

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Betsy Wergin	Commissioner

April 30, 2015

**In the Matter of the Petition of Northern States
Power Company, dba Xcel Energy, for Approval of
its Proposed Community Solar Garden Program**

Docket No. E002/M-13-867

**REPLY COMMENTS IN RESPONSE TO THE COMMISSION'S MARCH 13, 2015 NOTICE BY
FRESH ENERGY, ENVIRONMENTAL LAW & POLICY CENTER AND INSTITUTE FOR LOCAL SELF-RELIANCE**

Fresh Energy, Environmental Law & Policy Center and Institute for Local Self-Reliance submit these Reply Comments in response to the Commission's March 13, 2015 Notice Seeking Comments. We also briefly address Xcel Energy's (Xcel) April 29, 2015 Supplemental Comments.

Xcel's Supplemental Comments and Notice of Program Administration to Change Program Rules

Xcel's April 28, 2015 Notice of Program Administration, which states the Company's intent to reject applications for any co-located Solar*Rewards Community (S*RC) projects above 1 MW in size, is an extraordinary step to unilaterally change S*RC program rules already addressed by the Commission. Xcel's filing is causing market uncertainty just as the S*RC program gets off the ground, and further delay in resolving this issue could push projects past the program's 24 month construction requirement and the post-2016 expiration and step-down of the Federal Investment Tax Credit (ITC) that is built into current project economics and financing.

In order to maintain program stability, the Commission should reject Xcel's attempt to retroactively change the rules that apply to existing applications and make clear that future program changes will apply on a prospective basis only. The Commission has already considered and decided the issue of co-locating multiple 1MW S*RC projects for existing applications. In its September Order, the Commission stated "that the definition of 'community solar garden site' should expressly state that solar gardens may be sited near each other in order to share distribution infrastructure. This clarification will allow solar gardens to be built more cost-effectively and is consistent with the statutory mandate that the program reasonably allow for the creation, financing, and accessibility of solar gardens." Xcel's April 28 Notice seeks to revisit settled issues for a second time and departs from Xcel's prior position on co-

location of projects. Indeed, Xcel commented on June 19, 2014 – well before it raised co-location as a “new” issue – that “to avoid unnecessary costs for garden development and burdens on local landowners and siting authorities, where feasible, the Company will coordinate with a developer so that multiple gardens situated in close proximity to one another can share the distribution infrastructure required to interconnect all of that developer’s adjacent PV systems.”¹

As we stated in our February 24, 2015 comments, Xcel’s projections for overall program costs are not supported and fail to account for many of the benefits of distributed solar.² Xcel has also failed to provide adequate transparency into its interconnection queue and distribution system. Because developers have not had any information about what projects might be ahead of them in the interconnection queue or distribution capacity and load information, they cannot be sure if they are submitting applications for locations that may not be able to be cost-effectively interconnected.

The Commission should act promptly to reject Xcel’s extraordinary request to unilaterally change program rules for existing applications. To prevent any further delays in Xcel’s processing of current applications, the Commission should grant the relief requested in the Solar Garden Community Petition filed April 29, 2015. The Commission has previously indicated that it will take up the other issues in this docket in the coming months and we look forward to participating in that process.

To be clear, we are not suggesting that S*RC program has no room for improvement as it evolves and matures, including regarding some of the concerns Xcel raises. It is a brand new, innovative program and will require adjusting over time. To this end, we have offered different forward-looking program changes for bill credit designs and are expecting to work with Xcel, other stakeholders, and the Commission on other features of the program design for future projects. However, Xcel’s proposal to significantly change the rules of the game for existing applications penalizes parties that have been operating under settled rules in Commission orders and undermines confidence in the Minnesota process. The Commission should encourage Xcel and all stakeholders work on forward-looking basis to create certainty and stability. We reaffirm our statement from February 24, 2015 Comments that “[t]he Commission’s and stakeholders’ resources are best spent on forward-looking solutions to improve and expand the S*RC program, rather than attempting to reargue and revisit program decisions regarding co-location for existing applications.”³

Reply Comments in Response to the Commission’s March 13, 2015 Notice for Comment

¹ At 12.

² We commented in detail on Xcel’s cost projections in our February 24, 2015 Comments at 4-5.

³ At 4.

In reply, we address four issues: 1) Requesting that the Commission affirm the principle that any material changes to program rules of bill credit rates not apply retroactively and not to projects with applications currently submitted; 2) Restating the importance of Xcel putting sufficient resources into interconnections for solar gardens in order to meet required timelines; 3) Xcel's inflated and misleading cost estimates; and 4) Xcel's position on the use of a Value of Solar-based bill credit.

1) Any Material Program Changes Must be Forward-Looking Only

In both its March 4, 2015 Reply Comments and its April 28, 2015 Supplemental Comments, Xcel seeks to make changes to applications already on file and proceeding under current Orders and Tariffs.⁴ The Commission should reject any proposals to materially change program rules for existing applications. Changing the rules from existing Orders and Tariffs for existing projects at any point, let alone at this critical juncture of the getting the program off the ground, would be extremely detrimental to the program and energy innovation in Minnesota generally. As we stated in our April 2, 2015 Comments:

As the Commission considers potential adjustments to the program, it is important to reiterate that any adjustments should not be retroactive to already filed S*RC applications.⁵ Multiple companies and subscribers have made investments, entered contracts, hired employees in Minnesota, and made business decisions in reliance on the Commission's September Order approving the S*RC program. Any changes that apply to these projects would not only threaten to derail these projects and investments, but would endanger future investment in the state if Minnesota is perceived as not providing regulatory certainty.⁶

2) Xcel Must Dedicate Sufficient Resources and Make All Reasonable Efforts to Meet Interconnection Timelines

Timely interconnection for S*RC projects is critical for the program to meet the statutory requirement that the program "reasonably allow for the creation . . . of community solar gardens."⁷ As ELPC and others stated in December 2, 2015 Reply Comments: "[t]he first and most immediate challenge [from a robust and successful S*RC launch] will be to ensure that Xcel can process and move large volumes of new solar garden capacity through the Company's interconnection study process in a

⁴ Xcel March 4, 2015 Reply Comments at 4 ("We would apply [proposed changes] to current applications and new applications."); Xcel April 28, 2015 Supplemental Comments proposes to cancel and refund existing applications, e.g. at 3 ("within 31 days of this filing, all projects which have proposed co-located gardens with an aggregate capacity greater than 1MW will be scaled back to 1MW.").

⁵ See Fresh Energy, Environmental Law & Policy Center et. al. February 24, 2014, March 2, 2015 and March 4, 2015 Comments.

⁶ At 1; See also, Fresh Energy, Environmental Law & Policy Center et. al. February 24, 2015 Comments at 2, 4 and 6; March 2, 2015 Reply Comments at 3; and March 4, 2015 Reply Comments at 1-2.

⁷ Minn. Stat. §216B.1641(e)(1).

timely manner.”⁸ This statement has proven true and becomes increasingly urgent as we approach the ITC expiration and step-down in 2017. To ensure that deserving projects are actually constructed, the Commission should require Xcel to take necessary steps to meet required interconnection steps and timelines, and not use potential interconnection uncertainties to slow the process. To facilitate Xcel’s compliance, the Commission should require Xcel to report on its progress meeting required timelines and how projects are progressing through each step of the Section 10 interconnection process. Transparency into the interconnection process and queues for S*RC projects will also increase the overall efficiency of the program by allowing developers to know if they have projects that are unlikely to be interconnected cost-effectively. In the longer-term, the Commission should also consider requiring Xcel, and all utilities, to develop a formalized, transparent and public distribution interconnection queue, similar to those used by the Midcontinent Independent System Operator and other Regional Transmission Organizations on the transmission system.

Many parties have offered suggestions for how the Commission and Xcel can use reporting and transparency to ensure successful interconnection. For example, ELPC and other interconnection experts offered the following near-term steps in December 2, 2015 Reply Comments:

Minnesota law requires public utilities to track and annually report certain information regarding all interconnections. We suggest, however, that the Commission may wish to require this information sooner or at more frequent intervals for CSG projects to understand better how interconnection is working during this time of heightened market development. For example, it will be particularly important for Xcel to identify the percentage of interconnection applications that have been successfully processed within the initial 40-day deadline after the launch of the CSG program, as specified in the Commission’s April 7, 2014 Order. The Commission should also require Xcel to publicly report the number, location, size, and status of projects in its existing interconnection queue on a frequent basis in order to provide a clear picture of the status of the CSG program and any bottlenecks that may arise. Xcel and CSG program participants should be encouraged to work together to identify any substantial challenges, inefficiencies, and roadblocks in the current process so that corrections and modifications can be made if necessary. We agree with Xcel that ‘the market response in the early years of Solar*Rewards Community will provide the best source of data on the key uncertainties all parties face . . .’ We believe these key uncertainties include the ability of the interconnection process to accommodate the volume of CSG interconnection applications and that interconnection-related data can help to inform modifications to Minnesota’s interconnection procedures.⁹

We also support the interconnection reporting and compliance suggestions offered by the Department of Commerce and the Minnesota Solar Industries Association in their Reply Comments.

⁸ At 2.

⁹ At 7-8; See *also* Fresh Energy, Environmental Law & Policy Center et. al. December 4, 2105 Reply Comments at 6; February 24, 2015 Comments at 5; March 4, 2015 Reply Comments at 2. We also continue to believe that a longer-term update of statewide interconnection procedures, as outlined in Environmental Law & Policy Center et. al. December 2, 2015 Reply Comments, should be considered.

Another possible option to ensure interconnection timelines are followed and Xcel is taking all necessary steps to timely interconnect S*RC projects would be for the Commission to appoint a neutral third party observer agreeable to all parties, placed in-house at Xcel to closely monitor and report on Xcel's progress.

3) Xcel's Cost Impacts Analysis is Speculative and Overly Narrow

In its April 2, 2015 Comments, Xcel continues to raise "cost impacts" as an issue based on its inflated and overly narrow analysis in its February 10, 2015 Letter. The Chamber of Commerce also cites this analysis in its March 17, 2015 Letter. We provided detailed comment on Xcel's cost analysis in our February 24, 2015 Comments regarding the faulty and speculative assumptions and inputs¹⁰ in that analysis, and pointed out that if Xcel had used the values identified in the Value of Solar Methodology, that the analysis results in a net *benefit* to Xcel's system.

In response, Xcel states that its cost analysis ignores long-term value: "[h]ad the goal of the analysis been to evaluate the long-term value compared to the 25 year cost of community solar applications, it may have been appropriate to include other factors."¹¹ An analysis that looks at costs in isolation is inaccurate and misleading. Evaluating a generation resource is done through a cost/benefit analysis that examines *net* cost or benefit. For example, when proposing generation investments of its own, such as the \$748 million cost for its Monticello plant uprate, Xcel does not merely present the cost data. Similarly, evaluation of unsubstantiated suggestions by Xcel and Chamber of Commerce of "cross-subsidization" in the program would require consideration of *net* cost or benefit.¹²

Our prior comments have suggested that adjustments to bill credits and other program modifications are warranted on a going-forward basis. Cost/benefit analysis for the S*RC program should focus on how best to maximize value through forward-looking bill credit and program adjustments and the Commission should set a timeline and process to consider these issues as soon as practicable. We have offered different bill credit structures and options throughout the docket aiming to help the program evolve in a cost-effective and inclusive manner. For example, we suggest a capacity block structure as a possible mechanism to target locations or subscriber attributes on top of a Value of Solar-derived base rate.¹³ We also continue to suggest "that the Commission set a timeline for upcoming decision points to limit market uncertainty, including 1) when REC prices under the ARR will be adjusted,

¹⁰ Xcel admits that its analysis "is subject to significant uncertainty" because "[it] does not today know how many MW of community solar gardens we will eventually take on." April 2, 2015 Comments at 3.

¹¹ Xcel March 4, 2015 Reply Comments at 9.

¹² See Xcel April 2, 2015 Comments at 3.

¹³ Environmental Law & Policy Center et. al. March 2, 2015 Reply Comments at 3-7.

and 2) when the Commission will consider a switch to [a] VOS-based, and in conjunction with that decision, [a] VOS-rate adder design if one is necessary.” We continue to believe that “at this juncture forward market clarity and transparency are as important as the rate amount.”¹⁴

4) The Commission May Choose to Implement A Value of Solar-based S*RC Bill Credit

In response to the Commission’s consideration of a future Value of Solar-based bill credit, Xcel states that “[t]he Company has no imminent plans to file an alternative VOS tariff. For this reason, we do not believe the Commission needs to further explore the use of an incentive to be added to the VOS at this time.”¹⁵ This statement implies that Xcel believes a Value of Solar-based bill credit can only be offered if the Company elects to file a Value of Solar Tariff. If so, Xcel’s new position is contrary to its previous position and is not supported in statute. The statute gives the Commission considerable discretion to set the bill credits, including basing the bill credit on a Value of Solar calculation unless and until Xcel has an approved Value of Solar Tariff.¹⁶ Xcel has agreed with this position in the past. During the Commission’s August 7, 2014 hearing, Xcel confirmed that the Commission has discretion to set a bill credit based on the Value of Solar calculation, even if Xcel has not filed a Value of Solar Tariff, in response to a question from Commissioner Lipschultz. The Commission should continue to consider a Value of Solar-based bill credit when it establishes future bill credits.

/s/ Allen Gleckner

Allen Gleckner
Senior Policy Associate
Fresh Energy
408 St. Peter Street, Suite 220
St. Paul, MN 55102
(651) 726-7570
gleckner@fresh-energy.org

/s/ Bradley Klein

Bradley Klein
Senior Attorney
Environmental Law & Policy Center
35 E Wacker Drive, suite 1600
Chicago, IL 60601
(312) 795-3746
bklein@elpc.org

¹⁴ Fresh Energy et. al. December 4, 2014 Reply Comments at 4.

¹⁵ Fresh Energy et al. April 2, 2015 Comments at 5.

¹⁶ SunEdison LLC’s June 19, 2014 Comments at 3-6 provide a detailed explanation of the Commission’s discretion regarding bill credits and the interplay between the Value of Solar statute and the Community Solar Garden statute.

/s/ John Farrell
John Farrell
Institute for Local Self Reliance
jfarrell@ilsr.org