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March 31, 2022

**VIA ELECTRONIC FILING**

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, MN 55101

**Re:    Reply Comments of SunShare, LLC**

*In the Matter of the Formal Complaint and Request for Expedited Relief by SunShare, LLC  
Against Northern States Power Company d/b/a Xcel Energy regarding OsterSun Project  
Docket No. E002/C-21-125*

Dear Mr. Seuffert,

Curtis Zaun, Esq., on behalf of SunShare, LLC, submits these Reply Comments in the above-referenced docket.

Pursuant to Minn. R. 7829.0400, this document has been filed electronically for service on the parties listed in the service list filed with these comments.

Counsel would also like to inform the Commission and staff, that he will be unavailable to participate in a hearing on this matter from May 9, 2022, to May 13, 2022, and May 19, 2022, to June 17, 2022.

Respectfully Submitted,

*/s/ Curtis Zaun* \_\_\_\_\_

CURTIS P. ZAUN

**STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION**

Docket Number E002/C-21-125

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*In the Matter of the Formal Complaint and  
Request for Expedited Relief by SunShare,  
LLC, against Northern States Power  
Company d/b/a Xcel Energy*      **REPLY COMMENTS OF SUNSHARE,  
LLC**

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SunShare, LLC (“SunShare”), respectfully submits these Reply Comments in response to the Minnesota Public Utilities Commission’s (“Commission”) Notice of Answer and Comment Period regarding the above-referenced matter. The Petition for a Variance from Xcel Tariff (the “Petition”) was filed pursuant to Minn. Stat. § 216B.25, Minn. R. 7835.3200 and Commission Orders.

**INTRODUCTION**

SunShare’s Petition seeks a variance from the 2019 VOS to the 2020 VOS because of Xcel’s unreasonable delays in issuing timely and accurate IAs for the SunShare Projects as required by its tariff. The repercussions of Xcel’s admitted delays fall on one party, and one party only: SunShare. If the SunShare Projects are delayed a year or two years, or are never built at all, Xcel is not harmed in the least. Conversely, as demonstrated below, disregarding IA delivery deadlines imposes an excessive burden on SunShare, harms Xcel customers, Minnesotans and the environment. Accordingly, SunShare requests that the Commission exercise its authority to vary a rate to ensure it is reasonable and does not prejudice or discriminate against SunShare.

## **I. GRANITESUN**

Even relatively short delays – by Xcel’s standards – create excessive burdens on SunShare. GraniteSun provides a case study. A developer can avail themselves of what is known as a safe harbor for purposes of ITCs related to solar developments. So long as equipment is delivered to the developer by December 31, a developer such as SunShare can claim the ITC for that calendar year, even if a project is not constructed until the following calendar year. Xcel’s delays in delivering the IA for GraniteSun eliminated SunShare’s ability to utilize the safe harbor provision to obtain the 2019 ITC rate of 30%, prior to it stepping down to 26% on January 1, 2020.

GraniteSun’s IA was due from Xcel on August 29, 2019. Instead, Xcel delivered the IA 109 days late, on December 16, 2019. Had Xcel provided the IA in August as required, it would have at least been theoretically possible for SunShare to purchase and take delivery of materials by December 31, 2019, for GraniteSun to potentially salvage the 2019 ITC for the project. Instead, with only two weeks left in the year – one of which being the holiday between Christmas and New Year – it was impossible to order and take delivery of the equipment to build GraniteSun. It should also be noted that impacts from the COVID-19 pandemic first began to be felt in the United States and Canada in January 2020. Had Xcel delivered the IA for GraniteSun in August 2019, SunShare would not be contending with increased costs due to inflationary pressures and supply chain challenges created by the pandemic, which costs are also considered in the 2020-2022 VOS.

Again, Xcel is not impacted whether SunShare qualifies for the 2019 ITC or the 2020 ITC. However, the difference between 30% and 26% ITC can be the difference between economic feasibility and not constructing the project which also negatively impacts Xcel customers’ access to clean, renewable energy. Xcel’s unreasonable delays create an excessive burden on SunShare justifying the Commission’s granting of a variance to the 2020 VOS.

## II. OSTER SUN

Some of Xcel's delays impacting the SunShare Projects have been so long that the IAs are actually delivered in the following VOS vintage year from their deemed complete date. OsterSun for example was "deemed complete" on June 6, 2019. OsterSun's IA was due August 29, 2019, but Xcel's revised IA was not delivered until **March 21, 2020**. For reference, the 2019 VOS was applicable for projects deemed complete until **March 8, 2020**. Thus, OsterSun is stuck with its 2019 VOS while being forced to compete against projects receiving the 2020 VOS even though SunShare did not receive its IA for OsterSun until *after* the 2019 VOS vintage cutoff date.

In its Answer, Xcel attempts to place blame for the delays on SunShare, essentially arguing that SunShare should simply sign off on Xcel's IAs as soon as they are issued. This however is not an option. Xcel issued three different IAs for OsterSun. The original IA was provided on January 23, 2020, and included an indicative cost estimate of \$1,189,374. SunShare retained the services of an engineer to review these prohibitively high interconnection costs, finding a material error in the engineering study, as well as a significantly lower cost alternative to make the necessary interconnection upgrades. After further delay, Xcel issued a revised IA on March 21, 2020, as referenced above, which corrected the material error but failed to consider the lower cost upgrade alternative proposed by SunShare. The indicative cost estimate in the March 21, 2020, IA was \$1,089,265. This cost would have made constructing OsterSun economically impossible, and so SunShare again pushed back on Xcel. On February 1, 2022 – over two years after being "deemed complete" – Xcel issued a third IA for OsterSun with an estimated interconnection cost of just over \$428,603. Thus, the burden of Xcel's delays are twofold: being untimely *and* erroneous, delaying or even eliminating what are otherwise economic and beneficial projects.

### **III. CLEODSUN**

Finally, while SunShare has been able to overcome Xcel's unreasonable delays and erroneous engineering studies on some of the SunShare Projects (i.e. OsterSun), Xcel's delays have been completely fatal to others. During the time SunShare has been attempting to resolve its disagreement with Xcel over the least cost, safe and reliable alternative interconnection equipment on its CleodSun Project, it has become impossible to obtain a permit to construct the project at all from McLeod County. As the Commission is aware, the growth in community solar has not come without growing pains, resulting in permitting backlogs and in some cases outright moratoriums on new projects. The viability of the SunShare Projects is dependent on timely, accurate interconnection information from Xcel. It provided neither for the SunShare Projects and as a result, SunShare respectfully requests the Commission grant SunShare's Petition for Variance.

### **IV. SunShare Has Satisfied the Standard for a Variance to the VOS for the SunShare Projects**

Contrary to the implication in its Answer, this Petition is not about punishing or penalizing Xcel for its unreasonable delays. Instead, this Petition seeks a VOS vintage for the SunShare Projects that is reasonable in light of those delays. Surely, the purpose of the VOS is to capture the value of solar energy during the time frame that it is being produced. While using the "deemed complete" date of the application makes sense if Xcel complies with its tariff and the project is able to be constructed within the timeframe established by its tariff, and, thus, begins producing energy. However, due to Xcel's unreasonable delays, none of the SunShare Projects will be constructed until 2022 at the earliest.<sup>1</sup> Thus, it unreasonable for Xcel to pay the 2019 value of

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<sup>1</sup> Because this Petition seeks a different VOS vintage for several different projects, all with slightly different factual backgrounds, but all subject to the same unreasonable delays, SunShare requested a 2020 VOS vintage for the SunShare Projects. However, if the Commission believes 2022 is a more logical VOS for OsterSun given that SunShare just this month received an amended IA with an indicative engineering cost of roughly half the initial IA, the Commission certainly has the authority to do so. *See* Minn. Stat. § 216B.25.

energy that is produced in 2022 when its only connection to 2019 is that is when the application for the project that is producing the electricity was “deemed complete.”

Moreover, as noted in its Initial Comments, CSGs are not subsidized by Xcel ratepayers or unreasonably expensive. As the Minnesota Department of Commerce noted in its report on the VOS methodology, “[i]f the VOS is set correctly, it will account for the real value of the PV-generated electricity, and the utility and its ratepayers would be indifferent to whether the electricity is supplied from customer-owned PV or from comparable conventional means. Thus, a VOS tariff eliminates the NEM cross-subsidization concerns.”<sup>2</sup>

Moreover, the first year rate for the 2019 VOS is \$0.0904 per kWh, while the 2020 VOS is \$0.0940.<sup>3</sup> The Applicable Retail Rate for Residential Service in 2019 was \$0.13583 per kWh for Residential Service, \$0.12509 for Small General Service and \$0.10405 for General Service.<sup>4</sup> For 2020, the Applicable Retail Rate for Residential Service was \$0.13540, \$0.12634 for Small General Service, and \$0.10550 for General Service per kWh.<sup>5</sup> In short, the VOS requires Xcel to pay for the actual value of the energy produced while the Applicable Retail Rate requires Xcel ratepayers to pay an amount that ensures Xcel’s investors make a profit.

## CONCLUSION

The MN DIP and Xcel’s tariff establish a process and deadlines for interconnecting CSGs. When those processes are followed and deadlines are met, paying the VOS for the year the project’s application was “deemed complete” is reasonable. Minnesota law requires that rates be reasonable.<sup>6</sup> However, when Xcel doesn’t meet those deadlines by a significant amount of time it

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<sup>2</sup> Minnesota Department of Commerce, Minnesota Value of Solar: Methodology, p. 1 (April 1, 2014).

<sup>3</sup> See Exhibit A, Xcel Energy, Solar\*Rewards Community Electric Bill Credit Rates.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See Minn. Stat. § 216B.03.

is not reasonable. Thus, it is not reasonable to apply the 2019 VOS to a CSG that is not going to be constructed until no sooner than 2022. As such, SunShare is asking that the Commission exercise its authority to vary the VOS for the SunShare Projects so that they more accurately reflect the time period during which they will be producing energy, which is reasonable.

Respectfully Submitted,

Dated: March 31, 2022

/s/ Curtis Zaun

CURTIS P. ZAUN