

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

In the Matter of Xcel Energy's Plan for a
Community Solar Garden Program Pursuant to
MINN. STAT. §216B.1641

PUC Docket No. E-002/M-13-867

REPLY COMMENT

An ad hoc community of solar businesses (collectively, the "Solar Garden Community" or "SGC"), all with invested interests in the success of the community solar garden program in Minnesota ("CSG Program"), files this reply comment in response to the Minnesota Public Utilities Commission's ("Commission") March 13, 2015, notice (the "March Notice") and the initial comments filed in response to the March Notice.

I. INTRODUCTION & SUMMARY OF COMMENT

The SGC appreciates the time and the considerable thought that has already gone into the creation of this program and continues to believe it has the potential to be a truly important program for Minnesota. The members of the SGC also appreciate the time the Commission and Commission staff has put into understanding the various issues that could work to deter the program's implementation. To that end, the SGC respectfully requests that the Commission refrain from making any retroactive changes to the CSG Program and direct Xcel Energy to immediately begin:

1. Following the timeline and process set forth in Section 10 after the completeness determinations under Section 9 have been made;
2. Setting clear expectations through standardized requirements or forms required under the various steps included in Section 9 or 10;
3. Creating greater transparency and functionality in the queuing process through a pre-application request and the publication of a transparent queue; and

4. Allowing for the use of an escrow agreement for any new deposits made and facilitate the transfer of deposits currently held by Xcel Energy into escrow upon the applicant's request and at the applicant's cost.

In addition, the SGC supports further development of an optional cluster or group study process and mechanisms for distribution upgrade cost sharing between CSG applicants, which study should begin immediately, to allow for design and build-out of CSGs by fall of 2016. We understand these actions to be consistent with the letter and spirit of the statutes, Commission Orders, and Xcel Energy Tariffs that make up the outlines of the CSG program. And more importantly, we hope that they will minimize delays in application processing such that CSGs are able to be built within the quickly waning window for capturing the current federal tax benefits. While the Commission may feel we have belabored that point, we cannot stress enough the importance of the remaining few months we have to build these projects.

II. EXPECTATIONS AND STANDARDIZATION

After the Commission spent considerable time setting clear timelines in this docket and in Section 9 of Xcel Energy's Electric Rate Book, the fair, efficient and timely processing of applications continues to be the biggest concern facing developers. Setting aside the delays caused by the substantial uncertainty Xcel Energy has injected into this program through its March 4, 2015, Reply Comment and recent April 28, 2015, Supplemental Comment (which threatens to upend the program virtually in its entirety), substantial delays have become endemic in the application processing itself, significantly cutting into valuable time to get the projects built.

Admittedly, the process has been confused by the necessary involvement of two relatively separate and distinct tariffs with timelines whose coordination is unclear and may be independent of each other. This, at least in part, was the subject of the Commission's February 13, 2015, Order Clarifying Solar-Garden Application Process ("February Queue Order"), which prioritized the Section 9 timelines to determine queue priority over the Section 10 timelines. The February Queue Order recognized that priority queue position can carry significant financial consequences because later projects are obliged to pay for costly upgrades. The Commission

went on to base queue priority on the point in time that the solar-garden applications are deemed complete by Xcel Energy.

Since that time, each SGC member has experienced various obstacles that delay the processing of their respective applications. These obstacles include unclear expectations as to what elements are required in the one-line diagrams submitted to the utility, little to no direction on how to correct the alleged inadequacies, and a distinct absence of utility personnel authorized and equipped to address developer questions - all of which have left developers and their engineers to guess how to correct the problems perceived by Xcel Energy. As a result, otherwise complete applications were not deemed complete by Xcel Energy. Without a transparent queue or queuing process, it remains unclear just how much damage has been done to each member of the SGC.¹ Thus the focus of this reply comment will not be on the damage done to date due to delays, but instead on actions that could help the process proceed more efficiently into the future. Ultimately, the SGC believes the processing could be made functional - even in light of the two separate tariffs - with a nominal amount of standardization, transparency and clear communication channels.

A. The Commission Should Order Xcel Energy to Either Standardize its Forms or Provide Clearer Direction in its Tariff

One source of frustration that developers have faced is what appear like continuously evolving expectations yielding an inability to easily satisfy the utility's requirements. This first surfaced as part of the completeness review where Xcel Energy repeatedly found flaws in developers' one-line diagrams without providing clear direction on what the issues were or how to resolve them. To add insult to injury, this often happened at the end of the 30-day window for Xcel Energy review under the Section 9 Tariff such that Xcel Energy reset the 30-day clock for that applicant and pushing a completeness determination off into the distance despite the developers' best efforts to address the apparent inadequacies. Currently Step 1 under Section 10 requires an applicant to provide a one-line diagram showing the protective relaying and point of common coupling. Applicants, including SGC members, based their one-line diagrams on previous experience with what Xcel Energy had routinely accepted under its Section 10 process, unaware of a change in procedure and thereby losing valuable time until their applications were

¹ Each member of the SGC reserves its right to seek a remedy for the damage done in the appropriate venue once it becomes more clear what effect these actions by Xcel has had on each Member.

determined complete by the utility. Applicants, including SGC members, have since learned that Xcel Energy additionally requires the one-line to include:

- the main service meter and main service panel,
- the production meter with ownership,
- visible lockable AC disconnect for utility use,
- all switches, breakers, fuses, junction boxes, combiner boxes, protective devices, etc. in the electrical circuit from the main service meter to the generation system,
- generator system (PV Panels),
- electrical ratings of the equipment,
- notation that the Inverters are UL1741 certified,
- grounding transformers and/or ground referencing equipment, and
- all distributed generation systems, both new and existing.

For the success of the CSG Program, it is critical to afford future CSG Applicants a model one-line diagram, or tariff language that clearly sets forth the utility's expectations for a complete one-line diagram.

Likewise, the site plan appears to be another area where expectations may not be set forth clearly. Section 10 simply requires a "site plan of the proposed installation" as part of Step 1. Once again, if there are particular requirements Xcel Energy would like to see included in an applicant's site plan, it would be helpful for the utility to create a standardized model or itemize the ingredients to a complete site plan for applicants to use. Here, it appears that Xcel Energy would like to see a site plan showing the following information:

- customer name, installation address, and installer name and contact information,
- building and streets identified and Nautical direction,
- location of meters, main service and AC disconnect,
- distances between equipment, and
- location of new and existing system.

While many of these elements may be relatively common or not particularly disconcerting, it is the process of guessing exactly what Xcel Energy wants to see that is perhaps

intentionally inefficient and causing significant delays within the program. Setting clear expectations about the documents applicants are requested to submit should work to improve application efficiency and save on valuable human resources on both the utility and developer side.

B. The Commission Should Direct Xcel Energy to Increase the Transparency of the Interconnection Application Process

In light of the strong interest in the CSG program, the SGC encourages future inclusion of a pre-application report request in the program. For a processing fee, the utility could provide basic details about the point of interconnection requested including capacity, load and known constraints. This process could act as something of a screen so that developers can better match their CSG projects to the particular conditions and thereby avoid developers' only method to uncover similar details through the current system by necessarily over-applying.

In the case of existing applicants, Xcel Energy should also be required to publish applicants queue position at each feeder. The publication could remain anonymous by using an applicant identifier known only to that applicant as is fairly common practice in queues elsewhere in the country. The effect of so doing will be to give all developers some better understanding of where they are in the queue of importance to them such that they can more readily evaluate whether and how to proceed. This appears to be one area where the Implementation Workgroup has found at least some common ground on next steps. The SGC encourages the continued development of a reasonably transparent queue.

C. The Commission Should Direct Xcel Energy to a Cluster or Group Study Process

The SGC understands that as the first applicants to go through a new program, much will be worked out in real-time as our applications are processed. For example, under Section 10, applicants are provided with a statement of work ("SOW") in order to commence engineering review and once the studies are complete, they receive another SOW in order to commence construction of the interconnection upgrades required. Developers are slowly learning that for the purposes of CSG applications, Xcel Energy plans to only deliver a first SOW for a lower queued applicant after the higher queued applicant has moved forward on its second SOW. The second SOW includes the funding of one-third of the amount determined necessary to construct the upgrades. Nothing in Section 10 describes this process for one applicant as being dependent

on another applicant's progress. While the SGC understands why Xcel Energy may feel compelled to process applications in this manner, it seems to go against the first-ready, first-to-proceed approach the utility advocated for this program. The SGC understands Xcel Energy needs some discretion in managing its own queue, but would appreciate the utility making its intentions known ahead of time so applicants are prepared to make the appropriate decisions.

In addition, the SGC would strongly encourage investigation into making the application processing and study process more efficient. The SGC members understand that Xcel Energy has long intended to process the CSG applications serially, but now that the company has more information about the projects in the queue we would encourage the use of group studies and the potential for upgrade cost sharing between CSG owners. Such an approach would arguably be more equitable, reduce the impact of having lower queue priority, and potentially lead to valuable upgrades on Xcel Energy's system. To this end the SGC respectfully requests that the Commission direct Xcel Energy to begin developing a transparent cluster or group study process and method for distribution upgrade cost sharing immediately, to allow for design and build-out by fall of 2016.

D. Timelines & Schedule

As the SGC has previously stressed, timing is the most important element in this program and it is quickly waning putting real CSG development in jeopardy. With significant uncertainty injected into the program and remaining well into the summer construction season of 2015, it is a near certainty that, except for very small projects, there is simply not enough time in 2015 to see projects built yet this year. And as we have discussed in the past, building in 2016 is going come with significant increased challenges and competition for labor and limited product as developers across the country aim to get projects in service by the end of the year. Indeed, any further delays could jeopardize construction for all of 2016.

One functional problem that has come up time and time again is the presence of two sets of timelines available to Xcel Energy under Section 9 and Section 10 and the utility appears to be selecting its preferred timeline when it suits the interests of the utility. For example, while Xcel Energy typically has 15 days to review interconnection applications under Section 10, it repeatedly took the full 30 days allowed under Section 9 to review - even when the issue in dispute was the one-line diagram required to move the project forward into the Section 10

process. In addition, the members of the SGC does not understand the completeness determination process to require such scrutiny of a diagram that is most useful for engineering review under Section 10 (which necessarily starts after the completeness determination). For several SGC members, the 30-day period was restarted more than once when Xcel Energy found a flaw in the one-line the day before the previous 30 day period was up, yet again leaving the developer to guess the inadequacy and wasting highly valuable months in the process. The SGC is concerned that there is great potential to continue such delays in the interconnection study process unless there is some reconciling of the schedules between the two tariffs or a confirmation that after completeness determinations are made, the Section 10 timelines will be adhered to for CSG applications.

Likewise, the potential for some transmission review may inject additional delays into the process, some of which are necessary but should not be allowed to be carried out indefinitely. Perhaps the parties could agree on a binding schedule for three distinct sets of projects: 1) those requiring no transmission review; 2) those requiring transmission review; and 3) those require limited review by the Midcontinent Independent System Operator (“MISO”). Clear standards and processes for determining how the projects get assigned to a particular schedule should also be made available.

Ultimately developers need to have a clear path and know when they can reasonably expect to be done with each stage of the process. We understand that some delays will surface, but they have been surfacing in unnecessary ways that should be easy to resolve - serving little function other than to frustrate and slow application process. Developers need greater certainty as to which timelines are being applied and what to expect. We all need to avoid the unnecessary delays in order to see CSG development in Minnesota in the near-term.

The SGC is also concerned about Xcel Energy’s recent reading of its statutory requirements to begin crediting bills as described in its April 10, 2015, compliance filing (“April 10 Filing”). The April 10 Filing describes Xcel Energy’s statutory requirement to begin crediting bills as tolling from the time the program launched, December 12, 2015. To the contrary, MINN. STAT. § 216B.1641 states that “Within 180 days of commission approval of a plan under this section, a utility shall begin crediting subscriber accounts for each community solar garden facility in its service territory.” Pursuant to the Commission’s September 17, 2014, Order, Xcel Energy should begin crediting subscribers bills 180 days after October 14 (15 days

after Xcel Energy's Compliance Filing required in the Order). The difference of a month or two here or there may not be critical in some contexts, but here there are seemingly multiple places for similar delays and there are only 20 months left until the 2016 ITC step down - many of them unworkable winter months and others subject to significant slow-downs due to intense competition in the last year of the ITC.

III. DEPOSITS

Xcel Energy is now holding upwards of \$50 million worth of applicant deposits. Xcel Energy has made clear that these deposits must be made by check or wire transfer and cannot be a letter of credit. Additionally Xcel Energy has been unwilling to date to make any accommodations regarding these deposits to reasonably allow for their financing. This has become increasingly problematic as the utility simultaneously injects market uncertainty into the program and creates significant delays in the program. This in turn creates the circumstance where developers have to tie up funds for deposits for vastly longer periods than originally anticipated and with increasing uncertainty if the deposits will be in pursuit of viable projects.

Allowing for the use of debt or equity financing is an essential ingredient to any energy transaction and was expressly written into the CSG statute. To this end, members of the SGC have requested any number of possible approaches to help with financing that may be less onerous for the utility. Xcel Energy, however, has been unwilling to make even nominal changes to its deposit form to come closer to common industry practice, like including an authorization for its collateral assignment. Likewise members have expressed a strong interest in and willingness to use an escrow arrangement, at Xcel Energy's preferred bank and at the developer's expense. The SGC requests the Commission direct Xcel Energy to create some standard industry mechanism, preferably the use of an escrow arrangement as described above, to allow for the reasonable financing of the deposits consistent with MINN. STAT. § 216B.1641(e)(1).

IV. CONCLUSION

The SGC appreciates the time and the considerable thought the Commission has put into the various calls for comments informing their upcoming deliberation in this docket. We understand that the Commission does not want to actively micromanage Xcel Energy's new

program, but appreciate the Commission's attention to issues that could have significant consequences for the program as a whole. Fortunately the Legislature, Commission, the Department, Xcel Energy and interested stakeholders have worked very hard over the last couple of years to create a functional program. To that end, the SGC respectfully requests the Commission refrain from making any retroactive changes to the CSG Program and to direct Xcel Energy to adhere to its own tariffs, Commission orders, and Minnesota statutes by taking action consistent with this reply comment. In addition, the SGC supports further development of an optional cluster or group study process and mechanisms for distribution upgrade cost sharing between CSG applicants. As always, the SGC appreciates the Commission's time and attention to the development of this important new program for our State.

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Respectfully submitted,

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