

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuenger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

In the Matter of the Formal Complaint and Request for Expedited Relief by SunShare, LLC Against Northern States Power Company d/b/a Xcel Energy regarding CleodSun Project

ISSUE DATE: September 2, 2021

DOCKET NO. E-002/C-21-126

ORDER FINDING JURISDICTION, INITIATING INVESTIGATION, AND VARYING TIMELINES

PROCEDURAL HISTORY

On June 1, 2021, SunShare, LLC (SunShare) filed an amended formal complaint against Northern States Power Company d/b/a Xcel Energy (Xcel) requesting expedited relief regarding efforts to interconnect its CleodSun Community Solar Garden Project (CleodSun project) to a feeder served by Xcel’s Lester Prairie substation in McLeod County.¹

By June 23, 2021, the Commission had received comments from Xcel and the Minnesota Department of Commerce-Division of Energy Resources (Department) and Xcel.

On July 7, 2021, SunShare filed reply comments.

On August 12, 2021, the matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. Summary of Commission Action

Because the Commission has jurisdiction over the subject matter of the complaint, and there are reasonable grounds to investigate the matters alleged, the Commission will initiate an investigation. To expedite resolution, the Commission will vary the timelines for parties to file their answers and replies in this matter.

¹ SunShare dated its formal complaint May 28, 2021.

II. Community Solar Gardens

A. Introduction

In 2013 the Legislature enacted Minn. Stat. § 216B.1641, establishing the framework for a program under which utility customers may subscribe to “community solar gardens” (solar gardens)—that is, solar-powered generating facilities that permit subscribers to receive bill credits from the utility for a portion of the electricity generated by the facility. The developer of a solar garden must obtain the utility’s approval to connect to a feeder or substation in the utility’s electric system through a process known as “interconnection.”

The interconnection processes have evolved over time; this complaint is governed by the terms applicable to interconnection applications submitted before June 17, 2019, and complete as of August 16, 2019.² These solar garden interconnections are governed by two sections of the Xcel’s tariff: Section 10 sets forth the process for interconnecting a generating facility with a capacity of ten megawatts or less to Xcel’s distribution system,³ while Section 9 contains the rules that govern solar gardens specifically.⁴

B. Interconnection Agreement

Xcel’s tariff incorporates an interconnection agreement that establishes the interconnection process applicable to projects such as the CleodSun project, and provides as follows:

A) Charges and payments

The Interconnection Customer is responsible for the actual costs to interconnect the Generation System with Xcel Energy.... [Xcel provides] estimates of these costs.... All costs, for which the Interconnection Customer is responsible, must be reasonable under the circumstances of the design and construction.

1) Dedicated Facilities

a)The Interconnection Customer shall be responsible for paying the actual costs of the Dedicated Facilities attributable to the addition of the Generation System....

c) By executing this Agreement, the Interconnection Customer grants permission for Xcel Energy to begin construction.... If for any reason, the Generation System project is canceled or

² See Xcel’s MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2, Section 10, Distributed Generation Standard Interconnection and Power Purchase Tariff, Sheet Nos. 10-73.

³ *Id.*, Section 10, Distributed Generation Standard Interconnection and Power Purchase Tariff, Sheet Nos. 10-73 to -162.

⁴ *Id.*, Section 9, Solar*Rewards Community Program, Sheet Nos. 9-64 to -68.16.

modified, so that any or all of the Dedicated Facilities are not required, the Interconnection Customer shall be responsible for all costs incurred by Xcel Energy....

2) Payments

a) The Interconnection Customer shall provide reasonable adequate assurances of credit, including a letter of credit or personal guaranty of payment and performance from a creditworthy entity ... for the unpaid balance of the estimated amount....

b) The payment for the costs ... shall [include] 1/3 of estimated costs ... due upon execution of this agreement.⁵

C. Dispute Resolution

Where disputes arise between Xcel and developers of distributed generation seeking interconnection, Xcel's tariff provides for the parties to negotiate for 30 days, pursue mediation for 90 days, and, if no resolution is found, refer the dispute to the Commission.⁶

Matters referred to the Commission's formal complaint procedures are governed by Minn. R. 7829.1700–.1900. Under Minn. R. 7829.1800, if the Commission finds it has jurisdiction over a complaint and reasonable grounds to investigate the allegations, the Commission orders the subject of the complaint to answer the complaint within 20 days. The complainant may file a reply within 20 days of receiving the answer. However, Minn. R. 7829.1275 provides for the Commission to vary these timelines for good cause shown.

III. Positions of the Parties

All parties agree that SunShare and Xcel have reached an impasse in mediation, and that the Commission has jurisdiction to resolve or dismiss SunShare's formal complaint under Minn. Stat. § 216B.17, among other authorities.

A. SunShare

SunShare filed its complaint under Minn. Stat. § 216B.164, Minn. R. 7835.4500 and 7829.1700, and Xcel's tariff.

SunShare argues that Xcel has harmed SunShare in three ways. First, SunShare argues that the indicative interconnection costs are excessive, as evidenced by the fact that SunShare applied to interconnect a similar generator at the same site and received a lower cost estimate in 2017. Second, SunShare argues that Xcel has wrongfully withheld information necessary to evaluate whether a lower-cost option for interconnection exists. Third, SunShare argues that Xcel's delays

⁵ *Id.*, Sheet No. 10-116 to 10-117 (Construction).

⁶ *Id.*, Sheet No. 10-85.

have caused the company to miss the opportunity to earn a higher federal investment tax credit that expired in 2019.

As a result, SunShare asks the Commission to provide the following remedies:

- Order Xcel to provide the information necessary to determine whether the indicative cost estimate for the CleodSun project is reasonable and consistent with law.
- Order Xcel to reissue the cost study results with an updated, more reasonable indicative cost estimate for interconnecting the CleodSun project to Xcel's system.
- Alter the tariff rate for the CleodSun project to apply a rate adder commensurate with the value of the lost investment tax credit and other costs of delay due to Xcel's delay.
- Award SunShare reasonable costs, disbursements, and attorney's fees pursuant to Minn. Stat. § 216B.164, subd. 5(a), and Minn. R. 7835.4550.

B. Xcel

Xcel argues that its estimate of the cost to interconnect the CleodSun project is reasonable. Xcel explains that costs have increased since SunShare's last interconnection application at this location, as reflected in Xcel's newer cost models and model inputs. According to Xcel, updating the indicative cost estimate would likely increase the estimate due to escalating costs seen in recent months.

Xcel claims that it has provided SunShare with the information necessary to evaluate the indicative cost estimate for the CleodSun project, but contractual obligations and competitive dynamics prohibit the utility from disclosing certain details, such as sensitive pricing information. Instead of disclosing this information to SunShare, Xcel proposed that a third-party auditor agreeable to both sides audit Xcel's cost estimates, but SunShare has not agreed to this proposal.

While SunShare suggests that implementing a novel solution might provide a cheaper way to interconnect the CleodSun project, Xcel argues that this hypothesis overlooks the administrative cost of installing and managing multiple non-standard equipment and operations for the interconnection, and the cost of removing the equipment once the projects are no longer operating. Xcel also emphasizes that standardized installations promote safety and reliability, noting that its tariff state that "Xcel Energy will provide the final determination of the required modifications and/or additions."⁷ Finally, Xcel argues that it calculated the indicative cost of the CleodSun project in its standard manner, and relieving SunShare of the duty to pay the indicative costs would discriminate in favor of SunShare and against all other solar gardens.

⁷ *Id.*, Sheet No. 10-139, 1.(D).

While Xcel acknowledges that it was late in providing a proposed Interconnection Agreement, Xcel argues that SunShare miscalculates the magnitude of the delay. Xcel argues that SunShare's failure to proceed with signing the Interconnection Agreement has been the primary cause of the project's delay.

Finally, Xcel argues that granting much of the relief sought by SunShare would exceed the Commission's authority and result in discriminatory rates. Accordingly, Xcel asks the Commission to dismiss SunShare's complaint.

C. The Department

The Department recommends that the Commission implement its complaint process by finding that it has jurisdiction over the matter, directing Xcel to answer the complaint, and directing SunShare to respond to Xcel's answer.

IV. Commission Action

The Commission concurs with all parties that it has jurisdiction over the subject matter of SunShare's complaint under Minn. Stat. § 216B.17.

Having heard the positions of the parties, the Commission is persuaded that SunShare has articulated reasonable grounds for investigating Xcel's indicative cost estimate for interconnecting the CleodSun project. Accordingly, the Commission will require Xcel to answer SunShare's complaint regarding the indicative cost estimate, and will require SunShare to reply to Xcel's answer.

In addition, and with the consent of all parties to this complaint, the Commission finds good cause under Minn. R. 7829.1275 to vary the timelines in Minn. R. 7829.1800 for answers and replies. The abbreviated schedule will be as follows:

- Xcel's answer to SunShare's complaint is due by August 23, 2021.
- SunShare's reply to Xcel's answer is due by September 2, 2021.

The Commission will so order.

ORDER

1. The Commission finds that it has jurisdiction over the issues raised in the formal complaint filed by SunShare, LLC, regarding the CleodSun project.
2. The Commission hereby opens an investigation of SunShare's CleodSun formal complaint as it relates to the interconnection cost estimate.
3. Pursuant to Minn. R. 7829.1275, the Commission varies the periods set forth in Minn. R. 7829.1800 for good cause shown, as follows:

- A. Northern States Power Company d/b/a Xcel Energy shall file an answer to SunShare's complaint by August 23, 2021.
 - B. SunShare shall file a reply to Xcel's answer by September 2, 2021.
4. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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CERTIFICATE OF SERVICE

I, Chrishna Beard, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

**Minnesota Public Utilities Commission
ORDER FINDING JURISDICTION, INITIATING INVESTIGATION, AND
VARYING TIMELINES**

Docket Number **E002/C-21-126**

Dated this 2nd day of September, 2021

/s/ Chrishna Beard

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Jacob	Bobrow	jbobrow@mysunshare.com	SunShare	1724 Gilpin St Denver, CO 80218	Electronic Service	No	OFF_SL_21-126_Official Service List 21-126
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-126_Official Service List 21-126
James	Denniston	james.r.denniston@xcelenergy.com	Xcel Energy Services, Inc.	414 Nicollet Mall, 401-8 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_21-126_Official Service List 21-126
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-126_Official Service List 21-126
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-126_Official Service List 21-126
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-126_Official Service List 21-126
Lynnette	Sweet	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_21-126_Official Service List 21-126
Curtis P	Zaun	curtis@cpzlaw.com	Attorney At Law	3254 Rice Street Little Canada, MN 55126	Electronic Service	No	OFF_SL_21-126_Official Service List 21-126