



414 Nicollet Mall
Minneapolis, MN 55401

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March 20, 2019

—Via Electronic Filing—

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

RE: RESPONSE TO COMPLAINT
IN THE MATTER OF A FORMAL COMPLAINT AGAINST XCEL ENERGY BY
SUNSHARE, LLC, PURSUANT TO MINN. STAT. §216B.17
DOCKET NO. E002/C-19-203

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission the attached Response pursuant to the March 13, 2019 Notice of Comment Period of the Minnesota Public Utilities Commission.

Portions of our Response and certain Attachments to the Response are marked as non-public Protected Data. Much of the Protected Data relates to copies of emails exchanged between the parties, or certain account information. In marking the material as Protected Data, we have tried to generally follow the approach taken by SunShare in its Complaint.

SunShare provided Protected Data markings on the following types of documents or information: copies of emails between the parties and Interconnection Agreement (IA) packets, but summaries of portions of these were publicly filed as detailed below; terms of confidential Settlement Agreement, except that SunShare publicly disclosed one of the provisions on page 8, par. 9 of its Complaint; SRC application numbers; certain employee names; and overall indicative cost estimates in specific IA packets.

SunShare publicly filed the following types of information: summaries of emails between the parties, including dates of the emails; summaries of IA packets,

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including details of contemplated field work and estimated distribution upgrade costs, but not overall indicative cost estimate (page 5-6 (par. 2), page 7 (par. 6), and pages 10-11 (pars. 12-14) of its Complaint); and, dates of activities, such as complete application, emails, IE Review sought, IA packets and Settlement Agreement.

The customer name is “Non-Public” pursuant to Minn. Stat. § 13.37, subd. 1(b); is considered to be private data on individuals under Minn. Stat. §13.02, subd. 12; and, is protected as Personally Identifiable Information by the Commission’s June 24, 2014 and September 9, 2014 orders in *In the Matter of a Commission Inquiry into Privacy Policies of Rate-Regulated Energy Utilities* (Docket No. E,G999/CI-12-1344. Further, the details on communications about the interconnection applications (but not summaries) are considered to be nonpublic by SunShare. The markings in our Response and attachments to our Response generally align with how SunShare has designated “Non-Public” as summarized above. This information so marked in our Response is subject to efforts from SunShare to maintain its secrecy. This information derives independent economic value, actual or potential, to Xcel Energy, its customers, suppliers, and competitors, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Consistent with this, we also have treated as “Non-Public” the otherwise public information from the web-portal from the Minnesota Secretary of State because the information, if publicly filed here, would identify a customer not previously publicly identified for the applications at issue.

We have marked the totality of Attachments Xcel-A through Xcel-F and Xcel-H as “Non-Public”. These consist of emails between the parties regarding the interconnection and program applications at issue, a web posting showing the name of a customer, and also include a confidential Settlement Agreement between the parties. Pursuant to Minn. Rule 7829.0500, subp. 3, the Company provides the following description of the excised material:

- 1. Nature of the Material:** emails between the parties relating to the interconnection and program applications at issue; information that identifies a customer that has not previously been publicly identified for the applications at issue; and, confidential Settlement Agreement.
- 2. Authors:** various employees of SunShare and Xcel Energy, or the office of the Minnesota Secretary of State.
- 3. Importance:** The emails pertain to account information of the customer and the Settlement Agreement contains highly sensitive information and

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nonpublic data. The name of the customer not otherwise previously made public is private information.

- 4. Date the Information was Prepared:** Various dates. Typically on or about the date listed on each document.

We have electronically filed this document with the Commission, and copies have been served on the parties on the attached service list. Please contact Jessica Peterson at Jessica.k.peterson@xcelenergy.com or (612)330-6850 if you have any questions regarding this filing.

Sincerely,

/s/

JAMES R. DENNISTON
ASSISTANT GENERAL COUNSEL

Enclosures
c: Service List

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STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie J. Sieben	Commissioner
John A. Tuma	Commissioner

IN THE MATTER OF A FORMAL
COMPLAINT AGAINST XCEL ENERGY BY
SUNSHARE, LLC, PURSUANT TO MINN.
STAT. § 216B.17

DOCKET NO. E002/C-19-203

RESPONSE

INTRODUCTION

Northern States Power Company, doing business as Xcel Energy (Company), submits this Response pursuant to the Commission’s March 13, 2019 Notice of Comment Period regarding SunShare LLC’s (SunShare) Formal Complaint and Petition (Complaint) regarding the Schiller Project.

The Complaint asserts that SunShare was wrongfully denied the right to a review by an Independent Engineer (IE) for its Schiller Project. However, SunShare never initiated an IE review while its application for the Schiller Project was actually pending. The Company—acting in accordance with its tariff—cancelled the Schiller Project because SunShare failed to sign the Interconnection Agreement and pay one-third of the estimated costs within 30 days of receiving the agreement on January 24, 2017. In fact, the Company extended this initial deadline several times and provided multiple notifications to SunShare regarding its failure to meet the tariff requirements before ultimately canceling the project in April of 2017.

SunShare did not take advantage of these cure periods; nor did it seek an IE review during this time, which would have paused the timeline for executing the Interconnection Agreement. Instead, SunShare first sought an IE Review in April 2018, a full year after the project was cancelled. At that time, the Department determined that an IE review was not available because the project had been cancelled. The Commission should dismiss this Complaint for the same reason. The public interest does not support an investigation into allegations in the Complaint nearly two years after the project’s cancellation.

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Additionally, it does not even appear that SunShare is the correct entity to bring a complaint in connection with the Schiller project. Although SunShare and Mortenson Construction Company (Mortenson) were involved in submitting applications for the 3 MW co-located Schiller Project in September 2015, SunShare is not the Owner/Applicant for these three applications. Nor is it the designated Primary Application Manager (PAM). The 3 applications were submitted in the names of **[PROTECTED DATA BEGINS**

PROTECTED DATA ENDS], and Mortenson is the manager of each of these three companies according to the Minnesota Secretary of State's office. Mortenson is also the designated PAM for the project. Moreover, as of March 14, 2019, none of the three **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** entities are even authorized to do business in Minnesota. We therefore believe that Mortenson was and remains the legal entity in charge of the applications, and we note that Mortenson is not a party to the Complaint.

For all of these reasons, we believe the Commission should dismiss SunShare's complaint, finding that further investigation and/or a hearing is not in the public interest.

Finally, we note that we are troubled by certain statements in the Complaint. It appears that SunShare may have continued to market the Schiller project and maintain its residential subscriptions after the project was cancelled. (Complaint, pp. 2, 5, 18). We were not aware of these actions until SunShare filed its Complaint in this docket, and we raise it here because the Commission may want to consider whether these post-cancellation marketing and subscription activities are consistent with the public interest.

RESPONSE

The Notice specified three topics for comment:

- Does the Commission have jurisdiction over the subject matter of the Complaint?
- Is it in the public interest for the Commission to investigate these allegations upon its own motion?
- If the Commission chooses to investigate the Complaint, what procedures should be used?

We address these issues in sequential order below.

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Before turning to those issues, however, we provide the following table and timeline to describe various communications that are either referenced in the Complaint or this Response. Where certain communications have been attached to the Complaint, we generally have not re-attached them to this Response.

Date/Description	Complaint Reference	Xcel Energy Response Reference
March 1, 2016 No Capacity Letter	Attachment A	
August 1, 2016 IA Packet	Attachment B	
September 22, 2016 email from SunShare requesting 2% methodology for Schiller Project	Attachment C	
September 28, 2016 email from the Company to SunShare noting that the 1453-based methodology will not be retroactive once filed		Attachment Xcel-A
October 6, 2016 email from the Company offering 2% methodology for Schiller that would include “field verifying our existing lines and equipment where reasonably possible.”	Attachment C	
October 7, 2016 email from SunShare wanting the 2% methodology in the October 6 email to apply to the Schiller Project	Attachment C	
Settlement Agreement, effective January 3, 2017		Attachment Xcel-B
January 24, 2017 IA packet (for 1 of the three SRC numbers) ¹	Attachment D	
March 23, 2017 email from the Company to SunShare providing extension for payment to March 30, 2017.	Attachment F	
March 30, 2017 email from SunShare stating that it is unable to pay the 1/3 interconnection deposit.	Attachment F	
April 4, 2017 email from the Company to SunShare explaining that Schiller not eligible for the 1453-based methodology.		Attachment Xcel-C
April 17, 2017 email from the Company to SunShare, and Mortenson extending deadline to pay to April 21, 2017.	Attachment F	

¹ The Complaint attached one of the three IA packets that were issued on January 24. They are very similar to one another, the differences being that each Interconnection Agreement was for a 1-MW system. This site had a co-located capacity of 3 MW. The other two Interconnection Agreements were for the two other 1-MW systems at this location. The legal name for each of these 1-MW systems were different, and the different legal names are shown on the first page of Attachment D to the Complaint.

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Date/Description	Complaint Reference	Xcel Energy Response Reference
April 18, 2017 email from Mortenson to SunShare and the Company, appreciation of prior extensions, and stating that in event SunShare does not make payment by April 21 that the project program deposit is to be routed to Mortenson. There was a call on April 20 that is summarized below on page 6.	Attachment F	
May 15, 2017 email from the Company to Mortenson confirming April 26, 2017 cancellation, and providing status on refund of the program deposit. The deposit was refunded on May 11, 2017.		Attachment Xcel-D
March 13-14, 2018, email string, including SunShare stating that it could not access Salesforce for the Schiller Project		Attachment Xcel-E
April 16, 2018 email from the Company to Department and SunShare addressing SunShare’s IE request.		Attachment Xcel-F
April 25, 2018 email from Department to SunShare and the Company determining that IE Review is not available for the Schiller Project		Attachment Xcel-G
Minnesota Secretary of State website information for [PROTECTED DATA BEGINS PROTECTED DATA ENDS]		Attachment Xcel-H
Allegations in Complaint that are barred by Settlement Agreement of Jan. 3, 2017		Attachment Xcel-I

I. COMMISSION JURISDICTION

The Commission clearly has jurisdiction generally over the subject matter of the Complaint. This would be consistent with Minn. Stat. § 216B.09 (allowing the Commission to consider complaints with respect to services provided by utilities) as the general nature of the complaint relates to the Company’s Solar*Rewards Community program as developed in Docket No. 13-867 and its tariffs that the Commission has approved. The Solar*Rewards Community program is regulated by the Commission.

That being said, the Commission does not have authority to award some of the relief being requested by SunShare. The Commission does not have authority, for instance, to award monetary damages.² Accordingly where SunShare seeks relief by capping

² “The MPUC enjoys broad power to ascertain and fix just and reasonable policies for all public utilities. . . . However, the power to award monetary damages to a complaining party is not one that the MPUC enjoys.” *Siewert v. N. States Power Co.*, 793 N.W.2d 272, 277–78 (Minn. 2011).

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costs assessed against it as a way to make it financially whole or otherwise off-set losses, such relief cannot be awarded.

II. NO PUBLIC INTEREST FOR COMMISSION INVESTIGATION

Minn. Stat. § 216B.17 specifies that the Commission may dismiss any complaint without a hearing if in its opinion a hearing is not in the public interest. Here, SunShare’s Complaint comes nearly two years after its project was properly cancelled by Xcel Energy and one year after the Department concluded that SunShare was not entitled to an IE review. Moreover, SunShare does not even appear to be the correct party to bring this Complaint, as they are not the “Owner/Applicant” as identified in the Interconnection Application.³ Nor are they the Primary Application Manager for the applications. And even if that were not the case, many of its allegations are barred by a prior Settlement Agreement between Xcel Energy and SunShare. Finally, if SunShare were to prevail in this belated Complaint, it would cause havoc in the queue for this location due to capacity being rightfully allocated to subsequent projects in queue, which are currently in various stages of development. For all of these reasons, which we discuss in more detail below, we request that the Commission dismiss SunShare’s Complaint as not in the public interest.

A. The Schiller Project was properly cancelled.

The application for the Schiller Project was cancelled on April 26, 2017 after SunShare failed within 30 days of January 24, 2017, to sign the Interconnection Agreements and to pay the required 1/3 payment of the indicative cost estimate. SunShare was given several prior extensions of this deadline, and robust notice of this deadline was provided to SunShare and to Mortenson. Further, the Complaint notes that **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**, a Mortenson employee, is the Primary Application Manager, or PAM (Complaint, par. 16). As the PAM, Mortenson is the primary contact for the application process and ultimate decision maker for the Garden Operator.

The Company’s Tariff, Sheet 9-68.7 (6.c.i.) specifies that “payments and providing appropriate letter of credit for unpaid balance must be completed within 30 days of the Company notice to applicant of this payment which is due *or the application will be removed from the Study Queue and the applicant will be required to start a new Community Solar garden application if it later determines it wants to proceed.*” [emphasis added]

³ Complaint Attachment 5, Sheet 105.

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The Company provided the IA packet for the Schiller Project to the PAM on or about January 24, 2017, which means that the executed Interconnection Agreements and payments were due 30 days later. Prior to cancelling the Schiller Project based on the above tariff provisions, the Company communicated with both SunShare and Mortenson, notifying them about the 30-day timeframe and potential cancellation as a result of non-payment. The Company also extended the deadline for the developers to comply with the tariff requirements.

Per our March 23, 2017 email, we further extended the deadline for executing and paying the Interconnection Agreement to March 30, 2017 (Complaint, Attachment F, PDF page 7). On March 30, SunShare informed the Company that it was “unable to pay” (Complaint, Attachment F, PDF page 6). The Company then on April 17 provided an extension to April 21, 2017 (Complaint, Attachment F, PDF page 6). On April 18, Mortenson expressed appreciation for these extensions, but informed the Company that in the event SunShare does not make the payment by April 21, that the project program deposits were to be routed to Mortenson. (Complaint, Attachment F, PDF page 5). Mortenson had paid the re-fundable program deposit of \$100/kW per each garden application on November 9, 2015, so it requested that the deposits be returned to it. The deposits were not requested to be reinstated by either SunShare or Mortenson after they were refunded.

Our notes from the April 20, 2017 bi-weekly call with SunShare state the following:

[PROTECTED DATA BEGINS

PROTECTED DATA ENDS]

The Schiller Project was properly cancelled on April 26, 2017, following an abundant set of communications from Xcel Energy to SunShare. Our cancellation of the Schiller Project did not require approval or consent from SunShare or Mortenson. Once the application for the Schiller Project was cancelled, SunShare no longer had access to the online application portal for this cancelled application. In 2017, following cancellation, SunShare never called to our attention that it was looking for information in the online application portal for the Schiller Project, nor did it ever ask why the Schiller Project was no longer able to be seen in the portal, or inquire as to the status of the project deposit or other application milestones tracked in the portal.

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It appears to us that the first time after the application for the Schiller Project was cancelled that they let us know that they could not obtain access to the online application portal for this project was in March 2018. (See, Attachment Xcel-E).

Our notes for the remainder of the bi-weekly calls for 2017 that cover all projects in Minnesota that involved SunShare do not reflect any subsequent discussion on the Schiller Project.

B. The Department properly determined that the IE review process is not available to the Schiller Project.

SunShare did not attempt to initiate an IE dispute for the Schiller Project until April 12, 2018, when it submitted an Intake Form to the Department, copying the Company on that email. The Company objected to conducting an IE dispute process at this point. (See, Attachment Xcel-F). The Department then reviewed information submitted by SunShare and the Company.

The Department concluded in its April 25, 2018 email (Attachment Xcel-G) that the IE process was not available to dispute the Schiller Project. The Department also noted that there was nothing to indicate that SunShare had raised an IE dispute previously or that Xcel Energy had agreed the Project could go forward. Additionally, the Department confirmed that Xcel Energy had communicated with SunShare about the necessary payment of the interconnection cost and also made clear that Xcel Energy will cancel the applications for the Schiller Project if payment is not received by April 21, 2017. Finally, the Department noted that the issuance of an Interconnection Agreement and indicative cost estimate is the final marker for raising disputes, and that the time for SunShare to raise a dispute over the estimated interconnection costs for the Schiller Project was a year ago.

Another reason why the Department conclusion was correct is because our IE process is only available to an “applicant”. See, Tariff Sheet 9-68.11, par. 9.A.. If there is no currently-pending application, then there is no applicant that can apply for an IE review. Further, SunShare’s Complaint several times refers to “ongoing bilateral negotiations between Xcel and SunShare” regarding the Schiller Project (pp. 2, 16) and states that SunShare “chose to wait to submit the Schiller Project for IE review until it was absolutely clear that a negotiated settlement was impossible.” (p. 16). After the Schiller Project was cancelled in April 2017, however, we have not engaged in any negotiations with SunShare regarding the Project. In any event, these arguments from SunShare do not change the conclusion that its late IE review request should not have been honored by the Department.

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C. Untimeliness is highlighted by the fact that there are other applications in queue.

As noted by the Department in its April 2018 email, there are now other projects in queue at this substation that would have been behind the Schiller Project in queue had the Schiller Project not been cancelled. The queue is publicly posted,⁴ and as of the March 4, 2019, for the Lester Prairie substation there were 5.998 MW in commercial operation; 1 MW in design and construction; 2 MW with recently offered Interconnection Agreements; and 1MW in the initial engineering study phase. The engineering study that resulted in the IA packets being sent to SunShare in January 2017 is now out of date.

To grant the relief that SunShare seeks (that the Schiller Project retroactively jump back into queue ahead of these other projects) could have a substantial and negative impact on these other projects. Therefore, it is not possible to replicate the queue as it was in April 2017 or to “restore the Schiller Project to its prior position in the interconnection queue,” as is requested by SunShare.⁵ Should the Commission decide to consider this relief, then the other gardens would likely be necessary parties to this proceeding given their direct interest in the outcome. That said, we continue to believe that the Commission should dismiss SunShare’s complaint, thereby avoiding the need to consider impacts to third-party developers altogether.

D. SunShare is not the correct party to bring this complaint.

SunShare has no standing to bring this complaint. The legal name of the “Owner/Applicant” on the applications are **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**. (See, Complaint, Attachment D, completed tariff Sheet 105). This aligns with the identification of the “Interconnection Customer” in that IA packet at completed tariff sheet 113, and in Exhibits B, D and E to that IA packet. This sheet also shows that the representative for the Owner/Applicant is **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**, and that the Design Engineer is **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**. These are both Mortenson employees, with their addresses listed as Mortenson’s headquarters. Further, the Complaint notes that **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** is the Primary

⁴ See, for example, [https://www.xcelenergy.com/staticfiles/xcel-responsive/Working%20With%20Us/Renewable%20Developers/Substation%20DG%20Queue_3.4.19.xlsx](https://www.xcelenergy.com/staticfiles/xcelresponsive/Working%20With%20Us/Renewable%20Developers/Substation%20DG%20Queue_3.4.19.xlsx)

⁵ SunShare’s Complaint, p. 3.

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Application Manager, or PAM (Complaint, par. 16). **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** are registered as limited liability companies in Minnesota, and the Minnesota Secretary of State’s business records listed Mortenson Development, Inc. as the Manager for the three companies (see **Attachment Xcel-H**, a copy from the Minnesota Secretary of State online business records). Also, Attachment Xcel-H shows that these three companies are no longer authorized to transact business in Minnesota. None of these entities have brought the Complaint. Further, the PAM is not a party to this Complaint.

E. The Settlement Agreement requires specific voltage fluctuation methodology.

The Settlement Agreement (Attachment Xcel-B) was countersigned by the Company on January 3, 2017, and provides that the Schiller Project **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**. Contrary to SunShare’s arguments,⁶ the **[PROTECTED DATA BEGINS**

PROTECTED DATA ENDS] The Schiller Project is **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**.

Paragraph 3 of the Settlement Agreement specifies that:

[PROTECTED DATA BEGINS

PROTECTED DATA ENDS].

It is clear that the Settlement Agreement **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** to the Schiller Project.

The Settlement Agreement is **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]**. We offered to re-study the Schiller Project with the 2% methodology on October 6, 2016, as a result of the Commission’s September 20, 2016 hearing. (See, Complaint Attachment C, PDF pages 2-3). SunShare responded on October 7, 2016 that they

⁶ For example, SunShare’s Complaint states that **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** (p. 9).

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would like the Schiller Project to be part of the re-study. (See, Complaint Attachment C, PDF page 4).

According to Paragraph 4 of the Settlement Agreement, **[PROTECTED DATA BEGINS**

PROTECTED DATA ENDS]. Based on the binding terms of the Settlement Agreement, **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** and uploaded the resulting January 24, 2017 Interconnection Agreement (IA) packet on the developer portion of the online application portal.

The January 24, 2017 IA packet specified that the indicative cost estimate for interconnecting the three co-located gardens was **[PROTECTED DATA BEGINS PROTECTED DATA ENDS]** and that the applicant had 30 days to pay 1/3 of the indicative cost estimate.⁷ The IA packet also explained the engineering study results, listing necessary system modifications and their costs. For distribution system modifications, the IA packet on page 6 listed approximately 10,000 feet of 336 AL reconductoring at a cost of \$616,000. While this was a significant increase from the prior August 1, 2016 engineering study,⁸ the Company explained to SunShare that we had discovered that an approximately 1 mile section of overhead conductor in the field was #2 ACSR, although we had previously assumed it was 336 AL based on maps that were not entirely accurate. Further, prior to the time that SunShare determined that it wanted the 2% methodology applied to the Schiller Project, it knew that this would include the Company “field verifying our existing lines and equipment where reasonably possible.” (Complaint, Attachment C, PDF page 2, email of October 6, 2016). If SunShare had a concern with the results or methodology from applying the 2% methodology or any other aspect of the engineering study and associated Interconnection Agreement for the Schiller Project, it would have needed to have submitted an IE Review prior to the time that application for the Schiller Project was cancelled.

F. The Schiller Project does not qualify for 1453-based methodology.

The Complaint notes the importance of standardized interconnection processes. (Complaint, p. 21). The Commission’s November 1, 2016 order in the Solar*Rewards

⁷ The January 24, 2017 IA packet is included as Attachment D to SunShare’s Complaint.

⁸ The August 1, 2016 IA packet is included as Attachment B to SunShare’s Complaint. For distribution system modifications, this IA packet, page 5, listed approximately 4,900 feet of 336 AL reconductoring at a cost of \$269,500. The engineering study used 1.5% individual/2% aggregate, full on/full off voltage fluctuation threshold.

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Community docket (Docket No. E002/M-13-867), recognized that it was the Company's then-current practice to use the 2% methodology for new applications, and it directed the Company to work with other interested parties to develop and file a plan for transition to incorporating the standards of IEEE 1453 into its modeling of voltage fluctuations and flicker for solar PV, and the Company was required to file this plan within 6 months of the November 2016 order.

On April 26, 2017, the Company, following working with other interested parties⁹ submitted its compliance plan in Docket No. 13-867, and this filing provided the transition plan for the 1453-based methodology and stated: "*The Company officially adopted [our simplified IEEE 1453 approach] methodology in the white paper for all projects starting the study process on or after April 1, 2017...*" Using the 1453-based methodology for the Schiller Project that received its first study results in March 2016 and was not re-studied for cause (such as queue changes impacting this project) after the 1453-based methodology was implemented would conflict with this and would be inconsistent with the standardized interconnection process.

Other than as described above or provided for in settlement agreements, such as the Linden Project specified in the Settlement Agreement (Attachment Xcel-B) or settlement on the SunRise projects that were addressed at the MPUC hearing on January 5, 2017, the 1453-based methodology is not available for any project that started the study process prior to April 1, 2017. As detailed above, the Settlement Agreement also requires that the **[PROTECTED DATA BEGINS**

PROTECTED DATA ENDS] Further, SunShare was aware that the 1453-based methodology would not be retroactively applied. (Attachment Xcel-A, email of September 28, 2016). If SunShare had issues with the 1453-based methodology not being applied, it would have needed to submit an IE review before the application for the Schiller Project was cancelled.

SunShare still has the ability to submit a new application at this same site. It would need to be submitted under current program rules --- limited to 1 MW capacity, and subject to the VOS Vintage rate in place at the time that the new application is Deemed Complete. In this situation, with this new application, the 1453-based methodology would be applied. SunShare has not filed any such application. If it does file any such application, it would need to take its place in queue based on the

⁹ SunShare was a listed member of this workgroup, but per the minutes of the workgroup meetings attached to the April 23, 2017, filing, SunShare did not attend any of the workgroup meetings. They only received email communications regarding the discussions.

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date that this application joined the queue, and it would need to be studied based on the information we have about our network at the time of the study.

G. The Linden IE Dispute Is Irrelevant

SunShare’s Complaint makes many claims based on the IE Report issued in the Linden dispute in December 2018, implying that the conclusions of this IE Report should apply to the Schiller Project as well.¹⁰ It is irrelevant to this Complaint what the IE determined in the Linden dispute, since the Schiller Project is a different project, the Linden IE Report has no precedent, the Company has appealed the Linden IE Report in its entirety, and the Linden dispute is currently pending at the Commission.

H. No Public Interest in addressing the Schiller Project as its Mechanical Completion due date expired long ago.

The Settlement Agreement (Attachment Xcel-B) requires that SunShare achieve Mechanical Completion for the Schiller Project by **[PROTECTED DATA BEGINS**

PROTECTED DATA ENDS] Per our tariff at Sheet 9-67.1,

If Mechanical Completion is not achieved within this ... period (including any day-for-day extension referenced above), then the Company will return the deposit and the garden operator, if it still intends to proceed with the project, will need to reapply and submit a new application fee and deposit. Additionally, in this situation, if applicant already has an executed Interconnection Agreement, then that Interconnection Agreement may not be used for a project as part of the Solar*Rewards Community program, and such project shall immediately lose its queue position in the interconnection queue.

Accordingly, SunShare is now time-barred from having the Schiller Project be part of the Solar*Rewards Community program under its prior applications for the Schiller Project. To be part of the program, it needed to achieve Mechanical Completion a long time ago. Since it failed to timely achieve Mechanical Completion, this site can

¹⁰ SunShare’s Complaint states, for example, “The issues underlying the Linden project dispute, and the IE’s findings and remedies ordered, inform this dispute.” (p. 13) and “Due to the similarities with the Linden Project, we waited to do so until the IE issued his report for the Linden Project, to better inform the Commission of the issues underlying this dispute.” (p. 2)

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not be part of the Solar*Rewards Community program and there is no public interest in addressing the issues raised in its Complaint.

- I. The Public Interest is not served by addressing issues and allegations that SunShare’s previously signed agreement has already resolved and bars them from raising them before the Commission.**

The Settlement Agreement (Attachment Xcel-B) bars SunShare from raising a number of issues and allegations it has asserted in its Complaint. The Settlement Agreement states:

[PROTECTED DATA BEGINS

PROTECTED DATA ENDS].

Certain allegations in the Complaint clearly violate this provision of the Settlement Agreement, and SunShare is barred from making these allegations. Examples of the allegations that should be stricken from the record are set forth in Attachment Xcel-I.

- J. There is no Public Interest in Addressing SunShare’s request for use of Smart Inverter Functionalities.**

SunShare requests that the Commission require the Company to consider whether the use of Advanced Functionality Inverters (AFIs) or storage technologies could reduce interconnection costs and increase capacity for the Schiller Project.¹¹ SunShare

¹¹ SunShare made this same request in the Linden Dispute, but neglects to point out that the Department determined that this issue is outside the IE’s jurisdiction. The Department on September 4, 2018 noted that smart inverters have not yet been required by the Commission. (Attachment H to our Linden Appeal). In addition, they remain under

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acknowledges that smart inverters are an ongoing topic for the broader Commission-led review regarding distributed generation interconnection practices (Complaint, p. 25), but regardless requests that the Company should use this technology now for the Schiller Project “to further inform this review.”

The Company believes that the Schiller Project should not be used as a test case to inform the development of Minnesota technical standards for interconnection. Instead, we respectfully request that the Commission waits until the technical workgroup has finished its work before the Commission makes any decisions regarding AFI or storage technologies, otherwise this would defeat the goal of having a standardized interconnection process.

K. Other Public Interest Issues

As noted in the Introduction, we are concerned by certain statements in SunShare’s complaint, which suggest that—two years after the application for the Schiller Project was cancelled—SunShare appears to have continued to market and keep its subscribers to its contracts for this cancelled project. (Complaint, pp. 2, 5, 18). We do not believe that this is in the public interest. Also, we believe SunShare should clarify its claimed 80 MW or 100 MW of garden ownership in Colorado and Minnesota because our public listing of garden operators do not show SunShare as being the Operator (Representative) for any solar garden in Minnesota.¹²

III. THE PROCESS TO BE USED IF THE COMMISSION INVESTIGATES

If the Commission chooses to investigate the Complaint, we believe the appropriate procedures would depend on the scope of the investigation and issues to be addressed. This could range from a further round of comments to a contested case hearing depending on the issues and scope that the Commission wants to address.

However, Minn. Stat. §216B.17 provides specific direction - if the Commission does not dismiss the Complaint, and finds that all significant factual issues raised have not

consideration by the technical workgroup convened to develop technical standards for Minnesota interconnection, as part of Phase II of the Minnesota interconnection reform. Therefore, the Department concluded that Xcel Energy cannot be required to incorporate smart inverter capabilities at this time. The Linden IE Report reflects this Department decision.

¹² See, for example, See, for example the following link as accessed on March 19, 2019:

<https://www.xcelenergy.com/staticfiles/xeresponsive/Programs%20and%20Rebates/Residential/MN-SRC-Solar-Gardens-In-Progress.xlsx>

**PUBLIC DOCUMENT –
NOT PUBLIC DATA EXCISED**

been resolved to its satisfaction, then the Commission shall order a contested case proceeding.

CONCLUSION

We request that the Commission find there are no reasonable public interest grounds to investigate SunShare's allegations and dismiss the Complaint. At the time the Schiller Project was still active, SunShare could have used the IE dispute process in Section 9 tariff to review its engineering concerns related to the Schiller Project. SunShare, however, waited until a year after the Project's cancellation before it attempted to initiate a dispute of the engineering study, required system upgrades and indicative cost estimate.

The Company cancelled the Schiller Project appropriately based on Section 9 Tariff rules and communicated with both SunShare and Mortenson prior to the cancellation, and the project's required deposits have remained unfunded since that time. The Department agreed in April 2018 that the IE dispute process is not available for the Schiller project and we request that the Commission uphold that denial.

Dated: March 20, 2019

Northern States Power Company

**PUBLIC DOCUMENT –
NOT FOR PUBLIC DISCLOSURE**

Attachments Xcel-A through Xcel-F and Xcel-H to our Response are marked as “Non-Public” in entirety pursuant to Minn. Stat. §13.37, subd. 1(b). This information is subject to efforts from SunShare to maintain its secrecy. This information derives independent economic value, actual or potential, to Xcel Energy, its customers, suppliers, and competitors, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Further, the customer name is Protected Data pursuant to Minn. Stat. § 13.37, subd. 1(b); is considered to be private data on individuals under Minn. Stat. §13.02, subd. 12; and, is protected as Personally Identifiable Information by the Commission’s June 24, 2014 and September 9, 2014 orders in *In the Matter of a Commission Inquiry into Privacy Policies of Rate-Regulated Energy Utilities* (Docket No. E,G999/CI-12-1344).

We have marked the totality of Attachments Xcel-A through Xcel-F and Xcel-H as “Non-Public”. These consist of emails between the parties regarding the interconnection and program applications at issue, a web posting showing the name of a customer, and also include a confidential Settlement Agreement between the parties. Pursuant to Minn. Rule 7829.0500, subp. 3, the Company provides the following description of the excised material:

1. **Nature of the Material:** emails between the parties relating to the interconnection and program applications at issue.
2. **Authors:** various employees of SunShare and Xcel Energy.
3. **Importance:** The emails pertain to account information of the customer. The name of the customer is private information.
4. **Date the Information was Prepared:** Various dates. Typically on or about the date listed on each document.

[PROTECTED DATA BEGINS

PROTECTED DATA END]

From: Peirce, Susan (COMM) [mailto:susan.peirce@state.mn.us]
Sent: Wednesday, April 25, 2018 1:02 PM
To: [REDACTED]
Cc: Peterson, Jessica K; SRCMN
Subject: Schiller dispute

XCEL ENERGY SECURITY NOTICE: This email originated from an external sender. Exercise caution before clicking on any links or attachments and consider whether you know the sender. For more information please visit the Phishing page on XpressNET.

David,

I've reviewed the information on the Schiller dispute, and conclude there is nothing indicating any level of agreement between Xcel and SunShare that this project was moving forward. Xcel has provided emails indicating it had communicated with [REDACTED] with SunShare about payment of the interconnection deposit in which Mr. Peterson responds that SunShare is unable to pay the necessary 1/3 interconnection deposit (3/30/2017). A follow-up email, dated April 17, 2017 gave SunShare until 4/21/17 to make the payment and execute the Interconnection Agreement, and makes clear that Xcel will cancel the applications for the project if payment is not received by that date. According to Xcel's salesforce system, the projects were cancelled on 4/26/2017.

While you submitted emails indicating efforts to meet and/or talk with Lee Gabler at Xcel, there's nothing indicating that a dispute was being raised, and that you were requesting the projects not be cancelled following Xcel's 4/17/17 notification. The issuance of an interconnection agreement and cost estimate of interconnection costs is the final marker for raising disputes. While the tariff permits disputes to be lodged after the interconnection agreement is signed, it limits those disputes to the actual costs incurred by Xcel to interconnect the CSG. The time to raise a dispute over the estimated interconnection costs was a year ago. The projects have been cancelled, and likely other projects in the interconnection queue at that substation have gone forward so any estimates on interconnection costs and capacity availability are likely out-dated. I conclude the IE process is not available to dispute this project.

Sue Peirce

Rate Analyst Coordinator
Minnesota Department of Commerce
85 7th Place East, Suite 500, Saint Paul, MN 55101
P: 651-539-1832

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[PROTECTED DATA BEGINS

PROTECTED DATA END]

(Examples of allegations in Complaint that should be stricken based on Settlement Agreement)

Page/Par. #	Barred Allegation
Page 1	Consistent with the IE's findings regarding the Linden Project, Xcel has repeatedly failed to conduct proper engineering studies for the Schiller Project, resulting in excessive and widely varying estimated interconnection costs. Xcel has also failed to explain the basis for its cost estimates resulting from the erroneous studies, despite internally acknowledging errors and discrepancies in its studies for the Linden Project which Xcel was conducting around the same time.
Page 4	As explained in SunShare's response to Xcel's Appeal of the Linden IE Report, Xcel's actions here are consistent with the broader persisting interconnection delays and procedural problems that unnecessarily increase costs for developers and significantly impede our ability to timely and efficiently complete interconnections.
Page 5, Note 6	Xcel's conduct underlying this dispute is consistent with prior disputes on other projects, and those disputes inform the issues asserted and relief requested herein. As a result, SunShare includes allegations regarding those other projects and disputes here, to provide greater context and further inform the Commission's decision making.
Pages 5-6, par. 2	Xcel initially – and erroneously – informed SunShare in March 2016 that the Schiller Project was not feasible because the nearby substation had reached maximum capacity for distributed generation. ⁷

Page/Par. #	Barred Allegation
Page 6, par. 3	Around the same time, SunShare initiated a dispute with respect to other projects by filing a Formal Complaint and Petition for Relief with the Commission ("November 2015 Complaint"). ⁸ The Commission issued an order on December 1, 2015, that referred four projects for IE review – SunShare's Becker, Glazier, Bartlett, and Murphy projects. The IE's recommended resolution of these four project disputes, and the Commission's acceptance of those recommendations, inform the issues underlying the instant dispute and SunShare's requested relief.
Pages 6-7, pars. 4 and 5	[Entirety of discussion of prior IE report from 2016.]
Page 9, par. 10	All said, the new cost was nearly double the previous estimate, apparently due to necessary line upgrades that Xcel did not identify in its prior cost estimate (or identified incorrectly in the new estimate). This increase occurred despite the fact that shifting from a 1.5% to a 2% flicker input should have reduced costs, if anything. This strongly indicated that there likely were other errors in either the new or old study.
Page 10, par. 12	The new estimate substantially revised upward the anticipated costs associated with distribution upgrades, from \$373,000 to \$709,500, or 90%. Previously, Xcel determined that SunShare would need to replace approximately 4,900 feet of #2AI conductor with 336 AL, at an estimated cost of \$269,500.
Page 10, par. 13	Further, as was discovered in the Linden Project's studies, the IE and SunShare were able to identify numerous errors that could further reduce interconnection costs if corrected, such as overly conservative set points.
Page 13, par. 20	... Xcel's engineering studies contained numerous inaccuracies and errors that Xcel kept from SunShare, despite Xcel's engineers internally acknowledging them. The issues underlying the Linden Project dispute, and the IE's findings and remedies ordered, inform this dispute.

Page/Par. #	Barred Allegation
Page 14, par. 23	As was eventually revealed through the IE dispute for the Linden Project, at the same time SunShare was requesting this information, Xcel's own engineers were acknowledging internally that the most recent engineering study, which formed the basis for Xcel's most recent cost estimate for the Linden Project, contained numerous errors and inaccuracies. Yet Xcel provided answers that were evasive, delayed, and incorrect in response to SunShare's requests, just as it did for the Schiller Project.
Pages 16-17, par. 28	A restudy with the appropriate IEEE 1453 methodology with SunShare's participation and review is particularly appropriate for the Schiller Project, due to the enormous and unsupported 50% cost increase between Xcel's initial and revised cost estimates (and over 90% increase on the line upgrade portion of the estimate), and in light of the contradictions
Pages 19-20	As explained, however, this revised estimate represents a significant departure from the initial ... estimate that Xcel provided to SunShare in August 2016. This significant increase between the two estimates is apparently due to additional distribution upgrades that Xcel did not identify as necessary in its first study, or incorrectly identified in its new study.
Page 20	Although Xcel was demanding that SunShare execute the interconnection agreement for this project, SunShare could not reasonably have been expected to do so, given the significant discrepancies in cost estimates which Xcel failed to sufficiently explain or justify.
Page 22	Xcel has failed to provide sufficient justification for its revised cost estimate for the Schiller Project. Indeed, it has not explained why it failed in its first study to account for the additional distribution upgrades that it now claims are needed.
Attachment A and all references to Attachment A	[This is the no capacity letter dated March 25, 2016]
Attachment B and all references to Attachment B	[This is the IA packet dated August 1, 2016]

CERTIFICATE OF SERVICE

I, Paget Pengelly, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States mail at Minneapolis, Minnesota

xx electronic filing

Docket No. E002/C-19-203

Dated this 20th day of March 2019

/s/

Paget Pengelly
Regulatory Administrator

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