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September 10, 2015

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E002/M-15-786

Dear Mr. Wolf,

On September 1, 2015, the Minnesota Public Utilities Commission (Commission) issued a Notice of Comment Period *in the Matter of Formal Complaint and Petition by SunShare, LLC for Relief Under Minn. Stat. §216B.1641 and Sections 9 and 10 of Xcel Energy's Electric Tariff Book*. Attached are comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in this matter.

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

Sincerely,

/s/ SUSAN L. PEIRCE  
Rate Analyst

SLP/lt  
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET No. E002/M-15-786

**I. BACKGROUND INFORMATION**

On August 28, 2015, SunShare, LLC (SunShare) filed a Formal Complaint and Petition for Relief under Minn. Stat. §216B.1641 and Sections 9 and 10 of Xcel Energy's tariff book. The Complaint alleges 100 discrete tariff violations committed by Xcel Energy under the Solar\*Rewards Community (S\*RC) program in Minnesota. SunShare seeks an expedited proceeding to provide the relief requested.

On September 1, 2015, the Commission issued a Notice of Comment seeking comment on the following:

- A. Does the Commission have jurisdiction over this matter?
- B. Are there reasonable grounds to investigate the allegations? Please include a discussion of Minn. Stat. §216B.17 in your comments.
- C. If the Commission decides to investigate the complaint, what procedure should be followed to carry out the investigation, given the large number of claimed tariff violations?
- D. How will an investigation of the allegations be coordinated with the process established in the Commission's August 6, 2015 Order (in Docket No. E002/M-13-867) to investigate interconnection disputes?
- E. How will the timing of an investigation be coordinated with other filings already pending on the Community Solar Garden Docket No. E002/M-13-867?

## II. DEPARTMENT COMMENTS

### *A & B. JURISDICTION AND MINNESOTA STATUTE §216B.17*

The Commission requested comment on whether it has jurisdiction and reasonable grounds to investigate the allegations, and the applicability of Minn. Stat. §216B.17, *Complaint Investigation and Hearing*. Minn. Stat. §216B.17 Subd. 1 states:

On its own motion or upon a complaint made against any public utility by the governing body of any political subdivision, by another public utility, by the department, or by any 50 consumers of the particular utility that any of the rates, tolls, tariffs, charges, or schedules or any joint rate or any regulation, measurement, practice, act, or omission affecting or relating to the production, transmission, delivery, or furnishing of natural gas or electricity or any service in connection therewith is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed, with notice, to make such investigation as it may deem necessary.

The Department notes that SunShare's complaint may not fit into the formal complaint requirements set forth in Minn. Stat. §216B.17, unless the Commission decides on its own motion to take up the complaint. Even if the Commission does not choose to take up the complaint under that statute, the Commission has significant authority to investigate issues relating to the rates, rules, standards and availability of the provision of electricity.

Specifically, Minn. Stat. §216B.09, *Standards; Classifications; Rules; Practices*, grants the Commission authority on its own motion or upon complaint to "ascertain and fix just and reasonable standards, classifications, rules or practices to be observed and followed by any or all public utilities with respect to the service to be furnished."

Minn. Stat. §216B.14, *Investigation*, allows the Commission "upon complaint or upon its own initiative and whenever it may deem it necessary in the performance of its duties may investigate and examine the condition and operation of any public utility or any part thereof."

Consequently, the Department concludes that the Commission has jurisdiction to investigate and resolve SunShare's concerns. Further, given allegations that Xcel has violated its tariff numerous times, the Department concludes that it is appropriate to investigate this complaint.

### *C - E. PROPOSED PROCESS FOR INVESTIGATING SUNSHARE'S COMPLAINT AND COORDINATION WITH OTHER COMMUNITY SOLAR GARDEN PROCESSES*

The Department understands the majority of the concerns raised by SunShare to involve Xcel's failure to meet expected processing timelines reflected in Section 9 and Section 10 of

its tariffs. As noted above, the Department concludes that such issues need to be investigated. Thus, concurrent with these comments, the Department is issuing information requests (IRs) to both Xcel and SunShare seeking additional information regarding the allegations set forth in the complaint.

Moreover, gathering this information is expected to be helpful to meet the goal stated on page 22 of the Commission's Order to require Xcel to:

...provide detailed reporting on the Section 9 application process and Section 10 interconnection process, as set forth in the ordering paragraphs. Tracking this information will keep Xcel focused on meeting its obligations under sections 9 and 10, and monthly reporting will ensure that any problematic trends can be identified and addressed in a timely manner. To that end, the Commission will authorize the Department to investigate situations in which application-processing timelines are not reasonably met.

As noted in our August 26, 2015 document in this proceeding, the Department accepted the Commission's directive to investigate situations in which application processing timelines are not reasonably met. Moreover, the Department stated our goal to:

...increase the transparency of CSG application processing as a means to expedite application processing. Although its plan in this regard is not due until October 5, 2015, the Department notes generally that to conduct business under the CSG program it likely would be helpful to applicants to have ready access to information including, but not limited to, application status, queue placement, the timeline for review as well as reports from independent engineers actively engaged in dispute resolution. [Footnote omitted]

In addition, the Department issued a Request for Qualifications (RFQ) for an independent engineer (Attachment A), and expects to complete the notification process by October 16, 2015. As part of its investigation into SunShare's allegations, the Department will attempt to assist the parties in identifying any areas that may require the assistance of the independent engineer in order to expedite the process once the parties identify an independent engineer.

The Department proposes to provide the Commission with a status update within 30 days of receipt of complete information request responses by the parties. As part of its update, the Department expects to identify future issues that may require Commission action.

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

/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-15-786**

**Dated this 10<sup>th</sup> day of September 2015**

**/s/Sharon Ferguson**

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