

Paulson Law Office, Ltd.
7301 Ohms Lane
Suite 325
Edina, MN 55439

Telephone (952)835-0055
Facsimile (952)835-2984
e-mail jeff.jcplaw@comcast.net

February 24, 2015

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East
Suite 350
St. Paul, MN 55101-2198

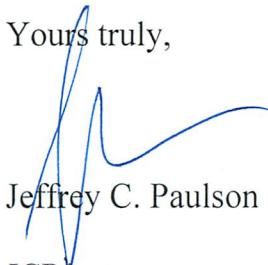
Re: MN Community Solar, LLC
PUC Docket No. E002/M-13-867
Comments

Dear Mr. Wolf:

We represent MN Community Solar, LLC and are eFiling and eServing the attached Comments of MN Community Solar, LLC in response to the Commission's February 13, 2015 Notice along with a Certificate of Service on their behalf in the above-captioned matter.

Please feel free to contact me with any questions you may have.

Yours truly,



Jeffrey C. Paulson

JCP/pat

cc: Parties; MN Community Solar, LLC

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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

In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for approval of its proposed Community Solar Gardens Program

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

COMMENTS OF MN COMMUNITY SOLAR, LLC

INTRODUCTION

This docket constitutes the primary venue in which the Minnesota Public Utilities Commission (“Commission”) is making decisions as to the implementation of Northern States Power Company’s (“NSP”) community solar garden (“CSG”) program, including orders issued on April 7, 2014 and September 17, 2014 after extended comments and hearings. On January 13, 2015, NSP filed comments with the Commission reporting that over 430 MW of CSGs had been submitted to NSP for review. NSP noted that over 96 percent of proposed CSGs are projects sized in excess of 1 MW, and over 58 percent are projects in excess of 10 MW.

On February 10, 2015, NSP filed additional comments raising issues for the CSG program which arise from the size and configuration of many of the proposed CSGs, or the magnitude of proposed CSGs in the aggregate. In particular, NSP notes (i) larger scale projects, and many of them, cause increased stress on the distribution system and implicate MISO; (ii) larger scale CSGs designed to attract industrial or large customers are inconsistent with legislative intent that CSGs provide a solar option to residential and small business customers; and (iii) the large amount of proposed CSG capacity, with the approved bill credit rate, would have a substantial negative rate impact to NSP customers as a whole.

On February 13, 2015, the Commission issued a Notice Seeking Comments regarding NSP’s issues, as well as certain related topics highlighted by the Commission. MN Community Solar, LLC (“MNCS”), a Minneapolis developer of CSGs, submits these initial comments in response to the Commission’s Notice.

BACKGROUND

MNCS is a locally-owned developer of CSG projects. MNCS has two rooftop CSG projects approximately 40 kW in size located in South Minneapolis at a small business and a church which are fully subscribed by residential and small business customers of NSP. MNCS is also developing additional projects outside Hennepin County, the next three of which are each expected to be about 1 MW in size. Subscribers for these larger projects are expected to include a mix of larger businesses, small commercial, and residential customers. In seeking subscribers, MNCS is not focusing exclusively on large customers, and hopes for a mix of customers from the community to be represented in its CSGs. At the same time, it is important to note that larger projects may offer some economies of scale with respect to capital costs, and a CSG with a few large customers will also have lower costs for administration and management of subscribers. MNCS has several CSGs proposed to NSP, has been involved actively with the CSG implementation work group, and is very familiar with the issues raised by NSP.

DISCUSSION

1. Operational Considerations. MNCS appreciates NSP's concerns about the impact of larger projects on NSP's distribution system and the implications for MISO jurisdiction. However, we also think the answers to this concern are straightforward.

If MISO has jurisdiction over a proposed interconnection, then MISO has jurisdiction over a proposed interconnection. Historically, MISO has looked at the expected impact on the transmission system of a proposed distribution interconnection in determining whether to assert jurisdiction and require transmission interconnection studies for the proposed interconnection. Potential transmission system impact is and should be a function of the aggregate size of all projects to be interconnected, irrespective of whether they have been subdivided for other reasons, especially if multiple projects at the proposed point of interconnection share a common developer. This has been how MISO has handled interconnection of multiple small wind projects with a common interconnection point in the past as well. Potential system impact trumps the developer's chosen project structure for MISO purposes.

In addition, MISO may well assert jurisdiction for projects less than 10 MW in size, if there is a potential for material impact on the transmission system. Notwithstanding recent improvements in MISO processes to expedite small project interconnection in response to FERC orders, MISO continues to assert its right to assess and study solar projects as small as 1 MW for impact on the transmission system where applicable.

MNCS sees no need for the Commission to take any action on this issue. For projects not affected by MISO, NSP will conduct its distribution studies in accordance with applicable tariffs, and should do so by looking at all projects proposed for a specific

distribution point of interconnection. That is the only way to properly assess the full system impact. In addition, it does not seem reasonable to expect NSP to affirmatively assume an obligation to assist developers with MISO processes beyond NSP's ordinary participation in such processes.

It would be useful to developers if distribution system information about NSP substation and feeder capabilities were more readily available so that developers could avoid proposing projects at constrained points on the system and the need for NSP to study projects at such points. Developers could then focus first on areas where capability is available. Similar information was developed for small wind projects at legislative urging some years ago, and updated information of that nature would be useful in avoiding this problem for solar projects as well.

2. Legislative Intent and Public Interest.

NSP expressed a concern that the preponderance of large CSG projects signifies a focus on large customers to the exclusion of residential and small business customers, that this defeats legislative intent, and that large developers are gaming the CSG system by proposing large projects artificially subdivided to meet CSG size requirements to circumvent the traditional route to a PPA for larger projects. While NSP's concerns may have some merit, again, it is not clear that the Commission needs to take any action on the matter.

To begin with, while it may be that proponents of the CSG statute contemplated it as a mechanism for residential and small business customers to more effectively participate in solar projects, it does not follow that this vision was meant to exclude larger customers from participation or limit their participation. There is no language in the applicable statute even suggesting such a limitation. Further, to the extent NSP's concern is meant to reopen its original proposal to cap the size of the CSG program, a proposal already rejected by the Commission in its April 7, 2014 Order, that effort should be rejected again.

As a practical matter, MNCS does not see the presence of large projects focused on industrial customers as having a detrimental effect on opportunities for residential and small commercial customers. As developers of small projects improve their subscriber management processes and the CSG program becomes better established, MNCS expects that sufficient capacity will be available to meet subscriber demand for such classes.

The issue of subdivided larger projects is not new to this Commission or renewable development in Minnesota. In the wind sphere, Minn. Stat. Section 216C.41 was first enacted to provide production incentives for locally-owned projects less than 2 MW in size. Minn. Stat. Section 216C.41 (2001). In 2001, a large developer created a series of projects, each under 2 MW individually, but with a common interconnection point and each owned by the developer, to obtain the benefits of the program. In response, the legislature enacted changes to the statute designed to prevent such a result

and ensure that only independently owned small projects receive the incentives, not large developers. See Minn. Stat. Section 216C.41, subd. 5(b) and (c) (2002) (limiting common ownership of facilities and establishing a test for such ownership). The same test was ultimately incorporated in the wind production tax statute to prevent common developers from subdividing projects to reduce tax burdens. Minn. Stat. Section 272.029, subd. 2(b). The C-BED statute also involved numerous battles about project ownership and eligibility for the benefits of C-BED tariffs, with amendments over time affecting the ability of large investors or developers to capture those benefits. Minn. Stat. Section 216B.1612 (2013). Other states have also confronted the same issue. See Iowa Code Chapter 476C (2014) (renewable energy tax credits for small projects).

In short, where the Minnesota legislature has intended to limit the benefits of certain renewable programs it has demonstrated the intent and the ability to do so in clear terms. Irrespective of what may have been expected for a CSG program, the statute does not currently support an interpretation that would allow imposing limits on large subscribers or CSGs marketing to large customers, or on the total number of CSGs or CSG capacity generally.

With respect to configuring 1 MW CSG projects adjacent to each other, this also is not a new practice. Small wind projects have been developed on adjacent tracts and utilize a common collection system and interconnection point at numerous locations on the NSP system (e.g., West Pipestone, five 1.65 MW projects; East Ridge, eight 1.25 MW projects). While, as noted above, the collective size often implicates MISO jurisdiction, there was no reason then for NSP to prevent or inhibit such developments as long as they otherwise qualified for participation in the applicable programs. The same is true here.

Consequently, no action is needed by the Commission on these issues.

3. Rate Pressure. NSP provides estimates of rate increases which supposedly might arise if all 431 MW of proposed CSGs actually are built and fully subscribed. MNCS is not in a position to assess the calculations. However, it seems premature at best, and greatly speculative in any event, to assume that all 431 MW will be completed, fully subscribed and operational. On the contrary, it seems highly likely that many such projects will not reach full development for a number of reasons, may not be subscribed due to lack of overall demand or more competitive projects, may suffer interconnection constraints (as NSP has stated), or may experience delays which cause loss of financing or tax credits. There is no basis to assume at this very early stage in the application process that all projects will come to fruition.

A better time to review this issue might be closer to the end of 2015 after the application process has progressed and projects will need to have attracted actual subscribers to be financed and move forward in 2016. MNCS believes that a substantial percentage of proposed CSG capacity will disappear as projects are abandoned or

reduced in size to meet actual subscriber demand. Only then will any possible rate impact become clearer.

Even then, it is not for the Commission to adopt limits on the CSG program inconsistent with the statute. If NSP believes legislative intent and the public interest intended by the CSG statute is not being met, the solution lies with the legislature, not by asking the Commission to nullify the statute as written. It may be that the legislature will confirm an intent to support just such a large and successful CSG program as has happened. As a result, no action should be taken by the Commission at this time based on a conjectural rate effect.

4. Implementation Work Group. MNCS believes the Implementation Work Group is always a valuable forum to address CSG program issues. The Work Group should not be expected or empowered to take action inconsistent with the statute or Commission orders, however; its purpose is to devise practical solutions to problems arising with program details, not review the overall statutory purpose or intent or revise CSG program boundaries.

CONCLUSION

MNCS recommends that the Commission take no action as a result of NSP's February 13, 2015 filing at this time.

Respectfully Submitted,

PAULSON LAW OFFICE, LTD.

By 

Jeffrey C. Paulson, #182382
Attorneys for MN Community Solar, LLC
7301 Ohms Lane, Suite 325
Edina, MN 55439
(952) 835-0055
jeff.jcplaw@comcast.net

Dated: February 24, 2015

CERTIFICATE OF SERVICE

I, Patricia A. Treseler, hereby certify that I have this 24th day of February, 2015, served a true and correct copy of Comments of MN Community Solar, LLC in response to the Commission's February 13, 2015 Notice in Docket No. E002/M-13-867, on all persons at the addresses indicated on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same in an envelope with postage paid in the United States mail at Edina, Minnesota.



Patricia A. Treseler

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Ross	Abbey	abbey@fresh-energy.org	Fresh Energy	408 Saint Peter St Ste 220 St. Paul, MN 55102-1125	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Michael	Allen	michael.allen@allenergysolar.com	All Energy Solar	721 W 26th st Suite 211 Minneapolis, Minnesota 55405	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Kenneth	Bradley	kbradley1965@gmail.com		2837 Emerson Ave S Apt CW112 Minneapolis, MN 55408	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Michael J.	Bull	mbull@mncee.org	Center for Energy and Environment	212 Third Ave N Ste 560 Minneapolis, MN 55401	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Jessica	Burdette	jessica.burdette@state.mn.us	Department of Commerce	85 7th Place East Suite 500 St. Paul, MN 55101	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Joel	Cannon	jcannon@tenksolar.com	Tenk Solar, Inc.	9549 Penn Avenue S Bloomington, MN 55431	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
John J.	Carroll	jcarroll@newportpartners.com	Newport Partners, LLC	9 Cushing, Suite 200 Irvine, California 92618	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Arthur	Crowell	Crowell.arthur@yahoo.com	A Work of Art Landscapes	234 Jackson Ave N Hopkins, MN 55343	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Dustin	Denison	dustin@appliedenergyinnovations.org	Applied Energy Innovations	4000 Minnehaha Ave S Minneapolis, MN 55406	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel

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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
James	Denniston	james.r.denniston@xcenergy.com	Xcel Energy Services, Inc.	414 Nicollet Mall, Fifth Floor Minneapolis, MN 55401	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Ian	Dobson	ian.dobson@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service	Yes	SPL_SL_13-867_Community Solar Garden - Xcel
Bill	Droessler	bdroessler@iwla.org	Izaak Walton League of America-MWO	1619 Dayton Ave Ste 202 Saint Paul, MN 55104	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Betsy	Engelking	betsy@geronimoenergy.com	Geronimo Energy	7650 Edinborough Way Suite 725 Edina, MN 55435	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
John	Farrell	jfarrell@ilsr.org	Institute for Local Self-Reliance	1313 5th St SE #303 Minneapolis, MN 55414	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Nathan	Franzen	nathan@geronimoenergy.com	Geronimo Energy	7650 Edinborough Way Suite 725 Edina, MN 55435	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Hal	Galvin	halgalvin@comcast.net	Proectus Energy Development llc	1936 Kenwood Parkway Minneapolis, MN 55405	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Timothy	Gulden	info@winonarenewableenergy.com	Winona Renewable Energy, LLC	1449 Ridgewood Dr Winona, MN 55987	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lynn	Hinkle	lhinkle@mnseia.org	Minnesota Solar Energy Industries Association	2512 33rd Ave South #2 Minneapolis, MN 55406	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Jan	Hubbard	jan.hubbard@comcast.net		7730 Mississippi Lane Brooklyn Park, MN 55444	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Tiffany	Hughes	Regulatory.Records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
John S.	Jaffray	jjaffray@jrpowers.com	JJR Power	350 Highway 7 Suite 236 Excelsior, MN 55331	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Eric	Jensen	ejensen@iwla.org	Izaak Walton League of America	Suite 202 1619 Dayton Avenue St. Paul, MN 55104	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Michael	Kampmeyer	mkampmeyer@a-e-group.com	AEG Group, LLC	260 Salem Church Road Sunfish Lake, Minnesota 55118	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Brad	Klein	bklein@elpc.org	Environmental Law & Policy Center	35 E. Wacker Drive, Suite 1600 Suite 1600 Chicago, IL 60601	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
John	Kluempke	jkluempke@winlectric.com	Elk River Winlectric	12777 Meadowvale Rd Elk River, MN 55330	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Jon	Kramer	jk2surf@aol.com	Sundial Solar	4708 york ave. S Minneapolis, MN 55410	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Rebecca	Lundberg	rebecca.lundberg@powerfullygreen.com	Powerfully Green	11451 Oregon Ave N Champlin, MN 55316	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Casey	MacCallum	casey@appliedenergyinnovations.org	Applied Energy Innovations	4000 Minnehaha Ave S Minneapolis, MN 55406	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Erica	McConnell	emcconnell@kfvlaw.com	Keyes, Fox & Wiedman LLP	436 14th Street, Suite 1305 Oakland, California 94612	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Thomas	Melone	Thomas.Melone@AllcoUS.com	Minnesota Go Solar LLC	222 South 9th Street Suite 1600 Minneapolis, Minnesota 55120	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Andrew	Moratzka	apmoratzka@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Martin	Morud	mmorud@trunorthsolar.com	Tru North Solar	5115 45th Ave S Minneapolis, MN 55417	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Rolf	Nordstrom	rnordstrom@gpisd.net	Great Plains Institute	2801 21ST AVE S STE 220 Minneapolis, MN 55407-1229	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Jeffrey C	Paulson	jeff.jcplaw@comcast.net	Paulson Law Office, Ltd.	7301 Ohms Ln Ste 325 Edina, MN 55439	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Donna	Pickard	dpickard@aladdinsolar.com	Aladdin Solar	1215 Lilac Lane Excelsior, MN 55331	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Gayle	Prest	gayle.prest@minneapolismn.gov	City of Mpls Sustainability	350 South 5th St, #315 Minneapolis, MN 55415	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Dan	Rogers	drogers@sunedison.com	SunEdison	N/A	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Matthew J.	Schuerger P.E.	mjsreg@earthlink.net	Energy Systems Consulting Services, LLC	PO Box 16129 St. Paul, MN 55116	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Doug	Shoemaker	dougs@mnRenewables.org	MRES	2928 5th Ave S Minneapolis, MN 55408	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Eric	Swanson	eswanson@winthrop.com	Winthrop Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Thomas P.	Sweeney III	tom.sweeney@easycleanenergy.com	Clean Energy Collective	P O Box 1828 Boulder, CO 80306-1828	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Pat	Treseler	pat.jcplaw@comcast.net	Paulson Law Office LTD	Suite 325 7301 Ohms Lane Edina, MN 55439	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel
Daniel	Williams	DanWilliams.mg@gmail.com	Powerfully Green	11451 Oregon Avenue N Champlin, MN 55316	Electronic Service	No	SPL_SL_13-867_Community Solar Garden - Xcel