

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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In the Matter of the Implementation
of Solar Energy Standards Pursuant
to 2013 Amendments to Minnesota
Statutes, Section 216B.1619

Docket No. E-999/CI-13-542

**COMMENTS OF FRESH ENERGY AND MINNESOTA CENTER
FOR ENVIRONMENTAL ADVOCACY**

Xcel Energy, Minnesota Power, Interstate Power and Light (“IPL”), and Otter Tail Power made filings on August 15, 2013 in response to the Commission’s July 25, 2013, Notice of Request for Filings from Electric Utilities on Customers Excluded from the Solar Energy Standard and Opportunity to Comment on Filings (“Notice”). Fresh Energy and the Minnesota Center for Environmental Advocacy (“MCEA”) hereby submit comments on the utility proposals to identify electric customers excluded from the solar energy standard filed.

The Notice provides a summary of the Solar Energy Standard (“SES”):

Minn. Laws 2013, Article 10, Section 3 amends Minn. Stat. §216B.1691 to add a solar energy standard (SES) for electric public utilities. These utilities must generate or procure sufficient electricity from solar energy such that 1.5% of total retail electric sales are so generated. However, for the purpose of calculating total retail electric sales, sales to the following customers are to be excluded: an iron mining extraction and processing facility including a scam mining facility, a paper mill, wood products manufacturer, sawmill, and oriented strand board manufacturer. Also, the costs of satisfying the SES may not be included in their rates.

The responding utilities used very different approaches to determine the customers subject to these statutory provisions. Xcel Energy used SIC codes to identify the broadest swath of

customers who may potentially be excluded from the solar standard. Minnesota Power employed NAICS codes. Otter Tail Power is currently polling customers, relying on industrial customer representatives to self-identify their eligibility for the exclusion. IPL identified potential customer exclusions through an internal staff review of a company database.

All of the utilities' approaches suffer from subjectivity. Both Otter Tail and IPL's methods are especially subjective, and would both be difficult to standardize across utilities and reliably verify. Xcel Energy and Minnesota Power use more objective standard industry codes; however, such coding systems still rely on industry-identified inputs.¹

Fresh Energy and MCEA recommend that the Commission determine an objective measure that can be used consistently across utilities to identify excluded customers. Use of NAICS codes is preferable to using SIC codes. NAICS replaced SIC codes in 1997, and were most recently updated in 2012. Conversely, the SIC hasn't been updated since 1987, and SIC categories are quite broad. NAICS, by contrast, is a standard classification method used by the federal government (Census and other agencies) to track industries, and are widely (though not exclusively) used. However, due to the subjective nature of inputs to the NAICS classification system, Minnesota regulators should take additional steps to determine whether certain sales may be excluded from SES requirements.

Regulatory review and approval of requests from customers seeking exclusion from their electric utility's SES calculation would provide a necessary procedural check. Customers should be required to substantiate their SES-exclusion requests with information about their full range of business activities, and identify that portion of their business activities (and associated energy usage) to which the SES-exclusion may apply.

¹ See e.g., Minnesota Power August 15, 2013 filing, Docket No. E-999/CI-13-542, at p. 7.

Finally, Fresh Energy and MCEA concur with the Department's suggestion that it makes in its comments in this docket that the Commission identify the specific NAICS codes that may apply for determining customer SES exclusions. Moreover, Fresh Energy and MCEA suggest that customers in the appropriate NAICS categories be allowed the choice to *opt in* to the SES sales calculation. Fresh Energy and MCEA also concur with the Department's suggestion in its comments today that the Commission direct utilities to report their progress toward meeting their SES requirements on an annual basis, including annual Minnesota retail sales, annual excluded customer sales, and annual solar generation.

Fresh Energy and MCEA look forward to continued discussion with stakeholders and the Commission to establish the retail sales that the Legislature required be counted to calculate utilities' SES obligations.

Dated: August 29, 2013

Respectfully submitted,

/s/ Elizabeth Goodpaster

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