

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: September 21, 2017**Agenda Item #5

Company: All electric utilities

Docket Number: ** E999/CI-15-755

In the Matter of a Commission Inquiry into Fees Charged on Qualifying Facilities

Issues: Is it permissible under Minnesota statutes and rules to impose an additional monthly fee on a qualifying facility interconnected with a public utility?

If an additional fee is permissible, what factors should the Commission consider in determining whether the fee or charge is reasonable?

Should the Commission take any action on the specific fees charged by Minnesota Power, Otter Tail Power, and Xcel Energy?

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Relevant Documents

IR Responses

Xcel Energy, *Response to MPUC 1-5*..... February 5, 2016
Xcel Energy, *Response to EFCA 1-10*..... May 16, 2016

Initial Comments

Minnesota Farmers Union..... May 5, 2016
Institute for Local Self-Reliance (ILSR)..... May 6, 2016
Minnesota Center for Environmental Advocacy (MCEA) and Sierra Club May 6, 2016
Powerfully Green May 6, 2016
Otter Tail Power Company May 6, 2016
Minnesota Solar Energy Industries Association (MnSEIA)..... May 6, 2016
Energy Freedom Coalition of America (EFCA)..... May 6, 2016
Minnesota Department of Commerce..... May 6, 2016
The Alliance for Solar Choice (TASC) May 6, 2016
Fresh Energy, Environmental Law & Policy Center, Vote Solar (Fresh Energy et al.) May 6, 2016

Reply Comments

Fresh Energy et al. June 6, 2016
Xcel Energy June 6, 2016
Otter Tail Power..... June 6, 2016
Minnesota Power June 6, 2016

Energy Freedom Coalition of America..... June 6, 2016

Supplemental Comments

Energy Freedom Coalition of America.....October 17, 2016
Minnesota Department of Commerce.....October 17, 2016
Xcel EnergyOctober 17, 2016
Otter Tail Power Company.....October 17, 2016
Clean Energy Economy MinnesotaOctober 18, 2016

Reply Supplemental Comments

Energy Freedom Coalition of America.....November 10, 2016
Minnesota PowerNovember 10, 2016
Xcel EnergyNovember 10, 2016
Fresh Energy et alNovember 10, 2016
Otter Tail Power Company.....November 10, 2016

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Statement of the Issues

Is it permissible under Minnesota statutes and rules to impose an additional monthly fee¹ on a qualifying facility interconnected with a public utility?

If an additional fee is permissible, what factors should the Commission consider in determining whether the fee or charge is reasonable?

Should the Commission take any action on the specific fees charged by Minnesota Power, Otter Tail Power, and Xcel Energy?

Project Background

This docket investigates fees charged to qualifying facilities (QF)² that are not applied to other customers. The docket was opened to investigate which electric utilities were charging such fees per the Commission's September 21, 2015 Order in Docket 15-255. Following utility responses regarding the monthly fees being charged, Commission staff requested comment on whether it is permissible for a utility to charge a monthly, recurring metering fee that only applies to qualifying facilities.

In Docket 15-255, a member of People's Energy Cooperative filed a request for dispute resolution under Minnesota's cogeneration and small power-production statute, Minn. Stat. §216B.164. The member, who owned a net-metered 10 kW wind facility, took issue with the Cooperative's imposition of a monthly "facility fee" in addition to the fixed monthly customer charge applied to all residential customers. Comments filed in the course of that docket indicated that some other utilities may impose fees on distributed generation customers.

In its September 21, 2015 Order in Docket 15-255, the Commission directed Commission staff to "ask each investor-owned utility, cooperative, and municipal utility to indicate whether it applies a charge to net-metered or distributed-generation customers that is not applied to other customers, and if so, when it began assessing that charge and in which docket(s), if any, the charge was approved by the Commission." The Commission also authorized staff to request additional information as staff deems appropriate.

On October 13, 2015, Commission staff issued a Notice Requesting Information to carry out the Commission's directive in Docket 15-255. By December 11, 2015, responses were received from (or on behalf of) every Minnesota electric utility. The responses identified six utilities (the three Investor Owned Utilities and three cooperative utilities) that currently charged additional monthly fees to qualifying facilities interconnected before July 1, 2015.

On December 23, 2015, Commission staff issued a Notice of Comment Period and additional IRs to the utilities charging fees requesting information on the calculation of that utility's fee and investigating

¹ Staff Comment: The notices for this docket referred to "an additional monthly fee"; however, more accurately the fees under review in this docket are meant to recover metering-related costs. For the briefing papers, we will refer to "monthly metering fee"; however, each utility uses unique nomenclature: "service charge" (Minnesota Power); "customer charge" and "optional production meter charge" (Otter Tail Power); and "metering charge" (Xcel Energy) tariff.

² Staff Comment: commenters use both "QF" and "DG" (distributed generation) to refer to cogeneration and small power production facilities. Statute and rules refer both to QF and DG, although QF is the predominately used term.

whether such fees were allowed under state and federal law. By May 6, 2016, Otter Tail Power, the Department, 8 other non-utility organizations (collectively, “QF advocates”) submitted comments.

On June 22, 2016, Commission staff issued a Notice of Supplemental Comment Period in response to party concerns that new issues were brought up outside of the initial comment period. The supplemental reply comment period closed November 10, 2016. During the four rounds of comments the Commission received comments from utilities, the Department, and various QF advocates.

On May 22, 2017, the Commission issued an Order in its cogeneration and small power production tariff revision dockets, E015/16-204, E002/16-222, and E017/16-280. The Order provisionally approved monthly metering or service charges for customers with distributed generation as part of a broader consideration of Minnesota Power’s, Xcel Energy’s, and Otter Tail Power’s revised cogeneration and small power production tariffs respectively. Each tariff imposed a monthly metering fee on QF customers. The Commission Order states its provisional approval of the metering charges is not meant to “prejudge the outcome of the investigation” in this docket.

On May 30, 2017, the Governor signed SF 1456³ which amended Minn. Stat. §216B.164 with respect to the Commission’s authority over cooperative electric associations and municipal utilities. The amendment, effective May 31, 2017, includes the following language:

(c) Except as provided in paragraph (d), any proceedings concerning the activities of a cooperative electric association under this section that are pending at the Public Utilities Commission on the effective date of this section are terminated on that date.

This included the portion of the current docket that investigated the fees of three cooperative utilities. On June 13, 2017, the Commission issued its Notice terminating the portion of this docket concerning the activities of cooperative electric associations. Accordingly, these briefing papers focus solely on the fees charged by the three Investor Owned Utilities.

For reference, Staff provides the following table with the utility’s recurring, monthly fees as filed in this docket, along with the total number of distributed generation customers as of 2016. A comparison chart of the fees as originally filed in this docket with the provisionally approved fees in the utilities’ recent cogeneration and small power producer tariff updates is included in [Appendix A](#).

³ Laws of Minnesota 2017, Chapter 94, Article 10, Section 8

TABLE 1: PUBLIC UTILITY FEES AND QF CUSTOMER

Utility	Fees as filed in 15-755	Total DG Customers, as reported in 2016 Annual DG Report ⁴
Minnesota Power	<u>All cogeneration rate classes</u> : \$1.31	202
Otter Tail Power	<u>Net Energy Billing Rate</u> : \$3.70 <u>Simultaneous Purchase & Sale</u> Firm Power: \$8.87 Non-firm Power: \$1.40 <u>Time of Day Purchase</u> Firm Power: \$8.87 Non-firm Power: \$3.25	40
Xcel Energy	<u>Net Energy Billing</u> Single Phase: \$3.15 Three Phase: \$6.40 <u>Purchase and Sale, TOD</u> Single Phase: \$5.50 Three Phase: \$8.00	2303

Are Monthly Fees for QF Customers Permissible?

In the course of this docket the Commission issued a notice requesting comment on the permissibility of monthly, recurring metering fees utilities charged under Minn. Stat. §216B.164 and Minn. Rules 7835.

Party responses split into three positions on this question:

- 1) **Monthly fees are permissible.** Minnesota Power, Otter Tail Power, and Xcel Energy (collectively, “Utilities”) argue that the monthly fees are allowable to recover interconnection costs (metering-related and customer accounting and assistance) incurred both at the time of interconnection (e.g. additional meter and/or bi-directional programming) and the ongoing incremental costs to maintain the meter and serve the QF customer (e.g. meter replacement, customer accounting and assistance) are most appropriate as a monthly fee. Furthermore, they state that monthly fees are included in the attached rate schedule to the uniform statewide contract, and as such does not require options for payment to be outlined.
- 2) **Monthly fees are not permissible.** QF advocates⁵ argue that utilities are only allowed to recover incremental interconnection costs stated in the interconnection agreement or uniform statewide contract. They contend recovery of those costs can be upfront or over a reasonable period of time agreed to by the utility and the customer, but including a monthly fee on QFs in a rate schedule is discriminatory.
- 3) **Monthly fees are permissible if included in the Uniform Statewide Contract and the customer has the option to pay upfront.** The Department of Commerce does not object to

⁴ Docket No. E999/PR-17-10

⁵ Staff generalize with "QF advocates" where these parties appear to agree: Fresh Energy et al, EFCA, MCEA and Sierra Club, MnSEIA, and TASC.

monthly fees but expects them to be listed in the uniform statewide contract, where the customer must have an option to pay the fees upfront.

In considering whether imposing a monthly metering fee on a QF is permissible, the Commission may wish to examine the following statutes, rules, and orders: the Code of Federal Regulations §292.306, Minn. Stat. 216B.164, Minn. Rules 7835 (including 7835.9910 Uniform Statewide Contract), the March 7, 1983 Order in Docket No. E999/R-80-560 on the initial rulemaking, the October 15, the 1984 Order in Docket No. E999/R-84-105, and the September 28, 2004 Order in Docket No. E999/CI-01-1023 establishing the statewide interconnection standards.⁶

Title 18 Code of Federal Regulations 292.306:

(a) Obligation to pay. Each qualifying facility shall be obligated to pay any interconnection costs which the State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility may assess against the qualifying facility on a nondiscriminatory basis with respect to other customers with similar load characteristics.

(b) Reimbursement of interconnection costs. Each State regulatory authority (with respect to any electric utility over which it has ratemaking authority) and nonregulated utility shall determine the manner for payments of interconnection costs, which may include reimbursement over a reasonable period of time.

Minn. Stat. §216B.164, Subd. 3(c):

In setting rates, the commission shall consider the fixed distribution costs to the utility not otherwise accounted for in the basic monthly charge and shall ensure that the costs charged to the qualifying facility are not discriminatory in relation to the costs charged to other customers of the utility...

Minn. Stat. §216B.164; Subd. 8(b) states:

Nothing contained in this section shall be construed to excuse the qualifying facility from any obligation for costs of interconnection and wheeling in excess of those normally incurred by the utility for customers with similar load characteristics who are not cogenerators or small power producers, or from any fixed charges normally assessed such nongenerating customers.

Staff Comment:

It is important to distinguish what statute, rules and orders say about costs versus various cost recovery and compensation mechanisms (e.g. rates, fees/charges.) For instance, in justifying their positions, parties appear to have different interpretations of a “rate,” as that word is used in various rules and the statute. Otter Tail flagged the definition of “rate” includes fees and charges.⁷ Staff offers the definition of “rate” as defined in Chapter 216B:

"Rate" means every compensation, charge, fare, toll, tariff, rental, and classification, or any of them, demanded, observed, charged, or collected by any public utility for any

⁶ Xcel, Reply Comments, Att. C includes their analysis of relevant “Relevant Commission Orders & Statutes”, pp. 1-13.

⁷ OTP, Initial Comments, p. 1.

service and any rules, practices, or contracts affecting any such compensation, charge, fare, toll, rental, tariff, or classification.⁸

A Fee to Recover Interconnection Costs Is Allowed

All parties agree that interconnection costs are the responsibility of the QF and that fixed distribution costs are not interconnection costs. However, they disagree on whether certain metering costs should be included as eligible interconnection costs, and whether or not a recurring, monthly metering fee is a permissible vehicle for the recovery of such costs.

Minnesota Rules 7835.0100; Subp. 12 defines “Interconnection costs:”

"Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the utility that are directly related to installing and maintaining the physical facilities necessary to permit interconnected operations with a qualifying facility. Costs are considered interconnection costs only to the extent that they exceed the corresponding costs which the utility would have incurred if it had not engaged in interconnected operations, but instead generated from its own facilities or purchased from other sources an equivalent amount of electric energy or capacity. Costs are considered interconnection costs only to the extent that they exceed the costs the utility would incur in selling electricity to the qualifying facility as a nongenerating customer.⁹

Xcel clarifies that interconnection costs, including metering, are different from fixed distribution costs:

[A] facilities charge designed to recover the fixed costs incurred by a public utility of providing retail service not recovered through the retail basic monthly charge is not allowed under Minnesota Statutes... Such charges are not related to the monthly metering charge, which is allowable and designed to recover the interconnection costs related to DG metering.¹⁰

Utility Metering and Customer Accounting and Assistance Costs

The utilities’ monthly metering charges are based on cost calculations that include incremental metering costs and customer accounting and assistance costs for QF customers. The ranges in the chart below represent lower costs for net energy billing customers, and higher costs for larger QFs or for time of day service.

⁸ Minn. Stat. 216B.02 Subd. 5., Minn. Stat. 216B.164, and Minn. Rules 7835 do not include a unique definition of “rates.”

⁹ Minn. Rules 7835.4013, Subp. 1. This definition is nearly identical to the definition in 18 CFR §292.101 b (7).

¹⁰ Xcel, Initial Comments, Attachment C, p. 1 footnote 1.

TABLE 2: METERING CHARGE COSTS

	Annual Metering Costs	Annual Service Costs	Carrying Charge
Minnesota Power	\$25.07 - \$31.21 for meter maintenance ¹¹	\$4.73 for meter reading ¹²	N/A
Otter Tail Power	\$20 - \$41 for meter operation and maintenance ¹³	\$20 - \$41 for per meter administrative costs (customer accounts, services, and informational expenses) ¹⁴	No information on carrying charge in 15-755 record ¹⁵
Xcel Energy	\$16.03 - \$80.42 for production meter (if required) and service meter bi-directional programming costs levelized over 15 years ¹⁶	\$28.27 - \$131.46 for supervision, meter reading, customer records, and customer assistance ¹⁷	13.88% based on a levelized annual revenue requirement percentage ¹⁸

The bulk of the monthly charges are based on metering cost estimates. Each utility uses a different cost calculation methodology making it hard to compare costs across the utilities. Minnesota Power’s annual metering costs are maintenance costs based on a total meter investment (cost of installed/removed meter: \$784-\$976), administrative & general service as a percentage of direct cost (0.17%), and distribution & general engineering as a percentage of direct cost (12%).¹⁹ Otter Tail provides an itemized account of the costs included in their cost calculation,²⁰ and references 2010 rate case testimony that summarizes the marginal difference between their existing monthly QF charge and the proposed charge.²¹ However, Otter Tail has not provided a cost calculation methodology in this docket. Xcel’s incremental metering costs are the cost of a production meter (if required) (\$93.16- \$556.96) and bi-directional programming of the service meter (\$22.34). This does not include installation costs for the bi-directional meter as the customer paid for installation of the service meter in the general customer charge. Xcel applies a carrying

¹¹ MP, IR Responses 1-5, Exhibit 1, p. 4. Meter Maintenance costs = Total Meter Investment x Meter Maintenance as Percent of Meter Investment.

¹² MP, IR Responses 1-5, Exhibit 1, p. 3. Customer Accounting expense = Meter Reading Expense as percent of Customer Accounts Expense x Average Customer Accounting Cost per Residential or General Service Customer.

¹³ OTP, Response to IR MN-PUC-003 p. 2.

¹⁴ OTP, Response to IR MN-PUC-003 p. 2.

¹⁵ Details on OTP’s carrying charge exist in their annual cogen tariff update in Docket No. 16-280: Otter Tail uses a similar carrying charge approach to determine the monthly charge. Otter Tail applies: 1) 9.58% Total Carrying Charge on the meters (Meter Costs); 2) 6.8% Carrying Charge on Services (Meter Service Drops); 3) and operation and maintenance (O&M – Meter, Customer Accounts Expenses, and Customer Service) costs.

¹⁶ Xcel, Reply Comments, Attachment B, line 7, p. 1. The Carrying Charge is a Levelized Annual Revenue Requirement Percentage.

¹⁷ Xcel, Reply Comments, Attachment B, line 15, p. 1.

¹⁸ Xcel, Response to MPUC IR Request 100, Attachment A.

¹⁹ MP, IR Responses 1-5, Exhibit 1, p. 1-4.

²⁰ OTP, Response to IR MN-PUC-003 p. 2.

²¹ Rate Design Testimony of David G. Prazak, pp. 63-65, Volume 2B, Direct Testimony and Supporting Schedules.

charge that is the equivalent of a levelized annual revenue requirement percentage assuming 15 years cost recovery (13.88%).

The parties are generally in agreement that the incremental cost of an additional meter when required for a QF is an allowable interconnection cost. There is disagreement on how the utilities calculate their respective meter costs, including whether certain maintenance, operation, and/or identified administrative costs should be excluded. Fresh Energy et al. flags in its challenge of the utilities' calculations the wide variation in costs across similar meter types, inconsistency in what types of meters are used and why, and different costs for similar work (e.g., bidirectional programming for Xcel is \$36, whereas Minnesota Power reports \$75 for ostensibly the same work.)²² MnSEIA takes issue with the utilities use of "bundled meter maintenance" arguing "changing a standard meter for a bi-directional meter...should have no effect on meter maintenance, meter upkeep, or meter reading prices."²³

Fresh Energy et al. also notes that even if there are justified and legitimate metering-related administrative costs, they should not be collected from the QF individually:

To the extent there are justified and legitimate administrative costs related to metering for net metered customers, which the utilities in this docket have not demonstrated, those costs would be *de minimis*. Such *de minimis* costs cannot be recovered through an additional fee in the co-generation and small power production tariffs as described above. Various subsets of customers in a general rate class have different administrative costs that are not broken out individually. Indeed, customers who make frequent calls to the call center, customers with different energy efficiency technologies or customers who change with unusual or changing load characteristics do not have special charges.²⁴

Minnesota Power differentiates the metering and customer accounting and assistance costs from facility upgrade interconnection costs (e.g. transformers) and argues it is a facility upgrade where an upfront payment or a payment schedule is appropriate:

In accordance with the Uniform Statewide Contract, Minnesota Power's QF contract does have a general provision wherein it states the up-front interconnection fees related to facility upgrades that a QF will pay. The tariff sheets associated with the monthly QF fee are provided prior to the QF signing the contract. The Company cautions against the requirement of adding the monthly QF fees to the contract language. The fees are collected on a monthly basis for administrative ease and to cover future upgrades to metering and associated equipment required to serve the QF. The potential fluctuating nature of the monthly rates presents a burden for both the utility and QF if the monthly fees were to be outlined in the contract. Any change in the monthly fees would require a renewed contract with each of Minnesota Power's approximate 108 qualifying facilities.²⁵

Staff Comment

The definition of "interconnection costs" includes reasonable costs "that are directly related to installing and maintaining the physical facilities necessary to permit interconnected operations with a qualifying

²² Fresh Energy et al., Initial Comments, p. 2-3.

²³ MnSEIA, Initial Comments, p. 4.

²⁴ Fresh Energy et al, Initial Comments, p. 11.

²⁵ Minnesota Power, Supplemental Reply, p. 3.

facility.”²⁶ Minnesota Power proposes interconnection costs are and should be recovered in two ways: “up-front interconnection fees related to facility upgrades” and “monthly QF fees...to cover future upgrades to metering and associated equipment required to serve the QF.”²⁷ QF advocates and the Department propose all interconnection costs be estimated in the uniform statewide contract, and the QF is given the opportunity to choose whether to pay the interconnection costs upfront or “over a reasonable period of time.”²⁸

The Commission’s October 1984 Order adopting Minn. Rules related to uniform statewide contract Section 8, consistent with the updated uniform statewide contract’s Section 12, states:

It is necessary and reasonable to include in the contract a provision that the QF is responsible to pay actual interconnection costs and to specify a method of payment for such costs in order to establish the contractual relationship between the parties for the payment of such costs. It is necessary and reasonable to include only an estimate of such costs in the initial contract because the actual cost will not be known until the final interconnection is made. The QF, however, remains responsible for payment of actual, reasonable cost of interconnection. It is both reasonable and necessary that both parties have an approximation of the amount of such costs at the time the contract is executed.²⁹

Minn. Rules 7835 were updated again in 2015. In the 2015 rulemaking update, the Commission repealed its initial rules related to “metering” and “payment of interconnection costs,” referring to Minnesota’s statewide interconnection standards for guidance on these issues going forward.³⁰

TABLE 3: MINN. RULE UPDATES

	1984 Rulemaking (Docket No. E999/R-84-105)	Updated rulemaking (E999/R-13-729)
Metering	7835.2700 METERING. The utility must meter the qualifying facility to obtain the data necessary to fulfill its reporting requirements to the commission as specified in parts 7835.1300 to 7835.1800. The qualifying facility must pay for the requisite metering as an interconnection cost.	Repealed. Referred issue to Statewide Interconnection Standards (Docket Nos. E999/CI-01-1023)
Payment of Interconnection Costs	7835.2500 PAYMENTS FOR INTERCONNECTION COSTS. Payments for interconnection costs may be made at the time the costs are incurred, or be made according to any schedule agreed upon by the qualifying facility and the utility.	Repealed. Referred issue to Statewide Interconnection Standards.

The most robust description of recovering interconnection costs staff found in Minnesota’s statewide interconnection standards is the standard Interconnection Agreement’s Exhibit B “SUMMARY OF

²⁶ 7835.0100; Subp. 12

²⁷ Minnesota Power, Supplemental Reply, p. 3.

²⁸ 18 CFR 292.306(b)

²⁹ October 16, 1984 Order (Docket No. E999/R-84-105), p. 36.

³⁰ 13-729 SONAR, p. 19.

AREA EPS COSTS AND DESCRIPTION OF DEDICATED FACILITIES BEING INSTALLED BY THE AREA EPS OPERATOR FOR THE INTERCONNECTION OF THE GENERATION SYSTEM”:

This exhibit shall provide the estimated total costs that will be the responsibility of the Interconnection Customer...What is listed below is a general outline of some of the major areas where costs could occur. Other costs than those listed below may be included by the Area EPS, provided that those costs are a direct result from the request to interconnect the Generation System. The following list is only a guideline and each Area EPS Operator, for each installation will be creating a unique Exhibit B, which is tailored for that specific Generation System interconnection.

- A) Dedicated Facilities (equipment, design and installation labor)
- B) Monitoring & Control System (equipment, design and installation labor)
- C) Design Coordination and Review
- D) Construction Coordination labor costs
- E) Testing (development of tests and physical testing)
- F) Contingency³¹

Typically, metering is considered in the category of “monitoring and control system”; including, in the statewide interconnection standards as it relates to metering requirements.

Recovery of Recurring Interconnection Costs

Utilities argue that metering and associated billing, maintenance and administrative costs are ongoing expenses best addressed with a monthly charge listed in the applicable rate schedule attached to the uniform statewide contract. Xcel interprets the Commission’s March 1983 Order in support of monthly metering costs:

By outlining in this March 1983 Order, in some detail, that metering costs are an interconnection costs which the QF must pay, and by providing a hypothetical bill which included a monthly metering charge, the Commission was clearly authorizing the additional metering charges based on a monthly charge that is driven by the customer’s installation of a DG system.³²

Otter Tail argues administrative and maintenance interconnection costs are more appropriately captured with a recurring, monthly fee:

Arguments that monthly charges are unlawful or inconsistent with the state-approved standard contract incorrectly assume that interconnection costs are one-time expense strictly limited to the cost of equipment. Interconnection costs include administrative and maintenance expenses which are inherently on-going expenses directly related to and caused by the interconnection with the qualifying facility.”³³

Otter Tail contends that arguments against monthly charges “fail to recognize the impracticability and expense of trying to recover all authorized costs as a onetime charge at the time of interconnection.”³⁴

Otter Tail challenges a one-time upfront charge for metering and ongoing costs as: 1) requiring customer-specific calculations and higher administrative costs; 2) difficult to determine a reasonable charge of all

³¹ Interconnection Agreement, Attachment 5: Agreement, Exhibit B.

³² Xcel, Reply Comments, Att. C p. 2-3.

³³ OTP, Reply Comments, p. 4.

³⁴ Id.

authorized expenses; 3) not allowing adjustments when technology or expenses change that could result in disparities among DG customers; 4) forcing the customer to assume the risk that the customer's generation system will be in operation for a period of time corresponding to the charge; and 5) potentially posing a significant upfront cost to the QF.³⁵

MCEA and Sierra Club's interpretation of Minn. Stat. §216B.164 is that fixed, recurring QF charges are not allowed:

This language is clear and unambiguous – a DG customer is to be billed for the “net energy supplied.” Under Subdivision 8(b), it may also be charged “any fixed charges normally assessed such nongenerating customers.” No other fixed charges are allowed. For any DG customer...their bill must reflect the net energy provided to the customer along with the same charges for fixed costs that are charged to non-DG customers. Nothing in this language provides any ambiguity in this regard. Rather, the statute provides multiple confirmations on this clear meaning. Subdivision 3(c) directs the Commission to “ensure that the costs charged to the qualifying facility are not discriminatory in relation to the costs charged to other customers of the utility.”³⁶

Fresh Energy et al. argues against a monthly fee on QFs provided in the rate schedule on the following grounds:

[The] only permissible additional DG customer-specific charges are interconnection-related costs that are: (1) consistent with Minnesota's interconnection standards, (2) not already covered in the standard customer charge, (3) transparently outlined in the utility's interconnection tariff, (4) compiled and cost-justified at the time of interconnection, and (5) documented in the Interconnection Agreement.³⁷

EFCA argues Minnesota's statewide interconnection standards support that a QF has a payment option, but not a recurring monthly fee:

While the Commission's interconnection requirements do allow for the “upfront payment” to be paid over time, *per a payment schedule*, they do not contemplate recovery of a one-time cost on a monthly basis in perpetuity. Indeed, utilities are required to provide all costs, *including but not limited to* those listed in Step 5 to be included in their estimated interconnection costs.³⁸

MnSEIA highlights one of the primary concerns of those that oppose the monthly charge approach:

[There is] no issue if the utility and customer agree that the bidirectional meter will be paid for in monthly installments over the course of the contract. However, in practice it doesn't seem to work that way. All of the IOUs have metering fees that eventually overtake the meter cost at some duration in the contract. Customers should not pay more for their meter than the cost of the meter.³⁹

³⁵ Id., p. 5.

³⁶ MCEA and Sierra Club, Initial Comments, p. 3.

³⁷ Fresh Energy et al., Initial Comments, pp. 10-11.

³⁸ EFCA, Supplemental Comments, pp. 7-8.

³⁹ MnSEIA, Initial Comments, p. 4.

Initially, the Department argued all interconnection costs needed to be identified in the interconnection agreement and/or uniform standard contract.

The Department notes that the fees in question were not assessed as part of the interconnection process, or reflected in the interconnection costs detailed in the Uniform Statewide Contract, but rather were imposed as an ongoing tariff charge... costs should be included in the interconnection costs listed in Section 12 of the Uniform Statewide Contract.”⁴⁰

However, the Department later amended its position:

After reviewing several cost studies related to these costs, the Department does not object to the use of a monthly fee for recovery, but expects the costs to be reflected in the Uniform Statewide Contract presented to QF providers. In addition, the Department expects IOUs to abide by the terms of the Uniform Statewide Contract provision that the permits the QF options regarding how those costs are paid.”⁴¹

Uniform Statewide Contract

The uniform statewide contract Section 12 reads:

12. The QF is responsible for the actual, reasonable costs of interconnection which are estimated to be \$_____.

The QF will pay the Utility in this way: _____”⁴²

Xcel argues the uniform statewide contract is not all-inclusive, citing the October 1984 Order p 36:

It is reasonable and necessary to include only an estimate of such costs in the initial contract because the actual cost will not be known until the final interconnection is made. The QF, however, remains responsible for payment of the actual, reasonable cost of interconnection.”⁴³

Xcel further argues that because the uniform statewide contract refers to an attached copy of the rate schedule which includes the monthly metering fee that is sufficient for the customer to be fully informed, and that there is no additional requirement for the monthly charge to also be listed in Section 12 of the contract.”⁴⁴ Additionally, Xcel argues the uniform statewide contract allows for “rates for sales and purchases of electricity may change over the time this contract is in force” which the Company interprets as referring to rates for purchases, i.e. tariffed QF rates, not the retail rates.”⁴⁵

The 1984 Order cited by Xcel states that “the actual cost will not be known until the final interconnection is made.” TASC makes this point: “Calls for an assessment only of upfront costs associated with bringing a QF facility onto a system... [is] not an invitation for utilities to apply theoretical costs that DG customers might create over time, on an ongoing basis.”⁴⁶

⁴⁰ Department, Initial Comments, p. 5.

⁴¹ Department, Supplemental Comments, p. 7.

⁴² Minn. Rule 7835.9910; Agreement 12; previous to 2015, this was Agreement 8.

⁴³ Xcel, Reply Comments, Att. C p 9 and October 1984 Order (Docket No. E999/R-84-105), p. 36.

⁴⁴ Xcel, Reply Comments, Att. C p 9.

⁴⁵ Id, p. 8.

⁴⁶ TASC, Initial Comments, p. 4.

Otter Tail argues that Section 12 of the uniform statewide contract is ...“intended to address the interconnection charges that are not incorporated in a tariff.” Such charges include all “...charges incurred as part of the interconnection process for distributed generation systems, to include interconnection application fee charges, engineering study charges, and similar charges that vary on the type of interconnection and size of generation system size.”⁴⁷ Further, Otter Tail argues recovering metering costs based on customer choice or negotiation rather than via tariffed payment terms would: 1) be difficult to administer; 2) add expense without benefit; and 3) lead to possible rate discrimination among customers.⁴⁸

If fees are permissible, what is reasonable?

In addition to the statutes and rules discussed thus far, the following is a list of federal and state statute raised by parties to inform determining what factors should be considered in determining if a DG customer-specific fee is reasonable:

Title 18 Code of Federal Regulations 292.305:

(a) (1) Rates for sales:

- (i) Shall be just and reasonable and in the public interest; and
 - (ii) Shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility.
- (2) Rates for sales which are based on accurate data and consistent systemwide costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or other cost-related characteristics.

Minn. Stat. §216B.03, Reasonable Rate:

Rates shall not be unreasonably preferential, unreasonably prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to a class of consumers. To the maximum reasonable extent, the commission shall set rates to encourage energy conservation and renewable energy use and to further the goals of sections 216B.164, 216B.241, and 216C.05. Any doubt as to reasonableness should be resolved in favor of the consumer...

Minn. Stat. §216B.07, Rate Preference Prohibited:

No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

Minn. Stat. §216B.16, Subd. 6:

Factors considered, generally. The commission, in the exercise of its powers under this chapter to determine just and reasonable rates for public utilities, shall give due consideration to the public need for adequate, efficient, and reasonable service and to the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate

⁴⁷ OTP, Supplemental Reply Comments, p. 2.

⁴⁸ OTP, Supplemental Reply Comments, p. 3.

provision for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in such property.

PURPA includes three principles with regard to rates for customers with distributed generation: 1) “just and reasonable”; 2) “non-discriminatory...to the extent that such rates apply to the utility’s other customers with similar load or other cost-related characteristics”; and 3) “based on accurate data and consistent system-wide costing principles.”⁴⁹

MCEA and Sierra Club describe a “reasonable” fee as one that is “...unambiguous, transparent, well-substantiated and non-discriminatory, and must also account for quantifiable benefits of distributed generation.”⁵⁰ Parties that oppose the monthly metering charges state the burden of proof is on the utility and any ambiguity on reasonableness should be resolved in favor of the consumer and consistent with Minnesota’s clean energy policy goals and priorities.⁵¹

The utilities argue the monthly metering charges are reasonable. Otter Tail suggests the Commission consider the following in determining what is reasonable: cost-causation principles, general statutory guidance under Minn. Stats. §216B.03, §216B.07, and the rate setting principles in §216B.16, Subd. 6.⁵²

No Unreasonably Preferential or Discriminatory Charges

QF advocates point to PURPA (18 CFR 292.305) and Minn. Stat. §216B.164, subd. 3(c) and 8 in support of their positions on the issue of the metering fee not being unreasonably preferential or discriminatory. EFCA argues QF customers should not be charged differently for utility supplied energy than non-generating customers:

Section 216B.164, Subdivision 3(c), applying to Public Utilities states that costs charged to net metering customers shall not be ‘discriminatory in relation to the costs charged to other customers of the utility.’ The Commission’s rules promulgated under this statute further reflect this principle, requiring that customer generators be billed for net consumption ‘according to the utility’s applicable retail rate schedule’...The clear takeaway from these examples of Minnesota and federal law is that customer-generators should not be charged differently for utility supplied electricity than non-generating customers.⁵³

Utilities interpret 216B.164, subd. 3(c) and 8 differently and point to Minn. Stat. §216B.07. Otter Tail argues not charging the recurring metering fee would be inconsistent with §216B.07:

In Otter Tail’s view there is clear authority for a utility to recover from distributed generation customers incremental equipment and O&M expenses and where such fees are based on traditional cost-causation principles applicable to other customers with specialized rates. Excluding distributed generation customers from fees under these circumstances is inconsistent with the standard, barring an unreasonable preferences or advantages in rate setting.⁵⁴

⁴⁹ 18 CFR 292.305.

⁵⁰ MCEA and Sierra Club, Initial Comments, p.2.

⁵¹ Fresh Energy et al., Initial Comments, p. 3.

⁵² OTP, Initial Comments, p. 3.

⁵³ EFCA, Initial Comments, p. 3.

⁵⁴ OTP, Initial Comments, p. 3.

PURPA also specifies that the obligation for a QF to pay any interconnection costs must be achieved “on a non-discriminatory basis *with respect to other customers with similar load characteristics.*”⁵⁵ (Emphasis added)

According to Otter Tail, a customer with an electric vehicle or water heating special rate is comparable, and the Company applies the same customer charge methodology based on cost-causation principles to both DG and non-DG customers.⁵⁶ Otter Tail normally assesses customer charges to these non-generating customers who require specialized equipment in order to recover a portion of the equipment expense and directly related O&M and administrative expenses “based on traditional cost-causation principles.”⁵⁷

QF advocates believe the relevant comparison is simply between a DG customer and a non-DG customer in the same customer class. Fresh Energy et al. argued in response to Otter Tail:

Otter Tail does not address the specific statutory and regulatory provisions that apply here to guide and limit DG fees for qualified small power producers. As discussed in detail in our initial comments, Minn. Stat. §216B.164 and accompanying rules require that DG customers can only be charged the same rates and fixed charges as a similarly-situated non-DG customer. DG customers are responsible for reasonable interconnection costs, but those should be handled through the state’s interconnection process, not through a monthly charge in the utility’s tariff.⁵⁸

Incremental Costs

Parties agree the costs charged to QFs should be incremental to the costs the customer pays in the customer fixed charge for their customer class. Otter Tail argues: “A full reading of 216B.164, its implementing rules, and Commission’s orders makes clear that customer charges for the incremental expense of metering equipment and associated administration and maintenance expenses are authorized by law.”⁵⁹ The Department explains “any interconnection costs recovered from distributed generation customers should be net of the costs already recovered in that customer’s standard customer charge.”⁶⁰

QF advocates take issue with the utility cost calculations using estimates of DG customer costs based on assumptions relating to special rate schedule customers (e.g. electric vehicle or water heating) or the general or typical service customers. EFCA’s delves into this issue for each utility with questions related to: 1) demonstrating and justifying in detail the incremental cost to meter and serve QF customers; and 2) how the utilities track the costs and data.⁶¹

Cost Causing/Cost-Based

Otter Tail describes the Commission’s approval of monthly fees generally as being based on traditional cost-causation principles:

In setting rates and customer charges, the Commission has traditionally reviewed and approved of rates based on cost-causation principles that fairly allocate costs to rate classes and customers based on cost of service studies and other supporting documentation.

⁵⁵ 18 CFR 292.306 (a).

⁵⁶ OTP, Initial Comments, p. 4.

⁵⁷ OTP, Reply Comments, p. 3.

⁵⁸ Fresh Energy et al., Reply Comments, p. 2.

⁵⁹ OTP, Reply Comments, p. 2.

⁶⁰ Department, Initial Comments, p. 5.

⁶¹ EFCA, Initial Comments, Attachment A.

The Commission's statutory authority to approve public utility rates using cost-causation principles necessarily includes the authority to approve fees designed to recover a just and reasonable portion of incremental equipment expenses and/or incremental operations and maintenance expenses (O&M expense) associated with specialized service or rates. This includes customer fees associated with off peak controls, distributed generation, electric vehicles and any other specialized rates.⁶²

EFCA, MnSEIA, and Fresh Energy et al. argue, however, that the utilities have not yet met the burden of proof in defending their metering-related cost estimates.⁶³ Otter Tail responds:

Otter Tail would urge that the level of analysis applied to validating the reasonableness of customer charges have some level of proportionality with the magnitude of the charges. It seems that some commenters demand a level of analysis that will cause utilities to question whether the administrative burden of determining charges is worth the small amount of expense recovered.⁶⁴

EFCA responded:

This statement indicates that Otter Tail believes that the costs of interconnection are so *de minimis* that the effort to precisely quantify them would outweigh the benefit to it or its non-DG customers of collecting them. Assuming this is true, such an admission would prove that the fees it is collecting are not reasonable or cost based. It appears Otter Tail is just making its best guess, without putting in the time or effort to ensure that its DG specific fees are cost based and therefore just and reasonable.⁶⁵

MNSEIA argues while *de minimis* to the utility and its ratepayers the monthly fees add up for the QF:

For instance, if you take Xcel's \$3.15 metering charge for their A50 customers and spread it across their estimated 1,230,524 customers in Minnesota, this would have effectively no impact on any ratepayer in their service territory. A \$3.15 monthly rate, however, could be a determining factor for a residential solar customer looking to install a system. Over 25 years – the general warranty length for a system - that monthly addition will amount to approximately \$1,000. For some small systems, this could be a significant deterrent.⁶⁶

Utility's Cost Recovery and Carrying Charge

With respect to cost recovery, the utilities highlight the general ratemaking factors in Minn. Stat. §216B.16, subd. 6. Minnesota Power notes:

It is important for the Commission to consider the factors causing the additional cost, while also balancing what is in the public's interest with the need for the utility to sufficiently recover the cost of providing the required service(s) as outlined in Minn. Stat. §216B.16 Subd. 6.⁶⁷

⁶² EFCA, Initial Comments, Attachment A, p. 2.

⁶³ EFCA, Supplemental Comments, p. 10.

⁶⁴ OTP, Reply Comments, p.8-9.

⁶⁵ EFCA, Supplemental Comments, p. 9.

⁶⁶ MnSEIA, Initial Comments, p. 4.

⁶⁷ MP, Reply Comments, p. 7.

Cost Predictability

Several commenters support requiring the estimation of total interconnection costs provided at the time of interconnection to allow the customer to make an informed, economic decision.⁶⁸ Fresh Energy et al. summarizes a New Mexico Public Regulation Commission Order rejecting a proposal for additional charges for fixed distribution costs:

The New Mexico Commission explained one of the main purposes of the non-discrimination principle in its net metering law is that it “improves the predictability of the economic value of such generation for customers considering installation of a qualifying facility because the rule allows such customers to estimate the costs and benefits based upon rates already applicable to such customers.”⁶⁹

Relevance of DG benefits in Determining Cost Recovery

Several parties (i.e. Powerfully Green, Minnesota Farmers Union, ILSR, and MCEA & Sierra Club) took issue with assigning costs to the QF without considering the benefits they offer to the utility and its ratepayers. MCEA and Sierra Club argue a fixed cost for a meter without accounting for the fact that the QF is also responsible for reducing the utility’s fuel costs, avoiding pollution, and other benefits is a discriminatory practice that undercounts the value of the electricity the QF generates.⁷⁰

Otter Tail and Xcel both argue such consideration is outside the scope of the docket, and policy changes should only be made prospectively. Xcel noted that the complexity of discerning the costs and benefits of a QF is open for discussion:

[I]t may be appropriate to consider how to handle metering fees in the future including whether we should charge an up-front fee rather than a monthly fee, or prospectively such costs should be spread among all utility customers.⁷¹

Were the fees charged to Qualifying Facilities approved by the Commission? Should the Commission open an investigation to consider refunds?

During the course of the investigation, some parties claimed that the some of the utilities fees were not reviewed or approved by the commission.

In its supplemental comments, the Department states:

Rates filed with and approved by the Commission are rates that an IOU may include in its tariffs and be charged to QFs until changed on a going-forward basis by the Commission. Therefore, the Department concludes that to the extent that each investor-owned utility’s fees were approved as part of the IOUs’ most recent rate cases, those QF fees are permitted to be charged to QFs.⁷²

In their reply comments, Xcel referred to the 1984 Order establishing Minn. Rules on Cogeneration and Small Power Production, stating that:

⁶⁸ EFCA, Supplemental Reply Comments, p. 8.

⁶⁹ Fresh Energy et al., Initial Comments, p. 6.

⁷⁰ MCEA and Sierra Club, Initial Comments, p. 7.

⁷¹ Xcel Reply Comments, p. 6.

⁷² Department, Supplemental Comments, pp. 7-8.

In its October 16, 1984 Order in Docket No. E999/R-84-105, the Commission approved the process, whereby the Company files changes to our Section 9 small QF tariff rates, and those charges go into effect 60 days after the filing unless the Commission takes other action.⁷³

Xcel and the other utilities use this justification for changes to their QF fees made outside of the rate case in their annual Cogeneration and Small Power Production filings.

Furthermore, Xcel highlights Minn. Stat. §216B.23, which outlines the Commission's authority to issue refunds. Xcel argues that refunds are not appropriate unless all of the following conditions have been met:

1. A public utility has charged a rate in violation of this chapter, a commission rule, or a commission order;
2. Revenues were collected as a result of [the] unlawful conduct; *and*
3. The Commission issues a notice for a proceeding to address the refund issue, and makes a determination in that proceeding showing a refund is appropriate up to six years.⁷⁴

Given that the Company's Section 9 tariff metering fees have been properly established in a filed tariff and lawfully collected, there is no basis for the Commission to order a refund or issue a notice for a proceeding to address a refund. In fact, it would have been unlawful for the Company not to have charged the tariffed rate. The Commission may determine for policy reasons to adjust metering fees on a prospective basis, but a retroactive change is not appropriate in this case.⁷⁵

Otter Tail agrees with Xcel and adds the following:

Minn. Stat. §216B.164 Subd. 8(b) and the Commission's March 7, 1983 Order in Docket No. E999/R-80-560 make clear that the QFs are responsible all interconnection costs, including incremental metering costs arising from interconnected activity. Utilities have collected these costs through various Commission orders and Commission-approved procedures. In Otter Tail's case its current QF customer charges have been approved in a general rate case. Commentators claiming illegality rely on a truncated reading of the "shall be billed" language of Minn. Stat. §216B.164 Subdivision 3 that ignores Subdivision 8.⁷⁶

In supplemental comments, the Department had the following statement:

The Department disagrees with the IOUs that they obtained Commission approval simply through the filing of their Annual Cogeneration and Small Power Production Filings. Minnesota Rules 7835.0300 clearly states that the Annual Filings are submitted for the Commission's "*review and approval.*" To the Department's knowledge, none of the IOUs sought affirmative Commission approval of their Annual Filings and the Commission did not give such approval. Therefore, the Department concludes that the Commission did not approve the Annual Filings of any IOU.⁷⁷

Minnesota Power

In their reply comments, Minnesota Power states that it submitted its first tariff in December of 1983 in response to the Commission's 1983 Order establishing cogeneration and small power production rules.

⁷³ Xcel, Reply Comments, p. 4.

⁷⁴ Note: This is not the exact text of 216B.23.

⁷⁵ Xcel, Reply Comments, p. 5.

⁷⁶ OTP, Supplemental Comments, p. 4.

⁷⁷ Department, Supplemental Comments, p. 8.

This filing included the costs and amount to be included in the “monthly service charge.” In its June 15, 1984 Order the Commission approved Minnesota Power’s monthly service charge of \$1.30, but denied its proposal for a reactive demand charge. Since the initial charge was approved, Minnesota Power has continued to submit its cogeneration and small power production tariff to the Commission.⁷⁸ A table of the changes to Minnesota Power’s fee can be found in [Appendix B](#).

In their supplemental comments, the Department indicates that Minnesota Power changed its QF Service Charge after its 2009 Rate Case without requesting or obtaining Commission approval:

Therefore, the Department concludes that Minnesota Power violated the statutory requirement that it obtain affirmative Commission approval to change the rate that was approved in its 2009 rate case. Given that MP appears to have undercharged QFs through 2014, the Department recommends that the Commission order Minnesota Power to refund the fee differential to QFs (customers) for the period between Jan 1, 2015 to the present.

In their supplemental reply comments, Minnesota Power disagreed with the Department’s conclusion that they did not request or obtain approval, pointing out that each of their annual submissions contained a cover letter with the following line:

*“Enclosed for filing, in accordance with the Cogeneration and Small Power Production Regulations, Minn. Rule 7835.0300, is Minnesota Power’s **Request for Rate Revision**. [Emphasis added].”⁷⁹*

Minnesota Power goes on to state that:

This statement left no doubt that through the filing the Company was seeking Commission approval to revise its rate...Any questions and/or supporting documentation to substantiate the revised rate could have been addressed through the regulatory review process had the Commission met its statutory obligation to review Minnesota Power’s Request for rate revision.”⁸⁰

Otter Tail Power

Otter Tail first gained approval for its QF Customer Charge in Docket E017/M-83-388 and E017/CG-84-384, their initial cogeneration and small power production tariff filing. In Docket No E-017/GR-10-239, OTP gained approval for an increased rate of \$3.70 for their Net Energy Billing Rate and for other cogeneration and small power production rates.⁸¹

Otter Tail has filed their Cogeneration and Small Power Production tariff annually since the last rate case with no changes to the fee amount. A table of changes to Otter Tail’s fee can be found in [Appendix B](#).

Otter Tail points out that the Commission approved an increase in its 2010 rate case, and that there were not specific comments on the charge by the ALJ or Commission. They state that:

It is more likely that the lack of written comment or controversy was due to the fact that the ALJ, intervening parties, and Commission concluded the charges were authorized by law and

⁷⁸ MP, Reply Comments, p. 4.

⁷⁹ MP, Supplemental Reply Comments, p. 2.

⁸⁰ *Ib.*, p. 2.

⁸¹ OTP, Initial Comments, p. 4.

reasonable. Moreover the approach advocated by the non-utility commentators would undermine the Commission's traditional view that rate case proceedings are the gold standard for determining reasonableness of rates.

In reply comments, Fresh Energy et al. respond to Otter Tail's comment challenging the QF fees were not addressed explicitly in the rate case review:

Otter Tail also argues that its charge is "inherently reasonable" because it was included in the overall rate design approved in the Company's last rate case. Certainly the Commission has broad rate-setting authority, but it is still required to exercise that authority within the bounds of all applicable statutes. Here, there is a specific statute (and rules) governing the rates and charges for DG customers that clearly governs. Otter Tail's argument is also not persuasive because it does not appear that the legality of Otter Tail's DG fee was squarely raised in its last rate case. Specifically it appears that neither the Commission nor the Administrative Law Judge explicitly commented on Otter Tail's DG fee, and it does not appear that it was raised as an issue by any party or the Company.⁸²

EFCA in its reply comments concurs and takes issue with the application of similarly situated for a QF being a water heating or electric vehicle customer:

OTP does not clearly explain whether its fee was explicitly mentioned in its testimony, responses from other parties, or the decision in Docket No. 10-239. It is not clear whether the DG fee was explicitly approved in that proceeding or merely ignored and approved along with the entire tariff book. OTP also offers no explanation as to why QF customers are so similarly situated to customers selecting service under the Company's water-heating control rider and off-peak electric vehicle rider to justify their application.⁸³

Xcel Energy

Xcel Energy's initial fee appears to have been first authorized in Docket E002/M-81-314, *In the Matter of a Change in the Rate Schedule for the Purchase of Power from a Qualifying Cogeneration Facility*.⁸⁴ Updated fees were approved in Xcel's General Rate Cases in Dockets E002/GR-05-1428 and E002/GR-08-1065.⁸⁵ The Department notes that between the two rate cases, Xcel may have raised the QF fee. Xcel confirmed in their supplemental reply comments that their QF fees increased through their annual cogeneration and small power production tariff filing on January 2, 2007.⁸⁶ Prior to the 2005 rate case, Xcel updated its annual fee amount through its cogeneration and small power production filings. A table of changes to Xcel's fees can be found in [Appendix B](#).

The Department argues a refund is warranted and requests ratemaking require affirmative approval by the Commission:

The Department recommends that the Commission order Xcel to refund the amount charged in excess of the Commission-approved QF rate as part of Xcel's 2005 rate case for the period

⁸² Fresh Energy et al., Reply Comments, pp. 2-3.

⁸³ EFCA, Reply Comments, pp. 6-7.

⁸⁴ Xcel, Reply Comments, p. 4.

⁸⁵ Department, Supplemental Comments, 2016, p. 10.

⁸⁶ Xcel, Supplemental Reply Comments, 2016, pp. 3-4.

between Jan 2, 2007 (the time the first unapproved fee became effective) and October 23, 2009 (the approval date of the fees).

In its June 6, 2016 Reply Comments, Xcel cited to the Commission's October 16, 1984 Order in Docket No. E999/R-84-105 to argue that QF fees (and changes to DG fees) were permitted to go into effect within 60 days of their filing unless an objection is made. The Department found no evidence that the Commission memorialized this treatment of rate changes in future orders. The Department defers to the Commission whether it intended to permit QF fee increases without the Commission's affirmative review and approval (i.e., that DG rate changes could go into effect within 60 days of filing unless an objection is made). At least on a going-forward basis, the Department urges the Commission to affirmatively reject such methodology for ratemaking.⁸⁷

In response to the Department's comments, Xcel lays out the reasons why its fees were properly filed and approved by the Commission. First, Xcel indicates that its 2007 filing stated "Xcel Energy respectfully requests that the Commission approve the Company's proposed tariff revision for cogeneration and small power production," which was consistent with Minn. Statute 216B.16, Subd. 1 and the Commission's 1984 Order.⁸⁸ Furthermore, they add that "ordering a refund of a properly tariffed rate would constitute retroactive ratemaking" and that practically, the logistics of issuing a refund would likely not be cost effective.⁸⁹

Staff Comment

The 60-day period that utilities refer to from the 1984 Order does not establish when the rates they filed became effective; rather, it establishes when the rates had to be filed. Staff reviewed the 1984 Order and nowhere does it state that filings are approved 60 days after a filing if there is no Commission action.

Staff concludes that the utilities did file their fees, but there was no Commission review or approval of the fee changes submitted between their rate cases. The Commission may wish to consider what effect prior inaction had with respect to the effective date identified in each unreviewed and unapproved cogeneration and small power production tariff amendment. On the issue of refunds, if the Commission decides that a utility charged tariffed fees without approval, it could initiate a proceeding to determine if refunds are warranted. The procedure for this process is outlined in Minn. Stat. §216B.23

How should future Cogen rates be filed and approved by the Commission?

Parties have indicated that clarification going forward may be useful.

Otter Tail states Commission action should be prospective and avoid administrative burden:

With respect to retroactive application, in its October 16, 1984 Order in Docket No. E999/R-84-105 (*In the Matter of the Proposed Adoption of Amendments to the Rules of the Minnesota Public Utilities Commission Governing Cogeneration and Small Power Production*), the Commission approved the process whereby a utility's annual tariff is in effect unless the Commission takes subsequent action. Therefore this question should be limited to prospective application.

⁸⁷ Department, Supplemental Comments, pp. 10-11.

⁸⁸ Xcel, Supplemental Reply Comments, p. 4.

⁸⁹ Xcel, Supplemental Reply Comments, p. 5.

Prospectively Otter Tail urges the Commission to avoid any process which adds significant expense or administrative burden.

The Department reiterates its recommendation that fee changes receive written approval from the Commission:

As stated above, the Commission has authority to review and approve fees assessed to QFs (DG customers). Increased interest in solar DG has increased the attention being given to QF fees. The Department recommends that the Commission clarify that going forward, any utility proposing a change in its Cogeneration and Small Power Production tariff must receive written approval from the Commission prior to implementing a proposed change.”

Xcel commits to follow the directive for affirmative action on rate changes going forward:

We understand that the Commission in its June 27, 2016 Order in Docket No. 16-09 has now required an affirmative order before these rate changes can go into effect, and the Company will follow that directive on a prospective basis.⁹⁰

Staff Comment

A QF fee is not the same as a compensation rate paid to customers for energy supplied to the utility. Minn. statute and rules outline how to calculate the compensation rates for cogeneration and small power production tariffed rate schedules. While there may have been a process established in the 1980s for annual updates, with the growth in qualifying facilities in the intervening years, the Commission may wish to consider whether a change in the way DG rates are filed, reviewed, and approved by the Commission is necessary.

In its June 27, 2016 Order in Docket 16-09, the Commission clarified that:

Finally, the Commission clarifies that co-generation and small-power-production tariffs—including those setting the fees newly authorized under Minn. Stat. §216B.164, subd. 3 (a)—must be reviewed and approved by the Commission before becoming effective, as provided under Minn. R. 7835.0300.

The Commission may wish to consider a more streamlined approval process. For instance, the Commission could grant approval of the annual cogeneration and small power production filings under Minn. Rules 7835.0300-1200 automatically if no objection is received from an interested party or Commission Staff within 60 days of the filing of the request, as long as certain conditions are met. The Commission adopted a similar process to expedite municipal franchise fee changes (Docket 09-970). Allowing approval of rule-defined changes that do not address policy issues after a 60 day period would allow interested parties an opportunity to weigh in and would give the Executive Secretary the discretion to approve the tariffs if no party or the Commission Staff raise concerns. This process has been in place for municipal franchise fees changes since 2011 and has worked well.

Staff lay out the following conditions that would allow a filing to qualify for this process:

- a. The filing must contain Schedules A through H as provided for in Minn. Rules 7835.0500-1100.

⁹⁰ Xcel, Supplemental Reply Comments, p. 4.

- b. Changes to the Average Retail Energy Rate must be calculated as provided for in 7835.0100 Subd. 2a.
- c. Changes to the Simultaneous Purchase and Sale Billing Rate must be calculated as provided in 7835.4014. The filing must contain the calculations used to arrive at the rate.
- d. Changes to the Time-of-Day Purchase Rate must be calculated as provided in 7835.4015. The filing must contain the calculations used to arrive at the rate.
- e. The utility must provide a redline and clean version of the tariff changes to the Average Retail Energy Rate, the Simultaneous Purchase and Sale Billing Rate, and the Time-of-Day Purchase Rate.
- f. The filing must only contain tariff changes that have a calculation process clearly defined in statute or Minn. Rules 7835.
- g. If no changes are to be made to the tariff, the utility may comply with Minn. Rule 7835.0400.

Staff believe this option would not put any additional burden on the utilities, as they could use the already established forms for the annual filings. Staff reviewed the utilities' filings in Docket 17-09 and, aside from the fees at issue in this docket, the format and level of detail in the submissions would generally meet the requirements above. The only minor change would be to better identify within Schedule G the calculations for the Simultaneous Purchase and Sale Billing Rate and Time-of-Day Purchases Rate. Staff is happy to work with the utilities and other parties to better update the existing forms if that would simplify annual reporting and updating compensation rates.

There are, of course other methods the Commission could use to review and approve changes as outlined above. The Commission could review and approve yearly changes to the tariffs through a DG subcommittee, as proposed in Docket 17-284, or they could require that the annual filings go through a standard docketed procedure, but this would likely delay filings and increase the regulatory burden for staff, utilities, and other parties.

However, if a utility proposes a new fee, changes an existing fee amount, or other substantial tariff changes, such changes would be subject to the standard procedure for a miscellaneous tariff filings under the Commission's rules.

Are Specific Utility's Fees Reasonable?

Staff Comment

The fee calculations in this docket are no longer current. In 2016, all three public utilities filed annual revisions to their cogeneration and small power production tariffs as required by statute.⁹¹ For those tariffs including proposed monthly fees, the Department reviewed and requested revisions to each utility's fee calculations. The only other party in this docket that weighed in on those revised fee calculations was Fresh Energy. Ultimately, the Department supported the final monthly fees proposed by Otter Tail and Xcel as reasonable. The Commission provisionally approved those fees in its May 2017 Order, but required additional information to support Minnesota Power's proposed monthly fee. On June 21, 2017, Minnesota Power filed the additional information and proposed eliminating the monthly fee.⁹² The

⁹¹ Docket Nos. 16-204 (Minnesota Power); 16-222 (Xcel Energy); and 16-280 (Otter Tail Power).

⁹² Late-Filed, Cross-filed Minnesota Power, Response to PUC IR 2 in Docket No. 16-204.

Commission Order states its provisional approval of the metering charges is not meant to “prejudge the outcome of the investigation” in this docket.⁹³

Both Xcel and Minnesota Power filed, at the request of the Department and Commission staff respectively, updated cost calculations in the current docket; however, there has not been an opportunity for comment or discovery by other parties. Otter Tail’s most recent cost calculations have not been filed, or requested to be filed, in this docket.⁹⁴ Several parties took issue with the lack of opportunity in this docket to comment on and issue information requests on specific utility fee calculations. Xcel and Otter Tail both in written comments expressed a willingness to consider forward-looking policy revisions while defending their existing fees.

Given Xcel’s incremental QF costs and monthly meter charge calculations filed in this docket are nearly identical to what was used in the annual cogeneration and small power production tariff, and there was at least some discovery by EFCA and Commission staff, staff provides an analysis of Xcel’s cost calculations. Staff does not provide analysis of the Minnesota Power or Otter Tail calculations in this docket as the record is no longer relevant.

Xcel Metering Cost Calculations and Monthly Charge Justification

To establish the monthly metering charge amount, Xcel calculates a Levelized Annual Revenue Requirement (LARR) Percentage which becomes the “carrying charge” in their cost calculations.⁹⁵ The Company makes several assumptions in calculating the LARR, including \$115.50 for a capital investment for a QF (equivalent to a single phase general service with production meter in the Company’s early cost of metering calculations) and a 15 year book life for the investment. A summary of the assumptions and the resulting LARR and Net Present Value (NPV) Total Revenue Requirement is provided in the chart below:

TABLE 4: XCEL LARR PERCENTAGE INPUTS AND RESULTS

Capital Investment	\$115.50
Book Life (years)	15
Long Term Debt	4.90%
Short Term Debt	0.62%
Common Equity	9.72%
Required Rate of Return	9.72%
Discount Rate	6.42%
Total NPV Revenue Requirement	\$151.55
LARR	\$16.03
LARR % (Carrying Charge)	13.88%

The LARR is calculated using the discount rate and the net present value (NPV) revenue requirement:

⁹³ May 22, 2017 Order (Docket Nos. 16-204; 16-222; and 16-280).

⁹⁴ Department, Attachment A, (April 10, 2017), Docket No. E017/M-16-280 (Public and Trade Secret Versions)

⁹⁵ Xcel, Response to MPUC IR Request 100, Attachment A.

$$LARR = \left(\frac{\text{discount rate}}{(1 + \text{discount rate})^{\text{book life}-1}} + \text{discount rate} \right) \times NPV \text{ Revenue Requirement}$$

The LARR Percentage (carrying charge) is then calculated by using the following formula

$$LARR \% = \frac{LARR}{\text{Capital Investment}}$$

EFCA issued several information requests regarding Xcel's cost calculations and assumptions. In response to EFCA on why bi-directional meter programming was subject to a carrying charge, Xcel explains:

Carrying costs recover the cost of capital required to purchase the meter and program it for distributed generation (DG) customer usage.⁹⁶

In response to EFCA on the useful life of DG customer meters and the regulatory depreciation life of those meters:

The Company's approved depreciation life on meters for regulatory purposes is a calculation of the average service life of previously installed meters. The Minnesota Public Utilities Commission has approved an average service life of 15 years for all meters, including those provided to distributed generation (DG) customers. This coincides with a depreciation rate of 6.67 percent.⁹⁷

EFCA takes issue with Xcel's application of a carrying charge (13.88%) on the production meter (when required) and bi-directional programming of the service meter in calculating a monthly fee:

EFCA also does not agree with the methodology of applying the carrying charge to the initial metering investment as a means of calculating a monthly fee. The carrying charge appears to include the company's depreciation cost and financing costs (i.e., "returns"). Since the meter depreciates, returns on the non-depreciated component should decline over time.⁹⁸

Capital Investment or Incremental Meter Costs

Over the course of the docket, Xcel updated its initial capital investment costs for QF (referred to as "incremental meter costs" in some of the cost calculations) to include a production meter (when required) and bi-directional programming of the customer's service meter. The costs of the production meter are the same as the installed cost of a service billing meter for a non-DG customer. The Company notes it is basing the costs on 2015TY costs and customer counts approved in its 2013 rate case Docket No. E002/GR-13-868.

EFCA argues more information is needed to determine whether programming costs should be subject to a carrying cost charge, asking:

⁹⁶ Xcel, Response to EFCA IR Request No. 5

⁹⁷ Xcel, Response to EFCA IR No. 1

⁹⁸ EFCA, Reply Comments pp.8-9

For example, are the programming costs solely for purchasing software, or does it include labor costs to program and calibrate the meter?⁹⁹

Customer Accounting and Assistance

The Company estimated incremental customer accounting and assistance costs for a production meter at \$28.27.¹⁰⁰ These incremental costs are a sum of the following and are identical to the costs for a typical customer with a single service meter: supervision, meter reading, customer records, and customer assistance. The Company does not allocate additional collection expenses on a DG customer.¹⁰¹

Xcel notes in an IR response that it does not track DG customer costs separately:

The Company does not account for DG customer account expenses, DG meter reading expenses, and DG customer account revenue requirements separately from other customers. We track all customer account expenses, including meter reading, for both DG and non-DG customers.¹⁰²

Further, Xcel notes no additional charges are incurred by a DG customer for reading their meters:

The meters for distributed generation (DG) customers are read in the same manner as non-DG customers over an automatic meter reading (AMR) radio frequency network owned by a third party. No additional charges are incurred by a DG customer for reading their meters. The meter reads are broadcasted and processed on a daily basis to ensure accurate and timely billing for all customers.¹⁰³

EFCA points out that despite this response Xcel includes \$11.25 of incremental annual costs to DG customer for meter reading.¹⁰⁴

Xcel clarified in response to EFCA's information requests 8-10 that the Company does not track DG customer costs separately in FERC accounts 902, 903, and 908. EFCA responds:

By charging DG customers twice and not reducing the charges for non-DG customers, the company could potentially over collect for Customer Accounting and Customer Assistance expenses.¹⁰⁵

Staff Comment

EFCA raised concerns that Xcel's carrying charge (LARR %) "appears to include the company's depreciation cost and financing costs (i.e. "returns")." The Commission may wish to consider the following factors in setting just and reasonable rates, as defined in Minn. Stat. §216B.16 subd. 6:

In determining the rate base upon which the utility is to be allowed to earn a fair rate of return, the commission shall give due consideration to evidence of the cost of the property when first

⁹⁹ Id., p. 10.

¹⁰⁰ Xcel, Reply Comments, Attachment B, line 15, p. 1. Staff Comment: In the cross-filed out of comment period Attachment C, the customer accounting and assistance for a DG customer without a production meter is \$17.02. The only cost that is eliminated or reduced by not having a production meter is the meter reading (line 12).

¹⁰¹ Xcel, Reply Comments, Attachment B, line 9, p. 2.

¹⁰² Xcel, Response to EFCA IR No. 2.

¹⁰³ Xcel, Response to EFCA IR No. 7.

¹⁰⁴ EFCA, Reply Comments, p. 11.

¹⁰⁵ EFCA, Reply Comments, p. 12.

devoted to public use, to prudent acquisition cost to the public utility less appropriate depreciation on each, to construction work in progress, to offsets in the nature of capital provided by sources other than the investors, and to other expenses of a capital nature. For purposes of determining rate base, the commission shall consider the original cost of utility property included in the base and shall make no allowance for its estimated current replacement value.¹⁰⁶

Generally Accepted Accounting Principles (GAAP) allow for all costs associated with placing an asset in service to be capitalized.¹⁰⁷ When a utility capitalizes costs they are placed in rate base. Rate base costs allow the utility to get a *return of* the investment¹⁰⁸ and a *return on* the investment.¹⁰⁹ Xcel proposes to capitalize the installed production meter (when required) and bi-directional programming of the service meter. In the LARR % calculation, Xcel addresses depreciation costs using the standard straight-line depreciation of the capital investment over the book life (15 years) noted as “book depreciation” and “depreciation reserve” and removed from the “average rate base” over the 15 years. Per GAAP, once in service, operation and maintenance costs are considered separate from capital investments (with the possible exception of third party, pre-paid maintenance contracts.)

Assuming Xcel’s cost estimation and assumptions are correct, staff demonstrates the difference a customer would see in total costs if they chose to pay the Capital Investment upfront or to pay Xcel’s LARR (or a monthly charge of approximately \$1.34 over 15 years.) This does not include the annual customer accounting and assistance costs.

TABLE 5: DIFFERENCE IN UPFRONT VS. MONTHLY CHARGE ON CAPITAL INVESTMENT RECOVERY

	Capital Investment (Upfront Cost)	LARR over 15 years (Real Dollars)
Customer Pays	\$115.50	\$240.45
Difference compared to the Capital Investment	\$0	\$124.95

Xcel filed, on the Commission’s request and outside a comment period in this docket, updated cost justification for DG customers who do not have a production meter.¹¹⁰ That filing showed the incremental metering costs to be \$22.34 for bi-directional programming of the service meter with the annualized incremental metering cost of \$3.10 (based on the 13.88% carrying charge and including customer accounting and assistance costs.)¹¹¹

For NPV and LARR calculation, Xcel uses a discount rate of 6.42% which is driven by the capital structure approved in the 2013 rate case. Staff is unsure why Xcel has used this formula to arrive at their discount rate, but the discount rate has minimal impact. For comparison only, the impact of a lower discount rate (3%) on the LARR is a reduction of \$.19 and the corresponding carrying charge (LARR %) would be 13.71%.

¹⁰⁶ Minn. Stat. 216B.16; Subd. 6

¹⁰⁷ Costs associated with placing an asset in service include, but are not limited to, the purchase price, transportation costs and labor used to install or prepare the asset for service.

¹⁰⁸ Through depreciation.

¹⁰⁹ Return on the investment is typically equal to ROR approved in the utility’s most recent rate case.

¹¹⁰ Xcel, Other-Supplement (December 9, 2016) (originally filed in Docket No. 16-222)

¹¹¹ Xcel, Other-Supplement, Att. C.

Procedural Issues

Staff acknowledge there were a number of procedural questions and hurdles over the course of this investigation. Some are specific to this docket, while others may require further Commission clarification.

Discovery

Historically, practice in non-contested cases has been for parties and utilities to engage in Information Requests (IRs). However, in the present case, the Energy Freedom Coalition of America (EFCA) sent IRs to the three public utilities and initially received limited, if any, answers. As EFCA puts it,

Utilities are the gatekeepers of information when it comes to identifying costs and setting rates. Commenters in uncontested case proceedings have no means to acquire such information other than asking for it through IRs. Without such procedures, the Commission may end up making a decision without considering all relevant facts.¹¹²

In reply, Otter Tail requests Commission guidance:

Environmental and solar commentators have not identified a statute or administrative rule authorizing discovery by a non-party in Commission-initiated investigation. There appears to be little precedent for non-party discovery in Commission-initiated investigation dockets...Otter Tail welcomes the Commission's guidance on this issue.¹¹³

Xcel states there is uncertainty regarding "whether any interested party is entitled to submit discovery requests in this matter, and whether such discovery shall be limited or broad in scope."¹¹⁴

Fresh Energy et al. notes requiring intervention is burdensome to the process:

Requiring intervention in non-contested case dockets would needlessly complicate the Commission's process and impair record development...This would not only introduce significant administrative burden for parties, it may also require Commission to act on intervention requests (in the case of objections), which would needlessly add to the Commission's workload and delay comment periods. Even more concerning, this practice may have a chilling effect on record development: imposing additional burdens on parties could discourage participation, and limiting access to information will produce a record that is less robust and more one-sided.¹¹⁵

Staff Comment

Staff agree there is not a clear answer on discovery in non-contested case dockets, aside from the resource-planning process. Staff recognize a need to consider information asymmetry, administrative burden and the concern about the allowable scope of discovery in developing a complete record. Minnesota Rules 7829 cover utility proceeding, practice, and procedure before the Public Utilities Commission, including petitions to intervene.

¹¹² EFCA, Supplemental Reply Comments, p. 5.

¹¹³ OTP, Supplemental Comments, p. 3.

¹¹⁴ Xcel, Supplemental Comments, p. 3.

¹¹⁵ Fresh Energy et al., Supplemental Reply Comments, p. 5.

As Otter Tail states, the rate case is the “gold standard” for formulating fees.¹¹⁶ In a rate case, parties may submit IRs and testimony. Staff believes that in dockets with similar issues, i.e., where the Commission is evaluating utility costs for the purpose of determining just and reasonable rates or fees a utility may impose to recover its costs, parties should have access to the same type of information as a rate case for the benefit of a complete record on which the Commission can make a determination.

However, the Commission does not have an easily manageable process to resolve discovery disputes on matters that are not referred to Office of Administrative Hearings (OAH). In the 2013 GRE Integrated Resource Plan, discovery disputes delayed the docket by a number of months.¹¹⁷ In that docket, Staff prepared briefing papers on the IR disputes and the Commission reviewed each disputed IR one by one at an agenda meeting.

In the recent CenturyLink market regulation docket, the Commission assigned an Administrative Law Judge (ALJ) to handle discovery disputes.¹¹⁸ This division of responsibilities between the Commission and OAH recognized that ALJs are skilled at evidentiary and discovery issues, while the Commission agenda meetings are more appropriate for final decisions.

Staff suggests that when the Commission initiates an investigation in the future, as a part of that motion they consider appointing an ALJ for discovery and interlocutory motions, as was done in the CenturyLink market regulation docket. Commenters intending to conduct discovery should be required to file intervention petitions with the Commission, as outlined in 7829.0800, which includes an explanation of their need to conduct discovery.¹¹⁹ Information requests could be guided by the principles outlined in 7843.0300, subp. 8.

For Miscellaneous filings, the procedures for comment periods are outline in Minn. Rules 7829.1400.

Using reply comments as initial comments

EFCA also took issue with commenters introducing evidence in reply comments rather than during the initial comment periods. As they stated in reply comment:

Otter Tail Power (“OTP”) is the only utility that filed initial comments that stakeholders can respond to... If other utilities choose to provide all of their rationale and support for their fees in Reply Comments in this Docket, EFCA requests that the Commission strike them as procedurally improper. It is not fair to allow utilities to present their case-in-chief through reply comments and deny other stakeholders an opportunity to respond.¹²⁰

In response, the Commission issued a notice stating:

Rather than striking the reply comments as procedurally improper, Commission Staff believes it would be more appropriate to allow parties an opportunity to respond. **Comments should be**

¹¹⁶ OTP, Supplemental Comments, p. 2

¹¹⁷ Docket ET2/RP-12-1114, ORDER DENYING REQUEST FOR TIME EXTENSION, Issued May 28, 2013. The IRP was then decided on its merits four months later, in September 2013.

¹¹⁸ Docket No. P421/M-16-496.

¹¹⁹ As in all dockets, any participant may submit comments without obtaining party status.

¹²⁰ EFCA, Reply Comments, pp. 1-2.

limited to issues raised by a party in its reply comments that were not included in its initial comments. (Emphasis in original)¹²¹

During the Supplemental Comment and Supplemental Reply Comment periods, EFCA raised that parties again brought new information into the record, and again requested that such information be stricken from the record.¹²²

Staff Comment

Staff agrees with EFCA that several parties brought up new issues outside of the initial comment period. The Notice of Comment Period issued on June 22, 2016, clearly states, “**Comments should be limited to issues raised by a party in its reply comments that were not included in its initial comments**” (Emphasis in original notice) Furthermore, Minn. Rules 7829.1400 Subpart 4 also emphasize that “Reply comments must be limited in scope to the issues raised in the initial comments.” At the same time, the Commission’s rules contemplate that new issues and supplemental information may come into the record in the course of handling a matter through notice and comment rather than contested case proceedings. Minn. Rules 7829.1250 specifically offers that:

The commission shall provide opportunity for other parties to respond to additional comments, or to a supplemental or corrected filing, when the additional comment, supplement, or correction raises a new issue.

A series of initial, reply, supplemental, and supplemental reply comments is not uncommon. Particularly, in matters such as this one, where a variety of factual and legal issues were identified in initial comments prompting the filing of responsive supplemental information and comments which, in turn, raised new issues to be addressed in yet further comments. However, the Commission’s rules of practice and procedure anticipate that parties present their case-in-chief in initial comments and later rounds of comments are for refinement of positions as discovery is conducted.

¹²¹ Notice of Comment Period, June 22, 2016, Docket No. E999/CI-15-755 p. 1.

¹²² EFCA, Supplemental Comments, p. 1.

Decision Options

Are Monthly, Recurring Fees on QFs Permissible?

1. Affirm public utilities may charge QFs specific recurring, monthly metering service fees in tariffs under Minn. Stat. §216B.164.
 - a. Affirm the provisionally approved fees in Dockets 16-204, 16-222, and 16-280 as final, approved fees for Minnesota Power, Otter Tail Power, and Xcel Energy.

OR

- b. Require public utilities to file, in a miscellaneous filing by January 2, 2018, supporting documentation of the provisionally approved fees or any proposed fee revision that demonstrates the DG customer-specific incremental interconnection costs not recovered in the basic customer charge and address the factors the Commission should consider in approving a fee; including, but not limited to 18 CFR 292.305, and Minn. Stats. 216B.164, 216B.03, 216B.07, and 216B.16; Subd. 6.
2. Allow public utilities to charge a recurring, monthly metering service fee only if the QF is given an option to pay upfront for the costs at the time of interconnection or over a reasonable period of time agreed to by the customer and utility as outlined in the Uniform Statewide Contract (Minn. Rules 7835.9910). (*Department*)
 - a. Affirm the provisionally approved fees in Dockets 16-204, 16-222, and 16-280 as final, approved fees for Minnesota Power, Otter Tail Power, and Xcel Energy.

OR

- b. Require public utilities to file in a miscellaneous filing by January 2, 2018 supporting documentation of the provisionally approved fees or any proposed fee revision that demonstrates the QF-specific incremental interconnection costs not recovered in the basic customer charge and address the factors the Commission should consider in approving a fee; including, but not limited to 18 CFR 292.305, and Minn. Stats. 216B.164, 216B.03, 216B.07, and 216B.16; Subd. 6.
3. Order that public utilities are not permitted to charge monthly fees in the cogeneration and small power production tariffed rate schedules that are unique to QFs under Minn. Stat. §216B.164. (*QF Advocates*)
 - a. Require utilities to include an estimate of all valid interconnection costs in the Uniform Statewide Contract or interconnection agreement with the opportunity for the customer to pay the costs upfront or on a payment schedule over a reasonable period of time agreed to by the utility and customer. (*Staff*)
4. Require utilities to include in their next cogeneration and small power producer tariff update language explaining how interconnection costs will be recovered consistent with the outcome of this docket. (*Staff recommends with any of the above options*)
5. Clarify cost recovery of interconnection costs incurred after the time of initial interconnection as part of the update of Minnesota's statewide interconnection standards (Docket No. 16-521) (*Staff recommends with any of the above options*)

6. Take no action at this time.

Were the fees charged to QFs approved by the Commission? Should the Commission open an investigation to consider refunds?

Minnesota Power

7. Determine that Minnesota Power was permitted to place QF fees filed in their annual cogeneration and small power production filings into effect within 60 days unless an objection was filed.

OR

8. Determine that implementing and changing QF fees requires affirmative Commission approval and order Minnesota Power to refund the fee differential to customers for the period between Jan 1, 2011 and July 1, 2015. (*Department*)

9. Take no action at this time.

Xcel Energy

10. Determine that Xcel Energy was permitted to place QF fees filed in their Annual Cogeneration and Small Power Production Filings into effect within 60 days unless an objection was filed.

OR

11. Determine that implementing and changing QF fees requires affirmative Commission approval and order Xcel Energy to refund the fee differential to customers for the period between Jan 2, 2007 (the time the first unapproved fee became effective) and October 23, 2009. (*Department*)

12. Take no action at this time

What actions should the Commission take in regards to future fees and filings?

13. Delegate authority to the Executive Secretary to approve via notice the utilities' annual cogeneration and small power production filings under Minn. Rules 7835 if no interested parties or Commission staff raise concerns within 60 days of the filing and the following conditions are met:
 - a. The filing must contain Schedules A through H as provided for in Minn. Rules 7835.0500-1100.
 - b. Changes to the Average Retail Energy Rate must be calculated as provided for in 7835.0100 Subd. 2a.
 - c. Changes to the Simultaneous Purchase and Sale Billing Rate must be calculated as provided in 7835.4014. The filing must contain the calculations used to arrive at the rate.
 - d. Changes to the Time-of-Day Purchase Rate must be calculated as provided in 7835.4015. The filing must contain the calculations used to arrive at the rate.
 - e. The utility must provide a redline and clean version of the tariff changes to the Average Retail Energy Rate, the Simultaneous Purchase and Sale Billing Rate, and the Time-of-Day Purchase Rate.
 - f. The filing must only contain tariff changes that have a calculation process clearly defined in statute or Minn. Rules 7835.

- g. If no changes are to be made to the tariff, the utility may comply with Minn. Rule 7835.0400.

(Staff Option. If comments are received, the filings would proceed through the Commission's normal approval process.)

- 14. Require that all other changes to a utility's cogeneration and small power production tariff, including but not limited to new or changed fees, must be filed as a miscellaneous tariff filing pursuant to the Commission's Rules of Practice and Procedure, Minnesota Rules 7829.

(Staff option – recommended if the Commission goes with decision option 13)

- 15. Direct all public utilities to comply with currently applicable Minnesota statute and rule by submitting, for the Commission's review and approval, annual tariffs for energy purchased by utilities from QFs. Tariffs shall include all components set forth in Minnesota Rules; that is, all schedules, rates, and fees, as well as any cost of service studies or other pertinent information needed for the Commission to make a determination of reasonableness in its review and approval of the tariff. If no changes are to be made to the tariff, the filing entity may comply with MN Rule 7835.0400 in that year. Written Commission approval is required prior to implementation of any updated tariffs, unless 60 days have passed. *(Department)*

- 16. Take some other action.

Appendix A: Fee Comparison

TABLE 6: PUBLIC UTILITY FEES

Utility	Fees as filed in 15-755	Fees as proposed in Cogen Tariff Update Compliance filings (fees currently under review)
Minnesota Power	<u>All cogeneration rate classes:</u> \$1.31	<i>Proposed Elimination (Docket No. E015/M-16-204)</i>
Otter Tail Power	<u>Net Energy Billing Rate:</u> \$3.70 <u>Simultaneous Purchase & Sale</u> Firm Power: \$8.87 Non-firm Power: \$1.40 <u>Time of Day Purchase</u> Firm Power: \$8.87 Non-firm Power: \$3.25	<i>(Docket No. E017/M-16-280)</i> <u>Net Energy Billing Rate (<40 kW)</u> Residential: \$0.85 Farm: \$0.88 General Service: \$1.08 Large General Service: \$1.21 Optional Production Meter: \$3.41 <u>Net Energy Billing Rate (40-1000 kW)</u> Non-Firm Power: \$1.22 Firm Power: \$1.23 Optional Production Meter: \$3.41 <u>Simultaneous Purchase & Sale</u> Non-Firm Power: \$1.22
Xcel Energy	<u>Net Energy Billing</u> Single Phase: \$3.15 Three Phase: \$6.40 <u>Purchase and Sale, TOD</u> Single Phase: \$5.50 Three Phase: \$8.00	<i>(Docket No. E002/16-222)</i> <u>Production Meter</u> ARUE Single Phase: \$3.15 ARUE Three Phase: \$6.40 Sale After Self Use Single Phase; Monthly Net Metering; Annual Net Metering: \$5.50 Sale After Self Use Three Phase; Monthly Net Metering; Annual Net Metering: \$8.00 <u>No Production Meter</u> ARUE Single Phase: \$1.68 ARUE Three Phase: \$2.58 Sale After Self Use Single Phase; Monthly Net Metering: \$2.58 Sale After Self Use Three Phase; Monthly Net Metering: \$6.76

Appendix B: Utility Fee Tables

Below is a compilation of fees that were filed with the Commission. Parts of the chart are from non-docketed annual cogeneration and small power production filings. Any party wishing to see the non-docketed filings should contact Commission staff Hanna Terwilliger (hanna.terwilliger@state.mn.us or 651-201-2243) for access. Non-docketed filings are noted in the chart.

Minnesota Power

Docket	Service Charge	Filed/Effective Date
E015/CG-84-88 Initial Cogen Tariff Filing	Net Energy, Simultaneous Purchase and Sale: \$1.30 Time of Day: \$1.90 Time of Day, 40-100 kW: \$2.50	Order: June 15, 1984
Non-Docketed 2003 Cogen	Net Energy, Simultaneous Purchase and Sale: \$2.23 Time of Day: \$2.38 Time of Day, 40-100 kW: \$3.81	Filed: Dec 30, 2002 Effective: Jan 1, 2003
Non-Docketed 2004 Cogen	Net Energy, Simultaneous Purchase and Sale: \$3.81 Time of Day: \$3.95 Time of Day, 40-100 kW: \$4.11	Filed: Dec 24, 2003 Effective: Jan 1, 2004
Non-Docketed 2005 Cogen	Net Energy, Simultaneous Purchase and Sale: \$2.68 Time of Day: \$2.77 Time of Day, 40-100 kW: \$2.36	Filed: Dec 31, 2004 Effective: Jan 1, 2005
Non-Docketed 2006 Cogen	Net Energy, Simultaneous Purchase and Sale: \$1.22 Time of Day: \$1.21 Time of Day, 40-100 kW: \$1.21	Filed: Jan 4, 2006 Effective: Jan 1, 2006
Non-Docketed 2007 Cogen	All cogen rate classes: \$1.08	Filed: Dec 29, 2006 Effective: Jan 1, 2007
Non-Docketed 2008 Cogen	All cogen rate classes: \$0.77	Filed: Dec 31, 2007 Effective: Jan 1, 2008
Non-Docketed 2009 Cogen	<40 kW cogen rate classes: \$0.75 Time of Day, 40-100 kW: \$0.74	Filed: Dec 31, 2008 Effective: Jan 1, 2009
E015/GR-08-415 General Rate Case	<40 kW cogen rate classes: \$0.75 Time of Day, 40-100 kW: \$0.74	Filed: May 2, 2008 Effective: Oct 1, 2009
E999/PR-10-9 2010 Cogen	<40 kW cogen rate classes: \$0.75 Time of Day, 40-100 kW: \$0.74	Filed: Dec 22, 2009 Effective: Jan 1, 2010
E015/GR 09-1151 General Rate Case	All cogen rate classes: \$0.61	Filed: Nov 2, 2009 Effective: Jan 1, 2011
E999/PR-10-9 2011 Cogen	All cogen rate classes: \$0.61	Filed: May 2, 2008 Effective: Jan 1, 2011
E999/PR-11-9 2012 Cogen	All cogen rate classes: \$0.72	Filed: Dec 22, 2011 Effective: Jan 1, 2012
E999/PR-12-9 2013 Cogen	All cogen rate classes: \$0.54	Filed: Dec 21, 2012 Effective: Jan 1, 2013
E999/PR-13-9 2014 Cogen	All cogen rate classes: \$0.48	Filed Dec 23, 2013 Effective: Jan 1, 2014

E999/PR-15-9 2015 Cogen	<40 kW cogen rate classes: \$2.55 40 to 100 kW cogen rate classes: \$3.57		Filed: Dec 29, 2014 Effective: Jan 1, 2015
E999/PR-17-9 2017 Cogen	All cogen rate classes: \$1.31		Filed: Jan 3, 2017 Effective: Jan 3, 2017
E999/M-16-204 Rider for Parallel Generation	<40 kW	Average Retail: \$1.31 Simultaneous: \$1.31 Time-of-Day: \$1.31	Awaiting approval through compliance filing
	40 kW-500 kW	kW-Hour rate: \$1.31 Simultaneous: \$1.31 Time-of-Day: \$1.31	
	500 kW-1000 kW	kW-Hour rate: \$1.84 Simultaneous: \$1.84 Time-of-Day: \$1.22	

Otter Tail Power

Docket	Service Charge	Approval Date
E120/M-83-388 Misc. Filing	\$1.40	Unknown
E017/CG-84-384 Cogen filing	\$1.40	Unknown
E017/GR-10-239 General Rate Case	<u>Net Energy Billing Rate:</u> \$3.70 <u>Simultaneous Purchase & Sale</u> Firm Power: \$8.87 Non-firm Power: \$1.40	<u>Time of Day Purchase</u> Firm Power: \$8.87 Non-firm Power: \$3.25 Order: Apr 25, 2011
E017/M-16-280 Cogen Tariff Update	<u>Net Energy Billing (<40 kW)</u> Residential: \$0.85 Farm: \$0.88 General Service: \$1.08 Large General Service: \$1.21 Opt. Production Meter: \$3.41 <u>Net Energy Billing (40-1000 kW)</u> Non-Firm Power: \$1.22 Firm Power: \$1.23 Opt. Production Meter: \$3.41	<u>Simultaneous Purchase & Sale</u> Non-Firm Power: \$1.22 Firm Power: \$1.23 Opt. Production Meter: \$3.41 <u>Time of Day Purchase</u> Non-Firm Power: \$1.22 Firm Power: \$1.23 Opt. Production Meter: \$3.41 Awaiting approval through compliance filing

Xcel Energy

Docket	Service Charge		Filed/Effective Date
E002/M-81-341 Misc. Tariff Update	Unknown		Unknown
Non-Docketed 2004 Cogen	<u>Net Energy Billing</u> Single Phase: \$2.75 Three Phase: \$6.00	<u>Purchase and Sale, TOD</u> Single Phase: \$5.10 Three Phase: \$7.60	Filed: Dec 31, 2003 Effective: Jan 1, 2004
Non-Docketed 2005 Cogen	<u>Net Energy Billing</u> Single Phase: \$2.85 Three Phase: \$6.10	<u>Purchase and Sale, TOD</u> Single Phase: \$5.20 Three Phase: \$7.70	Filed: Jan 3, 2005 Effective: Jan 1, 2005
Non-Docketed 2006 Cogen	<u>Net Energy Billing</u> Single Phase: \$3.00 Three Phase: \$6.25	<u>Purchase and Sale, TOD</u> Single Phase: \$5.35 Three Phase: \$7.85	Filed: Jan 3, 2006 Effective: Jan 1, 2006
E002/GR-05-1428 General Rate Case	<u>Net Energy Billing</u> Single Phase: \$3.00 Three Phase: \$5.25	<u>Purchase and Sale, TOD</u> Single Phase: \$5.35 Three Phase: \$7.85	Filed: Nov 2, 2005 Effective: Feb 1, 2007
Non-Docketed 2007 Cogen	<u>Net Energy Billing</u> Single Phase: \$3.15 Three Phase: \$6.40	<u>Purchase and Sale, TOD</u> Single Phase: \$5.50 Three Phase: \$8.00	Filed: Jan 2, 2007 Effective: Jan 1, 2007
Non-Docketed 2008 Cogen	<u>Net Energy Billing</u> Single Phase: \$3.15 Three Phase: \$6.40	<u>Purchase and Sale, TOD</u> Single Phase: \$5.50 Three Phase: \$8.00	Filed: Jan 2, 2008 Effective: Jan 1, 2008
E002/GR-08-1065 Rate Case	Approval of prior rates in Rate Case		
E999/PR-09-54 2009 Cogen			Filed: Jan 2, 2009 Effective: Jan 1, 2009
E999/PR-10-09 2010 Cogen			Filed: Jan 4, 2010 Effective: Jan 1, 2010
E999/PR-11-09 2011 Cogen			Filed: Jan 3, 2011 Effective: Jan 1, 2011
E999/PR-12-09 2012 Cogen	<u>Net Energy Billing</u> Single Phase: \$3.15 Three Phase: \$6.40	<u>Purchase and Sale, TOD</u> Single Phase: \$5.50 Three Phase: \$8.00	Filed: Jan 3, 2012 Effective: Mar 1, 2012
E999/PR-13-09 2013 Cogen			Filed: Jan 2, 2013 Effective: Mar 1, 2013
E999/PR-14-09 2014 Cogen			Filed: Jan 2, 2014 Effective: Mar 1, 2014
E999/PR-15-09 2015 Cogen			Filed: Jan 2, 2015 Effective: Mar 1, 2015
E999/PR-16-09 2016 Cogen			Filed: Jan 4, 2016 Effective: Mar 4, 2016

<p>E002/M-16-222 Cogen Tariff Update</p>	<p style="text-align: center;"><u>Production Meter</u> ARUE Single Phase: \$3.15 ARUE Three Phase: \$6.40 Sale After Self Use Single Phase; Monthly Net Metering; Annual Net Metering: \$5.50 Sale After Self Use Three Phase; Monthly Net Metering; Annual Net Metering: \$8.00 <u>No Production Meter</u> ARUE Single Phase: \$1.68 ARUE Three Phase: \$2.58 Sale After Self Use Single Phase; Monthly Net Metering: \$2.58 Sale After Self Use Three Phase; Monthly Net Metering: \$6.76</p>	<p style="text-align: center;">Awaiting approval through compliance filing</p>
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