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April 2, 2015

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/M-13-867

Dear Mr. Wolf:

The Minnesota Department of Commerce, Division of Energy Resources (Department) is filing these *Comments* in response to the Minnesota Public Utilities Commission's (Commission) March 13, 2015 *Notice of Comment Period* in the above-referenced docket.

The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ HOLLY LAHD
Rates Analyst

HL/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E002/M-13-867

I. INTRODUCTION

The Department of Commerce (Department) appreciates the opportunity to submit *Comments* in response to the Commission's March 13, 2015 *Notice of Comment Period* (Notice). Many comments have been filed in this docket since the Minnesota Public Utilities Commission's (Commission) September 17, 2014 *Order*. After reviewing all parties' comments, the Department continues to recommend that the Commission consider potential program and rate changes in 2016 after more information on the application completion rate, subscriber customer classes, and project costs are known and reported by Northern States Power Company, d/b/a Xcel Energy (Xcel or the Company).

Recent comment periods in this docket have been focused on the rates and rules that will allow for the creation, financing, and accessibility of community solar gardens.¹ Consistent treatment of existing applications, both in the Solar*Rewards Community tariff and the distributed generation interconnection process, is necessary to collect the data needed to inform and design future program changes. In the absence of this data, the Department concludes that it is premature to change the program's rules and rates based on assumptions on how many community solar garden applications will make it through the detailed interconnection process and the final mix of customer classes subscribing to all community solar gardens.

Until the Commission orders changes to the Solar*Rewards Community program, the Department expects Xcel to administer the program and process applications according to the Commission's Orders and the Company's approved tariffs.

¹ Minnesota Statute § 216B.1641: The commission may approve, disapprove, or modify a community solar garden program. Any plan approved by the commission must: (1) reasonably allow for the creation, financing, and accessibility of community solar gardens.

The Department offers the following *Comments* in response to Xcel's March 2nd, March 4th, and March 13th, 2015 filings in this docket.

II. DEPARTMENT ANALYSIS

A. REVIEW OF 2015 VALUE OF SOLAR CALCULATION

In compliance with the Commission's September 17, 2014 *Order*, on March 2, 2015 Xcel filed the 2015 Applicable Retail Rates and Value of Solar (VOS) calculation. The Department reviewed Xcel's filed VOS rate calculations and subsequent responses to the Department's information requests for conformance with the Commission-approved Methodology. The Department is continuing to review the calculation, and we will provide our analysis in *Reply Comments*.

B. REVIEW OF 2015 APPLICABLE RETAIL RATES

The Department also reviewed Xcel's filed updated Applicable Retail Rate calculations by subscriber customer class and the Company's response to the Department's Information Request No. 21. The Department concludes that the Company's Applicable Retail Rate calculations comply with the Commission's April 7, 2014 *Order*.

C. ANNUAL RATE UPDATE PROCESS

i. Applicable Retail Rate

In its March 2, 2015 *Reply Comments* the Company proposed an update and filing process for annual adjustments to the Applicable Retail Rates. The Company proposed to file its annual updates to the Standard and Enhanced bill credit rates on February 1 annually. The Company proposed that the rates would then be effective annually on April 1.

Minnesota Statute § 216B.16 states that no public utility shall change an established rate except upon 60 days' notice to the Commission, unless the Commission otherwise orders. As Xcel's filing proposal complies with Minnesota Statute § 216B.16, the Department agrees with the Company's proposed filing dates.

ii. Value of Solar Rate for Community Solar Gardens

The Department's June 6, 2014 *Comments* included a VOS update and transition process recommendation for any community solar gardens under the VOS rate. Specifically, the Department recommended that all gardens under the VOS rate switch to the approved inflation-adjusted VOS rate at the same time, regardless of the month the garden commenced operation. In its June 19, 2014 *Reply Comments* the Company agreed with the Department's recommendation. If the Commission decides to use the VOS rates for community solar gardens, the Department continues to recommend the inflation update and existing garden transition process.

D. CO-LOCATION OF COMMUNITY SOLAR GARDENS

In its March 4, 2015 *Comments*, Xcel proposed a modified plan to process existing and new community solar garden applications. The Company stated that they would like to administer the program by the following determinations:

1. Process applications proposing solar gardens that are no more than 1 MW;
2. Consider a garden to be greater than 1 MW if it exhibits characteristics of being a single development consistent with Minnesota Statutes § 272.0295, subd. 2;
3. Process co-located applications from a single developer provided that, in the aggregate, they do not exceed 1 MW;
4. Process applications from multiple individual developers who propose co-located sites provided the gardens from any single developer do not exceed 1 MW in the aggregate; and
5. Applications from a single developer in excess of 1 MW who is simply dividing up a utility-scale project into multiple smaller gardens will not be considered.

The Department shares some of Xcel's concerns about the co-location of numerous community solar gardens and these gardens' eligibility for the same rate structure as smaller gardens. However, the Department does not support Xcel's proposal to only process gardens at sites, as defined by the Company, for which the cumulative capacity is 1 MW or less. The Department does not support Xcel's proposal for the following reasons:

1. *Defining community solar garden site is not straight-forward.* The Commission addressed the difficulty in defining a community solar garden site in their September 17, 2014 *Order*, finding that:

"Community Solar Garden Site" is the location of the single point of common coupling located at the production meter for the Community Solar Garden associated with the parcel or parcels of real property on which the PV System will be constructed and located, including any easements, rights of way, and other real-estate interests reasonably necessary to construct, operate, and maintain the garden. Multiple Community Solar Garden Sites may be situated in close proximity to one another in order to share in distribution infrastructure.

For Xcel to process applications in the manner the Company proposes, Xcel would need to determine the amount of physical space between gardens required to qualify garden applications for processing. The Company would also need to evaluate the financial and operational relationships between developers and the organization assigned to the gardens (e.g., limited liability companies) to determine if they are the same company or separate entities. In addition, since most community solar gardens are expected to utilize the investment tax credit, the Department expects that the financial relationships in

community solar garden ownership will change during the 25 year term. Xcel is already undertaking a similar analysis for large organizations interested in being a subscriber; it's the Department's understanding that this analysis can take up to 6 months depending on the complexity of the subscriber. If Xcel had to do similar analysis for all community solar gardens, the already lengthy timeline on this project would be further extended. The ability of the Department and Commission staff to verify Xcel's adherence to the Commission's orders and the Company's tariff on the application processing would be diminished under this proposal.

In our February 24, 2015 *Comments*, the Department wrote that the Commission could consider co-located solar gardens that collectively exceed 10 MW of nameplate capacity as out of scope with Xcel's distribution system interconnection requirements. However, after reviewing other parties' comments on Xcel's interconnection process and in considering the limitations described above, the Department no longer proposes a 10 MW site limit as a solution. The Department discusses below how size limits can be problematic.

2. *There are likely unintended consequences of Xcel's proposal.* Concerns similar to those aired by Xcel came up in the development of community wind projects. The Department's experience with those projects shows that attempts to place size and customer restrictions to solve one problem end up having unexpected results. The Department foresees situations where developers, trying to work around Xcel's 1 MW site limit, enter complex agreements with other companies that would submit solar garden applications as types of shell companies, while the main developer actually develops the project. There may be ways to work around restrictions on siting as well.

The Department has considered other potential limits on project size, such as limits that could determine a project's eligibility for a possible financial adder used in conjunction with the value of solar, and arrived at similar challenges.

3. *Xcel's proposed retroactive program changes are inconsistent with the Commission's Orders.* Xcel proposes to apply their application processing plan to both existing and new applications. As of April 2, 2015, Xcel's Solar*Rewards Community program has received applications representing 487 MWs of proposed projects. Solar developers and communities have made significant investments in these projects. For example, if all of these projects submit the required deposits, Xcel will hold nearly 49 million dollars in deposits. Although the deposits are refundable, other project development costs are not.

Providing current projects the certainty they need to move forward while the Commission evaluates potential changes for future projects was a prominent theme of past Commission meetings in this docket. The Commission addressed concerns about rate uncertainty by finding that community solar garden projects filing complete applications under the Applicable Retail Rate should be

allowed to lock in the renewable energy credit (REC) price and be credited at the applicable retail rate in place at the time of energy generation for the duration of the 25-year contract. Regarding these rate clarifications, the Commission stated:

These clarifications will improve the predictability of the applicable-retail-rate-plus-REC combination and aid solar-garden developers in securing financing while the Department, Xcel, and other stakeholders work to design an incentive for solar-gardens that will complement a value-of-solar rate.

The program's rules on sizing and location of community solar gardens also impact the project's financing. Retroactive changes to the program's site definition would likely have negative impacts on community solar garden financing ability for current and future projects.

III. DEPARTMENT RECOMMENDATIONS

The Department recommends that the Commission:

1. Approve Xcel's updated Applicable Retail Rates filed March 2, 2015;
2. Approve Xcel's proposed process to file the annual updated Applicable Retail Rates on February 1 to be effective April 1;
3. Deny Xcel's proposal to only process existing and new applications that are cumulatively 1 MW or less at a given site; and
4. Postpone a decision on a VOS and adder(s) rate(s) until 2016.

/lt

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E002/M-13-867

Dated this 2nd day of **April 2015**

/s/Sharon Ferguson

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