

January 22nd, 2024

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STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

Katie Sieben	Chair
Valerie Means	Commissioner
Hwikwon Ham	Commissioner
Joseph K. Sullivan	Commissioner
John Tuma	Commissioner

RE:Solar Equity Advocates' Reply Comments Regarding Xcel Energy's proposal to place all Applicable Retail Rate (ARR) Community Solar Gardens (CSGs) on the 2017 Value-of-Solar (VOS) vintage as found in Xcel's September 25, 2023 compliance filing. (Docket No. E002/CI-13-867)

Topics Open for Comment:

1. Should the commission approve Xcel's proposal?
2. Is Xcel's proposal in the public interest?
3. If the Commission is to move ARR-era gardens to the VOS, should all gardens be placed on the 2017 VOS vintage beginning April 1, 2024 as Xcel has proposed?
4. Are there any other issues or concerns related to this matter?

INTRODUCTION

The "Solar Equity Advocates" (a Minnesota-based group of energy equity-focused developers and advocates composed of Cooperative Energy Futures, Minneapolis Climate Action, Institute for Local Self Reliance, Minnesota Interfaith Power and Light, Vote Solar, Solar United Neighbors, Saint Paul 350, Climate Generation, Sierra Club, and Community Power) would like to thank the Commission for the opportunity to submit reply comments on this very important issue. We will be addressing comment topics numbers 1 and 2 based off of initial comments filed on this issue.

1. Should the commission approve Xcel's proposal?

The Solar Equity Advocates do not believe it is in the public interest to accept Xcel Energy's 9/25/23 proposal to shift all CSGs receiving an ARR bill credit rate to the 2017 VOS Vintage bill credit rate ("Xcel's proposal") and therefore **the Commission should reject Xcel's proposal.**

As the Solar Equity Advocates noted in our initial Comments filed in this docket, the proposed retroactive change in rates would inordinately and negatively impact residential and public interest subscribers, which is the demographic of subscribers that the legislature intended for this program to benefit. Indeed, the Commission has twice in the past ruled that this change would not be in the public interest. Making such a drastic change - particularly after resolving this twice before - would also create a new level of acute regulatory and public uncertainty, which will have a negative effect on the Minnesota distributed generation market as a whole. In particular, a retroactive change from ARR to VOS will discourage public institutions and residential energy users from trusting the state, reduce participation in state-approved energy programs in the future including the new low and moderate income (LMI) CSG program, and hinder the state's progress towards its clean energy generation goals. Minnesota needs all forms of solar, including behind-the-meter, CSGs, in-front-of-the-meter DG, and utility-scale solar. This change would be a devastating blow to the CSG program, which has been the most successful form of solar, in terms of production and capacity built, in Minnesota and will continue to be a critical component of achieving our clean energy goals.

2. Is Xcel's proposal in the public interest?

The Impact on Public Interest Subscribers is not in the Public Interest

A primary criticism of the ARR-era CSG program and a major reasoning that some parties use to advocate for Xcel's proposal to shift ARR CSGs to VOS has been that most of the subscribers (~85%) of the Legacy CSG program are "large commercial" subscribers and therefore all of Xcel's non-subscribing customers are paying for the benefits received mostly by "large commercial" subscribers.¹² However, networks of focused organizations like the Solar Equity Advocates, and many other developers, have argued that these "large commercial" subscribers, which are actually classified as general service subscribers, include many public interest subscribers like cities, counties, schools, non-profits, hospitals, etc.³ Thanks to the

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<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={F01FEB8C-0000-C311-9360-A60D98C0D0FC}&documentTitle=20241-201980-01>, page 8.

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<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={00DAEA8C-0000-C910-80DB-2E98EFBE151D}&documentTitle=20241-201968-02>, pages 1 and 7.

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<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={50D1EA8C-0000-C014-9C3A-022A79730E39}&documentTitle=20241-201961-01>, page 5 and 6.

analysis conducted by the Department of Commerce (the Department) in their initial comments on this issue, there is no longer any need to speculate on the demographic profile of these general service customers that are receiving about 85% of the subscriber benefits of the CSG program under ARR.⁴ Based on the Department's analysis, "Governments, public school districts, hospitals and clinics, churches, private, schools, and residential subscribers comprise a supermajority—70 percent of subscribed capacity and 72 percent of the bill credit—of the subscribed capacity to the ARR-era gardens."⁵ This means that the vast majority of bill credits are being received by public interest entities and therefore it should be clear that the ARR-era CSG program is in the public interest.

Of the 70% public interest subscribers that receive ARR bill credits, 42% are government entities or public schools.⁶ These institutions all have constituencies, some very large, that they serve and these residents, although not directly subscribed to a CSG, are all benefiting from their city, county, or school saving money by subscribing to a ARR-era CSG. Xcel's proposal will not only harm these government institutions, it will also harm their entire tax base through lost energy savings, which would likely lead to higher taxes being levied and/or programs being reduced and/or cut. Indeed, many of the public comments submitted to the docket on this issue by governmental bodies and schools expressed exactly these sentiments, and all of these governmental bodies were strongly against Xcel's proposal. Judging by the number of comments submitted by these institutional subscribers and the size of the constituencies they serve, we estimate that the number of Minnesota citizens indirectly benefiting from these institutional subscribers is vastly greater than the amount of residents directly subscribed to a CSG receiving ARR.

It should also be noted that, of the 70% public interest subscribers that receive ARR bill credits, 13% are hospitals, clinics, churches, and private schools.⁷ These are also entities that serve the public interest, and creating financial harm to them will directly impact the citizens who use their services.

The Solar Equity Advocates would also like to note that Commission approval of Xcel's proposal would undermine the trust that public interest subscribers have in the state and discourage them from participating in future state clean energy programs or projects, and potentially state programs more generally at a time when the state needs them in order to achieve its clean energy goals. This is pointed out by the Department and several of the public interest entities that submitted comments into the docket on this issue.⁸⁹

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<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={E007EE8C-0000-C821-8DA1-790C6108106A}&documentTitle=20241-201996-02>, page 10.

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<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={E007EE8C-0000-C821-8DA1-790C6108106A}&documentTitle=20241-201996-02>, page 10

⁶ Ibid.

⁷ Ibid.

⁸ Ibid,

⁹ See public comments from the Metropolitan Council, the City of Sauk Rapids, and the City of Northfield in docket #13-867.

We agree with the Department when they note that, “Truly, a map of public interest ARR subscribers would read like a map of Northern States Power Company Minnesota service territory. [TRADE SECRET DATA HAS BEEN EXCISED] it is a wide-ranging, diverse, and representative list.” and, “Those entities are exactly the sort that the Legislature has seen fit to prioritize in recent legislation, not only with the non-Legacy CSG program, but also with the Solar for Schools and the Solar on Public Buildings programs.”¹⁰ It turns out that, far from being a subsidy where non-subscribers are paying for the benefit of large commercial subscribers, the ARR-era CSG program is largely (72%) benefiting entities that are charged with the welfare of the public as well as the public itself.

The Impact on Residential Subscribers is not in the Public Interest.

The Solar Equity Advocates agrees with several of the parties that it is not in the public interest to change the bill credit rates for residential ARR-era CSG subscribers. Fresh Energy, the Office of the Attorneys General (OAG), and the Department all agree that this proposal would hit residential subscribers the hardest financially and that it is not in the public interest to change rates on this class of subscribers.¹¹¹²¹³ Residential subscribers are the least able to afford unexpected bill increases and, to the degree that they are legally able to, they will leave the Legacy CSG program. Furthermore, we agree with the Department’s prediction that if Xcel’s proposal is approved it could undermine the public’s confidence in, and the success of, the new LMI CSG program.¹⁴ If these rates are changed, the public will anticipate that the rates to the new LMI CSG program can change as well, which will discourage them from participating. This will hamper Minnesota’s ability to meet its clean energy goals and is not in the public interest.

This Proposal Would Create an Uncertain Regulatory Environment and is Not in the Public Interest

If Xcel Energy’s proposal is implemented, it would cause regulatory uncertainty in the Minnesota CSG market, the distributed generation market as a whole, and beyond. The Solar Equity Advocates concurs with the Department’s analysis of the possible effects of this regulatory uncertainty when it states:

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<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={E007EE8C-0000-C821-8DA1-790C6108106A}&documentTitle=20241-201996-02>, page 11.

¹¹

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={F01FEB8C-0000-C311-9360-A60D98C0D0FC}&documentTitle=20241-201980-01>, page 9.

¹²

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={00DAEA8C-0000-C910-80DB-2E98EFBE151D}&documentTitle=20241-201968-02>, page 2.

¹³

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={E007EE8C-0000-C821-8DA1-790C6108106A}&documentTitle=20241-201996-02>, page 12.

¹⁴

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={E007EE8C-0000-C821-8DA1-790C6108106A}&documentTitle=20241-201996-02>, page 13.

“Such an order may chill investment in new clean energy resources—not only the customer-facing programs as above, but also the stand-alone distributed generation investments contemplated by the Legislature. It can be reasonably ascertained that this chill may impact not only to solar, but also private investment in electric vehicle charging stations, distributed storage resources, merchant wind farms, and other emerging clean technologies.”¹⁵

Both solar project developers and financiers would look at this decision and calculate it into their risk profile. They would then either not invest in Minnesota, instead opting to invest in other states, or they would raise their interest rates. Either way, it would have a chilling effect on Minnesota’s distributed energy market. As mentioned above, this would come at a time when Minnesota needs all the clean energy it can reasonably produce to meet our clean energy goals. Xcel’s proposal puts these goals in jeopardy and is not in the public interest.

Both the OAG and Fresh Energy submitted initial comments that contained proposals to exempt residential customers from the effects of the ARR to VOS change, although the OAG’s proposal would still leave developers on the hook for the change in rates.¹⁶¹⁷ We appreciate the efforts by both parties to produce a compromise and to protect residential subscribers, but neither proposal effectively protects the non-residential public interest subscribers that the Department has identified make up the majority of the program, and both of these compromise proposals would still result in regulatory uncertainty along with all the negative impacts resulting from that uncertainty. This is because regulatory uncertainty has nothing to do with the type of subscriber impacted, it is created by the fact that subscribers, developers, and financiers all had reasonable expectations that this rate would not change over the life of the 25-year contract, especially when the Commission had twice in the past ruled on this very issue and nothing materially has changed. Once these expectations are dashed, the damage is done to the regulatory environment, and negative economic and policy consequences will proceed.

The OAG comments make a significant point of the fact that, based on public comments available in the docket at the time, the vast majority of the public that wrote in had expectations that the rates they signed up for would be honored for the full 25 years of their contracts.¹⁸ That means that if this proposal is implemented, the regulatory uncertainty created will likely spill into the public sphere and create distrust among the public toward the entire CSG program,

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<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={E007EE8C-0000-C821-8DA1-790C6108106A}&documentTitle=20241-201996-02>, page 7.

¹⁶

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={00DAEA8C-0000-C910-80DB-2E98EFBE151D}&documentTitle=20241-201968-02>, page 17.

¹⁷

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={F01FEB8C-0000-C311-9360-A60D98C0D0FC}&documentTitle=20241-201980-01>, page 9.

¹⁸

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={00DAEA8C-0000-C910-80DB-2E98EFBE151D}&documentTitle=20241-201968-02>. Page 14.

including the new LMI CSG program. Distrust in clean energy programs and government integrity is not what the legislature intended and is not in the public interest.

The Public Comments Make it Clear the Proposal is Not in the Public Interest

At last count, there were over 500 public comments in the docket regarding this issue and all but one or two of the public commenters were strongly against the ARR to VOS shift. The vast majority of these comments were from the general public, but many schools and government institutions also wrote in opposing this change. The Solar Equity Advocates feel that it is instructive to point out the comments from the general public and institutional subscribers came from rural, suburban and urban institutions and residents thereby demonstrating the diversity of the opinions which were in consensus.

Furthermore, the vast number of public comments belies the fact that the only official public notice of this change, and the opportunity to comment, was posted in the docket, which the general public does not read. The Solar Equity Advocates would like to see a more formal public input process where even more of the public is able to comment in a meaningful way, especially given that we now know that 55% of the ARR-era CSG bill credits are benefiting public interest institutions. Despite the lack of official public engagement, the public has made its opinion clear that this shift from ARR to VOS bill credit rates is not in the public interest.

CONCLUSION

Xcel's proposal to shift ARR-era gardens to the 2017 VOS Vintage bill credit would have an extremely negative impact on public interest and residential subscribers which receive 72% of the benefits of the ARR-era CSG program. Accepting this proposal would also undermine trust in state energy programs among local governments, schools, and the general public at a crucial time. This proposal would also create an unstable regulatory environment and harm the state's DG market, the new LMI CSG program and discourage investors from participating in Minnesota's energy transition at a time when clean energy investment is direly needed to achieve Minnesota's clean energy goals. Finally, the amount and diversity of the public comment on this issue, with a nearly unanimous consensus disapproving of Xcel's proposal, demonstrates that the public does not believe this proposal is in the public interest. For these reasons **we ask that the Commission deem Xcel's proposal not in the public interest and reject Xcel's proposal to shift ARR-era gardens to the 2017 VOS Vintage bill credit.**

The Solar Equity Advocates would like to thank the commission for their dedication and hard work on this issue and for the opportunity to have our voices heard on this matter of great importance.

Sincerely,

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