel does on page 21 of its filing, that: "Energy Production Projects developed for self-generation may be located anywhere within the state of Minnesota and Wisconsin, but projects within Xcel service territory will receive a preference compared to projects outside our service area." MnSEIA noted this statement contradicts the 5th bullet point on page 8 of Xcel's proposed RFP, where Xcel states that "Projects developed for self generation must be located in Xcel Energy Minnesota or Wisconsin Service Territory." This statement (on page 8 of the RFP) should be amended to conform to the language used by Xcel on page 21 of its filing referenced above.

- Given the directive of Minn. Stat. §116C.779, subd. 1 (f) that RDF funds should benefit Minnesota citizens and businesses, as well as ratepayers, MnSEIA requested that any preferences for RDF funding be limited to those projects within Xcel's Minnesota service territory, and exclude a preference for projects in Xcel's Wisconsin service territory.

- The proposed RFP limits solar PV projects to those ranging in size from 100 kW to

1,000 kW. However, Minn. Stat. §116C.779 does not place such a limitation on the size of solar projects. MnSEIA is aware of several potential RDF project proposals under development including a 1.25 MW project by the Metropolitan Council at its Blue Lake Treatment plant that would exceed the 1 MW limit being proposed by Xcel. Therefore, MnSEIA requested that the RFP criteria be revised to allow for solar PV projects up to 2.5 MW.

- During the 2012 legislative session, the legislature discussed revisions to Minn. Stat. §116C.779, giving particular attention to the use of RDF funds for solar PV projects for schools and other government and non-profit facilities. The legislature noted that RDF funds could reduce energy costs for taxpayer funded facilities and provide financing for solar PV projects on government and non-profit owned buildings, which are not eligible for federal investment tax credits and depreciation that normally reduce the costs of solar projects to private owners. While there was no specific funding designation for RDF solar projects on public buildings, failure to provide funding for these projects could limit inclusion in the mix of RDF funded solar projects. MnSEIA requested that the proposed RFP be amended to include a preference for energy production (EP) projects on government and non-profit owned facilities, in the same way that preference is being given to projects within the Energy Innovation Corridor.

- MnSEIA commented that the language in the proposed RFP on how an RDF grant recipient may work with a third party in developing and funding an energy production (EP) project is unclear. MnSEIA requested that the proposed RFP be clarified so that it is clear that government and non-profit organizations that receive RDF funds may enter into agreements with third party solar developers, using RDF funds as part of the project funding source without restrictions by Xcel, apart from the requirement that all renewable energy certificates (RECs) be retained by Xcel.

  Several government and non-profit organizations have been working with third party solar developers to develop solar PV projects that allow the third party private partner to take advantage of federal tax incentives and allow the government partner in turn to reduce its cost of the solar project, similar to what is being done in other states.

- MnSEIA noted that the proposed Cycle 4 RFP states that up to $30 million in total will be available for EP and RD projects. Up to $10 million will be available for higher education institutions for R&D. However, no guidance is provided on the allocation of the $30 million between EP and RD projects performed outside of the institutions of higher education. To more closely follow the legislative intent of Minn. Stat. §116C.779, Subd. (1) (f), and to consider the "potential benefit to Minnesota citizens, businesses, and Xcel ratepayers," MnSEIA requested that the RFP be amended to state that a minimum of $20 million will be allocated to energy production projects; allocating $20 million of the Cycle 4 RDF funds to EP projects will provide immediate and direct benefits in promoting Minnesota's renewable electric energy companies, a legislative directive in Minn. Stat. §116C.779.

Metropolitan Council

The Metropolitan Council commented that it may apply for funding in Cycle 4. It provided the following comments on the draft RFP:

- The proposed schedule will take about five and half months for project owners to learn if they will be receiving funds from the RDF. The Metropolitan Council recommended accelerating the schedule. Given the significant funding levels, the RDF funds could make the difference in the willingness of project sponsors to proceed. The Metropolitan Council believes the proposed schedule could delay projects and result in projects missing the 2013 construction season.

- The Metropolitan Council also suggested the RFP should provide a strong preference to Xcel customers applying for funds to reflect the electrical bills paid by these applicants over the past three years.

Xcel's reply comments

On January 11, 2013, Xcel filed reply comments. It responded to all the parties who submitted initial comments. Xcel agreed to some of the proposed changes and filed revised red-lined RFPs incorporating changes the Company found to be reasonable.[15] In some cases, the Company clarified the intent of the RFP without making any specific changes.

Xcel reply to the Department

March-In Rights section. The DOC asked Xcel to explain why it had deleted the March-In Rights section from the standard grant contract for RD projects. Xcel explained that it deleted this section but added a royalty sharing mechanism in its place. Under the proposed standard contract the Company will still retain a no-cost, non-exclusive, irrevocable and royalty-free right to use any invention developed as part of an RDF grant project. Ratepayers will continue to receive this potential benefit regardless of who owns the patent.[16] Xcel decided to exclude the March-In Rights provision in exchange for royalty sharing based on its experience over the past 10 years and the significant difficulty Xcel would face exercising such rights.

Xcel explained that it does not have the knowledge required to fully understand the technical and compliance nature of the involved research. This knowledge is needed in order to submit and defend a patent application. Also, there are significant costs associated with the exercise of march-in rights. Costs may include filing the patent, defending the patent, patent infringement suits, and managing and marketing the patent. The Company believes a pursuit of patent royalties should be a less expensive option and achieve the same benefit for ratepayers.

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[15] See Attachment A of Xcel's reply comments that contain the revised red-lined RFPs.

[16] RDF project costs for RD projects are not recovered from ratepayers in North or South Dakota.

Scoring approach and preference criteria. The DOC asked for more clarity in how scoring would be applied and calculated. Xcel responded that it does not believe it is necessary to include a scoring system in the RFP as the information requested for each proposal remains the same with or without a scoring methodology delineated in the RFP. Moreover, Xcel indicated that the Company will use an independent consultant to develop a scoring system and review all Cycle 4 proposals. The scoring system developed by the consultant along with the scoring results will be part of the final selection report to be approved by the Commission.

Regarding preference criteria, Xcel agreed with the Department's suggestion that a complete list be available in one place within the RFP. Therefore, Xcel revised the RFP to include a complete list of preference criteria in two places (pages 4 and 30).[17]

Xcel reply to the Metropolitan Council

Cycle 4 schedule. The Metropolitan Council proposed that Xcel accelerate the Cycle 4 schedule so that projects do not miss the 2013 construction season. Xcel agreed to move quickly to review and recommend projects but noted that a thorough, fair, transparent and consistent process is important. The Company did not propose to change the proposed schedule. Xcel noted that the revised grant approval process, if approved by the Commission, should enable a grant recipient to initiate projects sooner than in past funding cycles.

Customer preference. The Metropolitan Council proposed that preference be given to customers based on their last three years of electrical bills so as to place emphasis on projects from customers who contribute more to the RDF fund through rates. Xcel explained that in previous award cycles a $2 million cap was place on grant awards. Cycle 4 does not impose a cap, and this will open the door for larger projects to be submitted by commercial and industrial customers. Beyond this provision, Xcel does not believe it is appropriate to provide a preference based on the dollar amount of a customer's monthly bill.

Xcel reply to Silicon Energy (Newport Partners)

Solar market penetration priority. Newport Partners commented that priority should be provided for those projects that increase solar market penetration. Xcel explained that the RDF program is designed to support all forms of renewable energy technology; however, the marketplace should determine which specific technology offers the greatest potential at this time. The Cycle 4 RFP places emphasis on solar PV generation between 100 kW - 1,000 kW and Xcel anticipates a significant number of proposals for solar PV projects in response.

Minnesota Bonus Solar Rebate program. Newport Partners proposed that Xcel use the RDF funding to expand the Minnesota Bonus Solar Rebate program. Xcel responded that the legislature has approved $21 million from the RDF program for Minnesota bonus program for solar rebates through fiscal year 2015. Whether this program will continue beyond that time will

[17] Due to the consolidation of these preferences and the logistics of executing them, Xcel had to make additional minor corresponding changes in the RFP (see pages 5, 13 and 30).

be determined by the legislature. In short, there is already a $21 million carve-out of RDF funds for the Minnesota solar bonus program. Along with the dollars that the Company has dedicated through CIP for the Solar*Rewards program, Xcel does not see the need to further expand the program at this time..

Xcel reply to Minnesota Solar Energy Industries Association (MnSEIA)

Minnesota preference. MnSEIA proposed that the RFP give a preference to products and technologies from Minnesota companies, noting that this was a core piece of the 2012 legislation. Xcel agreed to work with stakeholders to address this goal in its Cycle 5 RFP. However, given Xcel's experience with the Minnesota Bonus Solar program, it is difficult to define exactly what constitutes a product made in Minnesota. Attempting to include this preference in the Cycle 4 RFP would either delay issuance or create issues during the proposal review, selection and implementation.

Project locations. MnSEIA proposed that Xcel clarify that self-generation projects may be located outside of Xcel's service territory. Xcel acknowledged that there was inconsistency between pages 8 and 21 of its filing. It clarified that self-generation projects may be located anywhere in Minnesota and Wisconsin even if outside of Xcel's service territory. However, Xcel noted projects within its service territory will receive a preference compared to projects outside the Xcel service area.[18]

MnSEIA also proposed that any preference for RDF funding be limited to those projects within its Minnesota service territory and that Xcel exclude a preference for projects located in its Wisconsin service territory. Xcel responded that Wisconsin ratepayers contribute through rates to the RDF program and to exclude these ratepayers would be unfair.

Solar PV project size. MnSEIA recommended that the RFP criteria be revised to allow for solar PV projects up to 2.5 MW. The Company pointed out that the RFP does not preclude a project sponsor from proposing a solar PV project larger than 1 MW. However, RDF funding is limited to the cost of a 1 MW project in order to maximize the total number of grant awards in the case of a large number of worthy projects proposals.[19]

Schools, government and non-profit organizations. MnSEIA recommended a preference be provided for energy production (EP) projects on government and non-profit owned facilities. Xcel agreed that this recommendation has merit. It proposed to amend its Cycle 4 RFP to include a preference for projects seeking a solar PV grant if the project is sponsored by a K-12 school or local unit of government. Xcel believes that providing a preference for K-12 schools and local units of government has merit for the following reasons:

- such entities generally do not have funding within their limited budgets for renewable electric energy projects

[18] Staff did not find a specific revision to the RFP in response to this request for clarification.

[19] Staff did not find a specific revision to the RFP in response to this request for clarification.

- projects at public facilities will provide educational opportunities and increase public awareness of the benefits of solar electric energy
- solar PV systems at schools and local units of government should help reduce their energy costs and provide direct benefits to a great number of ratepayers

MnSEIA also suggested that government and non-profit organizations that are awarded funds be permitted to enter into third-party arrangements, using RDF funds as part of the project funding without restrictions by Xcel (other than the requirement that Xcel owns all RECs). Xcel responded by explaining that under the terms of the standard contract, Xcel allows third-party arrangements but they must be consistent with existing statutory provisions such as Minn. Stat. §216B.02, subd. 4, and applicable Company tariff requirements such as interconnection agreements (Minnesota Electric Rate Book, Section 10).

Funding allocation. MnSEIA proposed that Cycle 4 be modified to state there will be a minimum of $20 million allocated for energy production (EP) projects. Currently, Xcel proposed that $30 million be made available for EP, RD and higher education projects (with a limit of $10 million for higher education programs). Xcel noted that in past grant cycles there was a 60/40 target allocation split between EP and RD projects. However, the 2012 legislature established two new RDF funding categories: renewable energy delivery systems improvements, and a Minnesota higher education block grant component. Therefore, Xcel is less able to forecast what kind of response will be received from the Cycle 4 RFP (i.e. number of proposals, dollar request, quality of ideas, etc.). Xcel believes establishing a target allocation for EP projects would be arbitrary. However, consistent with the overall intent of the 2012 legislation, Xcel will place a significant emphasis on energy production projects.

Department of Commerce reply comments

On January 22, 2013, the DOC filed reply comments indicating that Xcel had provided a reasonable justification for excluding the March-In Rights section in the RD grant contract. Also, the DOC noted that Xcel corrected the inconsistencies in the description of projects that would meet the preference criteria and provided a complete list of preference criteria at two places in the revised RFP. However, the DOC commented that Xcel failed to address the DOC concerns surrounding the proposed scoring method (see DOC initial comments). As a result, the DOC continued to recommend that Xcel be required to use a more transparent scoring approach with the same level of clarity as the scoring approach used in Cycle 3.

Staff discussion

Notice of intent to issue RFP

Xcel filed its notice of intent to issue the Cycle 4 RFP such that if neither the Commission nor the Department offered comments, the Company would issue the RFP within 30 days. Alternatively, Xcel indicated that if the Commission wished to approve the petition, it would place a hold on the Cycle 4 RFP until the Commission could take action.

In previous RDF funding cycles, the Commission has approved selection criteria prior to Xcel filing a draft RFP (with a 30-day review period and issuance if no comments are received). Since Xcel's notice of intent included revised preference criteria, a modified scoring system, draft RFPs, revised grant contracts and a modified process for grant contract review, staff took steps to issue a notice seeking comments on the entire petition.

The last RDF funding cycle was completed in 2007 and there is now $30 million in the fund available for new projects. For a variety of reasons, RDF stakeholders, including potential bidders, are anxious to begin the next funding cycle. Cycle 4 is based on a February 11, 2013 issuance date for the revised RFP. For these reasons, staff has structured the decision options to make possible a faster track compliance review process, if the Commission determines this to be appropriate.

Xcel's response to parties' comments and the revised RFP

In response to the parties, Xcel made several revisions to the proposed RFPs. Staff believes that except for DOC's request for a more transparent scoring system, Xcel has adequately addressed all of the issues raised by parties.[20] In some cases, the Commission may wish to ask Xcel to further clarify an issue.

These changes and clarifications include: (1) a revision to the RFP to include a complete list of preference criteria in two places, (2) clarification but no change in the RFP on the inconsistency in the RFP related to the location of self-generation projects; these projects can be located anywhere in the Minnesota and Wisconsin but will receive a preference if located within Xcel's service territory, (3) a clarification that solar PV projects larger than 1 MW may submit bids but RDF funding is limited to the cost of a 1 MW project; however, there was no specific revision to the RFP to reflect this clarification, (4) a revision to the RFP to include a preference for solar PV projects sponsored by K-12 schools and local units of government, and (5) a clarification that third-party project arrangements are permitted if consistent with statutory provisions and applicable tariffs.

Clarity of scoring approach

The Department asked Xcel to apply a more explicit scoring approach in Cycle 4 for both RFPs. It noted that the proposed approach does not provide the same level of clarity as Cycle 3. The DOC noted that the proposed scoring relies on five broad categories, the first four of which are weighted and total 100%, while the last category (i.e. "Preferences") is not assigned a weight, making it unclear how the category will be counted in the scoring.

The DOC stated four reasons why a more transparent scoring system is needed for both RFPs:

[20] See pages 16-18 of these briefing papers.

- Transparency helps ensure the process is fair and reasonable. Showing clearly how scoring works and what weight or bonus will be applied for preference criteria is part of a fair and reasonable process.
- Transparency provides a signal to potential applicants of the relative importance of various aspects of the proposed projects; relying on a consultant to determine relative importance may not be appropriate as this could be considered the responsibility of Xcel and the Advisory Group.
- Unspecified scoring makes it difficult for an independent third party hired to evaluate proposals to provide an objective ranking of projects. Without transparent scoring criteria, further documentation will be required to support what might appear to be a subjective selection process.
- Unspecified scoring will make it more difficult for the Commission to assess the reasonableness of Xcel's final selection.

Staff notes that a fair and transparent process will attract more bidders, resulting in greater competition and better projects overall. An "after-the- fact" scoring approach may appear to bidders to be structured so as to favor certain project bids. Moreover, the Department will need to confirm and make a recommendation to the Commission on whether the process has been fair. The Commission, however, holds the final responsibility for ensuring fairness. This will be difficult if a scoring approach is not explicit from the start. Minn. Stat. 116C.779, subd. 1 (f) indicates that the request for proposal process must be used as follows: "…the public utility must utilize an independent third-part expert to evaluate proposals submitted in response to a request for proposal, including all proposals made by the public utility."

In response to the issues surrounding scoring, Xcel explained that it does not believe including a scoring system in the RFP is necessary because as the information requested for each proposal remains the same with or without a scoring methodology delineated in the RFP; providing bidders with too much specificity could allow bidders to emphasize only those aspects of their projects related to the scoring system. Xcel also explained that it will use an independent consultant to develop a scoring system to be applied to Cycle 4 proposals; both the scoring system and results will be part of the final selection report approved by the Commission.

Staff notes that even with a more explicit scoring system, Xcel will maintain the flexibility necessary to propose a final selection of projects that is different from the consultant's ranking.[21] A scoring system simply helps to define the selection process upfront and to explain why certain bidders were selected after the fact. Staff agrees that a more specific scoring system could work to limit Xcel's flexibility to select what it may see as the best projects once all projects are submitted. However, staff agrees with the DOC that this concern must be balanced against the need for a fair and transparent process.

RDF process and selection procedure to be used in all future RDF Cycles until modified by the Commission

[21] If the Company provides a valid reason for selecting projects outside the scored ranking, the Commission has in the past approved the selection.

Below is an outline of the RDF process. It incorporates changes to the process proposed by Xcel and steps required by the Commission in previous Orders.

- The Commission reviews and approves selection criteria as proposed by Xcel with input from the Advisory Group.

- With input from the Advisory Group, Xcel develops and files an RFP based on approved selection criteria.

- Xcel files the proposed RFP and standard form contracts with the Commission and Department. If no comments are received within 30 days and unless otherwise directed by the Commission, Xcel issues the proposed RFP.

- With input from the Advisory Group, Xcel oversees the project selection process and makes a final project selection recommendation to the Commission.

- Xcel utilizes an independent third-party expert to evaluate project proposals for EP and RD projects. The Company may also decide whether to retain an independent third-party to assist in the review of responses to the RFP for institutions of higher education.

- Within 60-90 days of receiving project proposals in response to both RFPs, Xcel submits its final project selections to the Commission for approval. The final selection report will include a detailed explanation of any deviations from the rankings for EP, RD and institutions of higher education projects provided by an independent third-party evaluator or other evaluator.

- If the Company's final project selections are not filed with the Commission within 90 days of the project proposal receipt date, Xcel will file a letter with the Commission explaining the reasons for the delay and will continue to file such a letter every 30 days until the final project selection is submitted to the Commission.

- Prior to formal Commission consideration of Xcel's final project selection, the Company will organize a question-and-answer session for the Commission with stakeholders, potential grantees selected by Xcel, and members of the RDF Advisory Group.

- Once the Commission approves a final selection of projects, Xcel may execute grant contracts with the approved projects. All finalized grant contracts must be filed with the Commission prior to the start of the project or program.

- If a grant contract executed with a winning bidders contains no changes from the standard form contract for EP or RD projects, the grant contract will be filed with the Commission (and in the docket) for informational purposes only. However, if a final grant contract deviates from the standard form contract, the grant contract will be filed with the DOC (and in the docket) for DOC compliance review. As with any DOC compliance review, if the DOC identifies issues that cannot be resolved, it will bring the contract to the Commission for review. Otherwise, the DOC will file a letter with the Commission indicating compliance review approval. Xcel will provide a red-lined version of any grant contract that differs from the standard form contract at the time the contract is filed for compliance review.

- Xcel will file all grant contracts executed with institutions of higher education resulting from the separate RFP with the Commission for approval.[22]

- Xcel will submit annual progress reports to the Minnesota House and Senate energy committees and to the Commission addressing the operation of the RDF program as required by statute. The annual report should also include the information required by the Commission in the current biennial report.

- Xcel will continue to file quarterly informational and progress reports on ongoing RDF projects and grant contracts with the Commission.

- Xcel will post all final reports, mid-project status reports, and RDF account financial reports on the Commission-designated public website. All projects must provide a written final technical report and a clearly written summary for non-technical readers.

Additional RDF funding for Minnesota Bonus Solar Rebate program

Newport Partners proposed that Xcel use additional RDF funding to expand the Minnesota Bonus Solar Rebate program. However, Xcel responded that the legislature has approved $21 million from the RDF program for the Minnesota bonus for solar rebates through fiscal year 2015. Thus, there is already a $21 million carve-out of RDF funds dedicated to the Minnesota bonus solar program. In addition, there are CIP funds dedicated to the Solar*Rewards program. The Commission should consider both these facts before deciding whether to increase RDF funding for the Minnesota bonus solar program as part of Cycle 4 funding.

Preference for projects that use products and technology from Minnesota companies

MnSEIA argued that Xcel has not provided specific preference for projects that use products and technology from Minnesota companies, despite direction in statute to: "to promote the start up, expansion, and attraction of renewable electric energy companies within the state." Xcel responded that, as part of its experience with the Minnesota Bonus Solar Rebate program, it has encountered great difficulty in defining exactly what constitutes a product made in Minnesota. Legislation is both unclear and difficult to apply. To include this preference in the RFP would result in a delay in issuance or create problems during proposal review, selection and implementation.

[22] Xcel has not prepared a standard form contract for the higher education RFP as it expects each proposed program to be significantly different.

Advisory Group

At this time, neither Xcel nor any party has proposed that the Commission make changes in the composition of the Advisory Group.[23]

Timing of the Commission's decision

Under a revised timeline, Xcel proposed to issue the revised RFPs on February 11, 2013. Proposals are due on March 28, 2013 and Xcel plans to submit its final selection report to the Commission by July 1, 2013. The timeline envisions a decision from the Commission by October 1, 2013, with grant contracts completed by January 1, 2014.[24]

RDF stakeholders, including potential project bidders, the Advisory Group and Xcel would like to issue the RFPs as soon as possible to get the Cycle 4 grant process underway. To help make this possible, staff recommends the Commission issue a finding to direct that the Order in this matter be effective upon the date of the Commission meeting or January 31, 2013. Staff also recommends that once Xcel submits a revised RFP reflecting any changes the Commission may order, and the DOC has provided compliance-approval of the filing, that Xcel be permitted to issue the RFPs so as to meet the February 11, 2013 issuance date indicated on the revised red-lined RFPs.

[23] See Attachment 1 to these briefing papers for a list of the current members of the Advisory Group.

[24] The date for completion of grant contracts for institutions of higher education is April 1, 2014.

Decision options

I. Overall goals for Cycle 4

a. Approve the overall goals for RDF Cycle 4 proposed by Xcel, as follows:

   1. near commercial-scale demonstration projects that produce and/or deliver renewable electric energy
   2. renewable energy projects that will increase the market penetration of renewable electric energy in the state at reasonable cost
   3. projects to stimulate research and development into renewable energy technologies within the state

b. Modify the overall goals for RDF Cycle 4 proposed by Xcel.

c. Deny the overall goals for RDF Cycle 4 proposed by Xcel.

II. Preference criteria for Cycle 4

a. Approve the preference criteria for RDF Cycle 4, as contained in the revised red-lined RFPs filed January 11, 2013 and clarified, as follows:

   1. support of the Prairie Island Indian Community for the project
   2. projects located within the Energy Innovation Corridor (EIC)
   3. projects that are structured to receive a lump-sum payment grant payment upon project completion
   4. energy production (EP) project proposing to use electricity on-site located within Xcel's service territories in Minnesota and Wisconsin will receive preference; however, EP projects can be located anywhere within the state of Minnesota or Wisconsin
   5. research and development (RD) projects that demonstrate a high likelihood of royalty returns and propose a larger royalty sharing with the RDF
   6. projects sponsored by a K-12 school or local unit of government to construct a solar photovoltaic (PV) facility
   7. for proposed anaerobic digester systems, proposals that use non-agricultural residue as feedstock

b. Modify the preference criteria.

c. Deny proposed preference criteria.

III. Cycle 4 RFPs

a. Approve the revised red-lined RFPs filed by Xcel on January 11, 2013.
b. Approve the revised red-lined RFPs filed by Xcel on January 11, 2013 with additional changes to be specified by the Commission.

c. Deny Xcel's request to issue the proposed Cycle 4 RFPs.

IV. Modifications to the process, preference criteria, standard contracts and/or the RFPs

a. Require Xcel to provide a more explicit scoring approach with a similar level of scoring clarity as that in the RDF Cycle 3, including more direction on how preference criteria will be counted, for both the proposed RFPs.
b. Require Xcel to amend the RFP to address concerns of the Metropolitan Council:
    1. Accelerate the Cycle 4 schedule
    2. Provide a preference for customers based on their last three years of electrical bills
c. Require Xcel to amend the RFP to address concerns of Newport Partners:
    1. Provide a preference for projects that increase solar market penetration
    2. Structure preference criteria to expand the Minnesota Bonus Solar Rebate program
d. Require Xcel to amend the RFP or standard contracts to address concerns of MnSEIA:
    1. Project preferences be limited to only those projects located within Xcel's Minnesota service territory
    2. Amend the RFP selection criteria to allow solar PV project funding up to 2.5 MW
    3. Amend the RFP to indicate that a minimum of $20 million will be allocated for EP projects.
    4. Require Xcel to further clarify in the proposed standard contract the conditions under which government and non-profit organizations that receive RDF funds may enter into agreements with 3rd party developers.

V. Standard form grant contracts

a. Approve Xcel's standard form grant contracts for energy production (EP) and research and development (RD) filed November 29, 2012.
b. Deny Xcel's standard form grant contracts for energy production (EP) and research and development (RD) filed November 29, 2012.

VI. Timing of issuance of the RFPs and standard contracts

a. Require Xcel to submit a compliance filing reflecting any changes to the RFPs or standard form contracts as ordered by the Commission. Once the DOC gives compliance-approval to the filing, Xcel may issue the Cycle 4 RFPs and standard grant contracts.

VII. RDF selection procedure and process

a. Require Xcel to follow procedural steps below for RDF Cycle 4 and for all future RDF cycles until such time as the Commission approves revisions:

    1. The Commission reviews and approves selection criteria as proposed by Xcel with input from the Advisory Group.

2. With input from the Advisory Group, Xcel develops and files an RFP based on approved selection criteria. Xcel files the proposed RFP and standard form contracts with the Commission and Department. If no comments are received within 30 days and unless otherwise directed by the Commission, Xcel issues the proposed RFP.

3. With input from the Advisory Group, Xcel oversees the project selection process and makes a final project selection recommendation to the Commission.

4. Xcel utilizes an independent third-party expert to evaluate project proposals for EP and RD projects. The Company may also decide whether to retain an independent third-party to assist in the review of responses to the RFP for institutions of higher education.

5. Within 60-90 days of receiving project proposals in response to both RFPs, Xcel submits its final project selections to the Commission for approval. The final selection report will include a detailed explanation of any deviations from the rankings for EP, RD and institutions of higher education projects provided by an independent third-party evaluator or other evaluator.

6. If the Company's final project selections are not filed with the Commission within 90 days of the project proposal receipt date, Xcel will file a letter with the Commission explaining the reasons for the delay and will continue to file such a letter every 30 days until the final project selection is submitted to the Commission.

7. Prior to formal Commission consideration of Xcel's final project selection, the Company will organize a question-and-answer session for the Commission with stakeholders, potential grantees selected by Xcel, and members of the RDF Advisory Group.

8. Once the Commission approves a final selection of projects, Xcel may execute grant contracts with the approved projects. All finalized grant contracts must be filed with the Commission prior to the start of the project or program.

9. If a grant contract executed with a winning bidders contains no changes from the standard form contract for EP or RD projects, the grant contract will be filed with the Commission (and in the docket) for informational purposes only. However, if a final grant contract deviates from the standard form contract, the grant contract will be filed with the DOC (and in the docket) for DOC compliance review. As with any DOC compliance review, if the DOC identifies issues that cannot be resolved, it will bring the contract to the Commission for review. Otherwise, the DOC will file a letter with the Commission indicating compliance review approval. Xcel will provide a red-lined version of any grant contract that differs from the standard form contract at the time the contract is filed for compliance review.

10. Xcel will file all grant contracts, executed with institutions of higher education resulting from the separate RFP, with the Commission for approval.[25]

11. Xcel will submit annual progress reports to the Minnesota House and Senate energy committees and to the Commission addressing the operation of the RDF program as required by statute. The annual report should also include the information required by the Commission in the current biennial report.

12. Xcel will continue to file quarterly informational and progress reports on ongoing RDF projects and grant contracts with the Commission.

13. Xcel will post all final reports, mid-project status reports, and RDF account financial reports on the Commission-designated public website. All projects must provide a written final technical report and a clearly written summary for non-technical readers.

VIII. Designation of public site for posting RDF-related materials

a. Require Xcel to post online all RDF-related final reports, mid-project status reports, and account financial reports on a public website designated by the Commission.

b. Designate the Company's RDF website (www.xcelenergy.com/rdf) as the public site for posting all RDF-related final reports, mid-project status reports, and account financial reports.

IX. Additional compliance filings and requirements

a. Require Xcel to submit a compliance filing to the Commission within 10 days of the issue date of the RFPs in this matter demonstrating the Company's issuance of the Cycle 4 RFP and standard contracts.

b. Require Xcel in conjunction with the Advisory Group to submit to the Commission as a compliance filing within 60 days of the issue date of the Order in this matter an updated RDF mission statement that incorporates the requirements of the current RDF statute (Minn. Stat. § 116C.779).

c. Require Xcel to report annually by February 15 to the chair and ranking minority member of the legislative committees with jurisdiction over energy policy on projects funded by the account for the prior year and all previous years. The report must, to the extent possible and reasonable, itemize the actual and projected financial benefit to the public utility's ratepayers of each project. The Report must also be filed with the Commission in this docket.

[25] Xcel has not prepared a standard form contract for the higher education RFP as it expects each proposed program to be significantly different.

X. Timing of the Commission's decision

a. Find that the Order in this matter with respect to the process, preference criteria, standard contracts and the RFPs will be effective upon the date of this meeting.

Staff recommendation:

I.	**a. 1-3**
II.	**a. 1-7**
III.	**b.**
IV.	**a.**
V.	**a.**
VI.	**a.**
VII.	**a. 1-13**
VIII.	**a. and b.**
IX.	**a., b. and c.**
X.	**a.**

Attachment 1

Xcel's RDF Advisory Group

The RDF Advisory Group is comprised of seven-members:

- two representatives from environmental organizations
- one Prairie Island Indian Community representative
- one industrial/commercial ratepayer representative
- one residential ratepayer representative
- two Xcel representatives

The current members include:

- Eric Jensen, energy coordinator for Izaak Walton League, representing the environmental community
- Linda Taylor, clean energy director for Fresh Energy, representing the environmental community
- Lise Trudeau, engineer for Minnesota Division of Energy resources, representing residential customers
- Ben Gerber, manager energy policy for Minnesota Chamber of Commerce, representing commercial and industrial customers
- Heather Westra, representing Prairie Island Indian community
- Kevin Schwain, manager emerging customer program for NSP-Minnesota, representing NSP-Minnesota
- Mike Bull, manager public policy and strategy for NSP-Minnesota, representing NSP-Minnesota

Attachment 2

116C.779 FUNDING FOR RENEWABLE DEVELOPMENT.

Subdivision 1. **Renewable development account.** (a) The public utility that owns the Prairie Island nuclear generating plant must transfer to a renewable development account $500,000 each year for each dry cask containing spent fuel that is located at the Prairie Island power plant for each year the plant is in operation, and $7,500,000 each year the plant is not in operation if ordered by the commission pursuant to paragraph (c). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility at Prairie Island for any part of a year.

(b) The public utility that owns the Monticello nuclear generating plant must transfer to the renewable development account $350,000 each year for each dry cask containing spent fuel that is located at the Monticello nuclear power plant for each year the plant is in operation, and $5,250,000 each year the plant is not in operation if ordered by the commission pursuant to paragraph (c). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility at Monticello for any part of a year.

(c) After discontinuation of operation of the Prairie Island nuclear plant or the Monticello nuclear plant and each year spent nuclear fuel is stored in dry cask at the discontinued facility, the commission shall require the public utility to pay $7,500,000 for the discontinued Prairie Island facility and $5,250,000 for the discontinued Monticello facility for any year in which the commission finds, by the preponderance of the evidence, that the public utility did not make a good faith effort to remove the spent nuclear fuel stored at the facility to a permanent or interim storage site out of the state. This determination shall be made at least every two years.

(d) Funds in the account may be expended only for any of the following purposes:

(1) to increase the market penetration within the state of renewable electric energy resources at reasonable costs;

(2) to promote the start-up, expansion, and attraction of renewable electric energy projects and companies within the state;

(3) to stimulate research and development within the state into renewable electric energy technologies; and

(4) to develop near-commercial and demonstration scale renewable electric projects or near-commercial and demonstration scale electric infrastructure delivery projects if those delivery projects enhance the delivery of renewable electric energy.

The utility that owns a nuclear generating plant is eligible to apply for renewable development account grants.

(e) Expenditures authorized by this subdivision from the account may be made only after approval by order of the Public Utilities Commission upon a petition by the public utility. The commission may approve proposed expenditures, may disapprove proposed expenditures that it finds to be not in compliance with this subdivision or otherwise not in the public interest, and may, if agreed to by the public utility, modify proposed expenditures. The commission may approve reasonable and necessary expenditures for administering the account in an amount not to exceed five percent of expenditures. Commission approval is not required for expenditures required under subdivisions 2 and 3, section 116C.7791, or other law.

(f) The account shall be managed by the public utility but the public utility must consult about account expenditures with an advisory group that includes, among others, representatives of its ratepayers. The commission may require that other interests be represented on the advisory group. The advisory group must be consulted with respect to the general scope of expenditures in designing a request for proposal and in evaluating projects submitted in response to a request for proposals. In addition to consulting with the advisory group, the public utility must utilize an independent third-party expert to evaluate proposals submitted in response to a request for proposal, including all proposals made by the public utility. A request for proposal for research and development under paragraph (d), clause (3), may be limited to or include a request to higher education institutions located in Minnesota for multiple projects authorized under paragraph (d), clause (3). The request for multiple projects may include a provision that exempts the projects from the third-party expert review and instead provides for project evaluation and selection by a merit peer review grant system. The utility should attempt to reach agreement with the advisory group after consulting with it but the utility has full and sole authority to determine which expenditures shall be submitted to the commission for commission approval. In the process of determining request for proposal scope and subject and in evaluating responses to request for proposals, the public utility must strongly consider, where reasonable, potential benefit to Minnesota citizens and businesses and the utility's ratepayers.

(g) Funds in the account may not be directly appropriated by the legislature by a law enacted after January 1, 2012, and unless appropriated by a law enacted prior to that date may be expended only pursuant to an order of the commission according to this subdivision.

(h) A request for proposal for renewable energy generation projects must, when feasible and reasonable, give preference to projects that are most cost-effective for a particular energy source.

(i) The public utility must annually, by February 15, report to the chairs and ranking minority members of the legislative committees with jurisdiction over energy policy on projects funded by the account for the prior year and all previous years. The report must, to the extent possible and reasonable, itemize the actual and projected financial benefit to the public utility's ratepayers of each project.

(j) A project receiving funds from the account must produce a written final report that includes sufficient detail for technical readers and a clearly written summary for nontechnical readers. The report must include an evaluation of the project's financial, environmental, and other benefits to the state and the public utility's ratepayers.

(k) Final reports, any mid-project status reports, and renewable development account financial reports must be posted online on a public Web site designated by the commission.

(l) All final reports must acknowledge that the project was made possible in whole or part by the Minnesota renewable development fund, noting that the fund is financed by the public utility's ratepayers.

Subd. 2. **Renewable energy production incentive.** (a) Until January 1, 2021, $10,900,000 annually must be allocated from available funds in the account to fund renewable energy production incentives. $9,400,000 of this annual amount is for incentives for electricity generated by wind energy conversion systems that are eligible for the incentives under section 216C.41 or Laws 2005, chapter 40.

(b) The balance of this amount, up to $1,500,000 annually, may be used for production incentives for on-farm biogas recovery facilities and hydroelectric facilities that are eligible for the incentive under section 216C.41 or for production incentives for other renewables, to be provided in the same manner as under section 216C.41.

(c) Any portion of the $10,900,000 not expended in any calendar year for the incentive is available for other spending purposes under subdivision 1. This subdivision does not create an obligation to contribute funds to the account.

(d) The Department of Commerce shall determine eligibility of projects under section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of Commerce shall notify the public utility of the name and address of each eligible project owner and the amount due to each project under section 216C.41. The public utility shall make payments within 15 working days after receipt of notification of payments due.

Subd. 3. **Initiative for Renewable Energy and the Environment.** (a) Beginning July 1, 2009, and each July 1 through 2011, $5,000,000 must be allocated from the renewable development account to fund a grant to the Board of Regents of the University of Minnesota for the Initiative for Renewable Energy and the Environment for the purposes described in paragraph (b). The Initiative for Renewable Energy and the Environment must set aside at least 15 percent of the funds received annually under the grant for qualified projects conducted at a rural campus or experiment station. Any set-aside funds not awarded to a rural campus or experiment station at the end of the fiscal year revert back to the Initiative for Renewable Energy and the Environment for its exclusive use. This subdivision does not create an obligation to contribute funds to the account.

(b) Activities funded under this grant may include, but are not limited to:

(1) environmentally sound production of energy from a renewable energy source, including biomass and agricultural crops;

(2) environmentally sound production of hydrogen from biomass and any other renewable energy source for energy storage and energy utilization;

(3) development of energy conservation and efficient energy utilization technologies;

(4) energy storage technologies; and

(5) analysis of policy options to facilitate adoption of technologies that use or produce low-carbon renewable energy.

(c) For the purposes of this subdivision:

(1) "biomass" means plant and animal material, agricultural and forest residues, mixed municipal solid waste, and sludge from wastewater treatment; and

(2) "renewable energy source" means hydro, wind, solar, biomass, and geothermal energy, and microorganisms used as an energy source.

(d) Beginning January 15 of 2010, and each year thereafter, the director of the Initiative for Renewable Energy and the Environment at the University of Minnesota shall submit a report to the chair and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy finance describing the activities conducted during the previous year funded under this subdivision.