

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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February 24, 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

**COMMENTS IN RESPONSE TO THE COMMISSION'S FEBRUARY 13, 2015 NOTICE BY
FRESH ENERGY,
ENVIRONMENTAL LAW & POLICY CENTER, INSTITUTE FOR LOCAL SELF-RELIANCE, AND
IZAAK WALTON LEAGUE OF AMERICA**

Fresh Energy, Environmental Law & Policy Center, Institute for Local Self-Reliance, and Izaak Walton League of America respectfully submit these Comments in response to the Commission's February 13, 2015 Notice Seeking Comments regarding Xcel Energy's February 10, 2015 letter addressing perceived issues with the implementation of its newly launched Solar*Rewards Community (S*RC) program.

COMMENTS

On February 10, 2015, Xcel Energy (Xcel) filed an unsolicited letter to bring the Commission's attention to what it described as a "significant policy issue arising in the Solar*Rewards Community program." The Company's letter expressed concern that many of the initial S*RC projects are larger than 1 MW. According to Xcel, these larger-scale projects—which Xcel calls "utility-scale" projects—could create "operational" challenges under the current interconnection process tariff and "significant rate impacts" to Xcel customers. Xcel claims that these large projects "are not consistent with the Legislative intent which gave rise to the community gardens statute." To address these concerns, Xcel suggests that the Commission may wish to revisit its September 17, 2014 Order allowing co-location of S*RC projects and suggests that the Implementation Workgroup continue meeting to discuss other improvements and "opportunities for course corrections" in the S*RC program going forward.

The Joint Commenters have three basic points in response to Xcel's letter. First, the Commission and all stakeholders involved in the development and launch of Xcel's S*RC program should be proud of the significant interest and response it has generated. As Xcel reports in its letter, the Company has received in excess of 430 MW of applications for community solar projects to date. While it remains to be seen how many of this initial batch of S*RC applications will result in real projects, the magnitude of the response to Xcel's program indicates the excitement and demand for solar that will ultimately be good for jobs, good for economic development, and good for the environment.

Second, the Joint Commenters share Xcel's desire "to expand access to the benefits of solar to customers who are traditionally unsuited to rooftop solar."¹ We believe the S*RC program has tremendous potential to open up solar access to customers who lack access to an appropriate roof location, are unable to afford the upfront costs of an installation, or are discouraged by system

¹ Xcel February 10, 2015 Comments at 4.

maintenance or other considerations. We depart from Xcel, however, in the Company's apparent conclusion that small customers and small gardens are the *only* appropriate features of a well-designed community solar program. It is not an "either/or" choice. In fact, as discussed further below, larger customers such as St. Olaf College, Ecolab, and the St. Paul Public Housing Authority can serve as "anchor subscribers" to help provide certainty, credit, and stability to help secure overall project financing and expand access to other community participants. We welcome further discussion with Xcel and other stakeholders to identify additional ways to bring the benefits of solar participation to a wider market in Minnesota, including residential and small business customers.

Third, we believe that the concerns stated in Xcel's February 10th letter regarding "operational concerns" and "rate pressure" are overstated and can largely be addressed by fixing Xcel's interconnection procedures and by making adjustments to the bill credit formula for future program participants. Indeed, as stated in earlier rounds of comments, "[t]he long-term success of this program may hinge on the Commission's responses to the interconnection and bill credit challenges that will likely arise in the first year of the program."² The National Group's December 1, 2014 Reply Comments provide several specific ideas to improve the interconnection process, as do IREC's separate comments filed today. We will provide additional recommendations regarding the S*RC bill credit formula going forward in our March 2, 2015 Reply Comments.

The Commission is doing a good job actively managing the roll-out of the new S*RC program to make necessary course corrections while at the same time minimizing uncertainty and disruptions that could undermine project financing and investment. We welcome Xcel's suggestion to continue discussing program improvements through the Implementation Workgroup and other appropriate venues and dockets. The Commission should be clear, however, that any future changes to this program will be made on a prospective basis only and will not be applied retroactively to existing applications and projects. We provide more specific responses to each of Xcel's points in its February 20, 2014 letter below.

Legislative Intent

Xcel's Comment raises concerns regarding customer classes allowed to participate in the S*RC program and S*RC project locations under the guise of legislative intent. When interpreting statutes, however, legislative intent is only looked to if the statute is ambiguous.³ On both issues, Xcel substitutes its narrow view of the S*RC program for the plain statutory reading and neglects the broader benefits of market diversity in the S*RC program.

Customer Classes

Xcel states that it "believe[s] the purpose of the community solar gardens legislation was to provide our residential and small business customers, who have limited land, capital and/or resources, access to distributed solar."⁴ We agree that expanding access for small customers is one important purpose of the community solar gardens law. However, it is not the only purpose. The statute explicitly defines eligible subscribers as any "retail customer."⁵ Moreover, the statute clearly contemplates participation by large customers. The provision limiting a single subscriber to 40% of a 1 MW garden is squarely aimed at large customers since few if any residential and small business customers have

² See Reply Comments of the Environmental Law & Policy Center, Interstate Renewable Energy Council, and Vote Solar (collectively "National Groups") in response to the Commission's October 9, 2014 Notice of Reply Comment Period (Dec. 1, 2014).

³ *Consumer Product Safety Commission et al. v. GTE Sylvania, Inc. et al.*, 447 U.S. 102 (1980) ("We begin with the familiar canon of statutory construction that the starting point for interpreting a statute is the language of the statute itself. Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive.").

⁴ Xcel February 10, 2015 Comments at 2.

⁵ Minn. Stat. §216B.1641(h)(1).

enough load to subscribe to 400 kw.⁶ The statute also allows participation in more than one garden.⁷ These provisions together envision customers with enough load to subscribe to multiple 400kw subscriptions. The 40% and five subscriber limits anticipated large customer participation and seek to enable customer class diversity.

Fresh Energy and Xcel were the primary stakeholders involved in the drafting and passage of the community solar gardens statute. Fresh Energy's – and the undersigned organizations' – view of the statute's intent is that, in addition to residential and small business customers, large customers are an integral part of "the community" and should be able to participate in the program. We are encouraged that a number of large customers, such as St. Olaf College, Ecolab, and the St. Paul Public Housing Authority, have announced intent to subscribe. It's no surprise that the first S*RC subscribers are large customers. These community anchor subscribers help provide certainty, credit, and stability to help secure overall project financing. It's entirely speculative for Xcel to assume "based on media coverage and anecdotal knowledge" what the ultimate subscriber mixes of various projects will be at this point.

It is much too early in the program process to know the various models developers will pursue and the eventual customer mixes in projects that have announced only anchor tenant subscribers so far, especially considering the S*RC process allows adding subscribers well past application submittal. In fact, we expect that community anchor subscribers will enable S*RC project creation that will provide opportunities for other customers. Contrary to Xcel's view, by enabling financing, accessibility, and the creation of solar gardens, large customers are critical members of the community and their S*RC participation is well within the spirit of the statute. We look forward to continuing to work with Xcel, the Commission and other stakeholders to expand opportunities for all customers—both small and large—to participate in the S*RC program.

*S*RC Project Size and Location*

Xcel states that because many of the initial project applications are co-located gardens, they are "significantly larger than the types of projects we would expect to serve community-based, non-profit, or local organizations."⁸ However, it's unclear why Xcel expects that large community-based, non-profit, local organizations, like the St. Paul Public Housing Authority and St. Olaf College would not be served by multiple individual S*RC gardens to accommodate their subscription size and that these individual gardens could be co-located to achieve economies of scale.

The Commission has already considered and decided the issue of co-locating individual 1MW S*RC projects. In that 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."⁹ The Commission's Order on co-location also cited Xcel's stated willingness to coordinate with solar-garden developers to ensure that solar gardens situated in close proximity to one another can share distribution infrastructure.

Co-locating individual S*RC projects is not circumventing statutory intent. Each 1MW S*RC project has its own subscriber mix assigned to it and each is electrically unique: each has its own S*RC application, interconnection application, interconnection agreement, and engineering analysis. Locating these projects next to each other achieves efficiencies for securing property and allows coordination for interconnection engineering. If an application has more 1 MW projects than that site's distribution infrastructure can handle, the developer can decide whether to fund necessary upgrades. The costs are

⁶ Minn. Stat. §216B.1641(a).

⁷ Minn. Stat. §216B.1641(h)(1).

⁸ Xcel February 10, 2015 Comments at 1.

⁹ September 17, 2014 Order Approving Solar Garden Plan with Modifications at 14.

borne by developers and subscribers, with the upgraded distribution system benefiting all customers. Again, allowing for these program efficiencies fits the statute and its intent by lowering costs and making project finance easier. These attributes allow for the creation of more economical projects, which also increase accessibility.

We are not suggesting that co-located S*RC projects pose no challenges. Some Minnesota communities will need additional tools to work with S*RC project developers to ensure that projects are located in a manner that is consistent with the community's development priorities and vision. There are also opportunities to explore strategically locating S*RC projects to deliver grid benefits and, potentially, defer traditional transmission and distribution (T&D) investments. The 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.

Rate Analysis

Xcel provides a "preliminary analysis" to "estimate the impact of community solar on our customers' utility bills."¹⁰ However, Xcel's comments on the costs and rate pressure from the S*RC program are speculative, misleading, and disingenuous because the Company uses assumptions to inflate the program's costs while ignoring benefits. A rate analysis using Xcel's model with Xcel's calculated value of distributed solar show a net *benefit* to Xcel's system, rather than a net cost. Furthermore, there will be opportunities to adjust the S*RC bill credit for future projects that will lead to even greater net benefits for Xcel's customers.

First, Xcel's preliminary analysis assumes that all of the initial 431MWs applied for will come online. That assumption is unrealistic considering that, to be successful, each of the applied for projects will need 1) financing, 2) enough customer load in adjacent counties to off-take bill credits, 3) interconnection with affordable upgrades, 4) capital for fees, and 5) sufficient customers agreeing to subscribe. It is very unlikely that all 431MWs of applications will be able to put all of these pieces together. Indeed, there have already been filings in this docket suggesting that there is limited distribution interconnection capacity for large-scale projects.¹¹ Xcel will provide more insight into what it is actually projecting for the S*RC volume in its March 16th IRP supplement.

Second, Xcel's analysis focuses only on costs and roundly ignores any benefits from proposed S*RC projects other than energy valued at avoided-cost. In its model, Xcel assumes that the lone value from an S*RC project's output is the "avoided energy cost," valued at \$45.82 per MWh (Attachment A; Page 5). "Avoided cost" is meant to value generic electrons on the wholesale market. Yet, the solar electricity from S*RC projects are not generic electrons and shouldn't be valued as such. S*RC projects will provide electricity produced almost entirely at peak or near peak, delivered directly onto the distribution system at or near load, from a source that is emissions free, and that provides Xcel with MISO accredited capacity, helps Xcel achieve state renewable, solar, and green-house-gas requirements, and has zero fuel-price volatility risk. The Legislature recognized that distributed solar should be analyzed by looking at both costs and benefits when it enacted the option for a Value of Solar (VOS) tariff, and the approved Methodology quantifies these values noted above, among others. The VOS rate is also what the statute sets out as the S*RC bill credit rate if a utility opts to file a VOS tariff. Therefore, a VOS estimate is a much more analytically sound value to analyze the net system cost or benefit from the S*RC program.

Substituting Xcel's latest estimate applying the VOS Methodology for the "avoided cost energy" value Xcel uses in its cost in rate analysis results in a net *benefit* to Xcel's system, not a net cost.¹²

¹⁰ Xcel February 10, 2015 Comments at 5.

¹¹ See Staff Briefing Papers – Part A, January 15, 2015.

¹² Xcel Reply Comments, 13-867, June 19, 2014 at 7 (Estimating Xcel's levelized Value of Solar rate at \$0.1208).

Simply making this change to row (g) on Xcel's Attachment A spreadsheet yields a net benefit of \$573,884.80 to Xcel's system, rather than Xcel's claimed \$53,215,407 net cost.¹³ In light of Xcel's faulty assumptions that ignore the S*RC program's benefits, the Commission need not take immediate action based on Xcel's rate analysis. The Commission should instead continue to evaluate future program rates, as it is already doing in this docket, so that Xcel's customers can realize the S*RC program's benefits.

Operational Considerations

Xcel's letter expresses concern about the Company's "technical ability" to interconnect large PV projects. It states that "system impact questions are arising because large utility-scale development is being introduced where neither the system nor its governing policies are designed to handle it." We agree with Xcel that the policies governing the interconnection process are vitally important. However, we depart from Xcel to the extent it seeks to assign blame for these technical challenges to the S*RC program. Many states are successfully interconnecting much higher levels of PV than proposed through the S*RC program here. Thus, the "system" can likely accommodate much higher levels of PV. The "governing policies" are the driving factor for "operation" concerns.

Minnesota law requires any Community Solar Gardens program to include "uniform standards, fees, and processes for the interconnection of community solar garden facilities...."¹⁴ The National Group's December 1, 2014 Reply Comments described the shortcomings of Minnesota's current procedures and the need to adopt new procedures based on FERC and other state best practices. Xcel's concerns about "operational considerations" confirm that it is now time to "revisit" the interconnection issue as the Commission anticipated may be necessary earlier in an earlier Order in this docket.¹⁵ Both the FERC SGIP and IREC's *Model Interconnection Procedures* offer good starting points for the Commission to improve the existing rules.¹⁶ Several other states, including Ohio, Illinois, and Iowa, have either recently adopted or are considering changes to their interconnection standards to incorporate current best practices.

There are several strategies that the Commission and Xcel can incorporate now to help facilitate the interconnection of S*RC projects while stakeholders work on broader improvements to Minnesota's interconnection procedures. First and foremost, the Commission should require detailed information for tracking and reporting the interconnection process for S*RC program participants. Xcel and S*RC 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. IREC's separate comments filed today provide further detail regarding the specific MISO interconnection challenges raised by Xcel in its February 10th letter. As IREC explains, Xcel should coordinate review with MISO to determine any transmission impacts, but review of S*RC projects should remain within the Section 10 Interconnection process.

CONCLUSION

We appreciate the Commission's continuing careful management of the roll-out of the S*RC program. Although we appreciate and share Xcel's interest in expanding community solar access to small customers, we believe that the concerns expressed in its February 10, 2015 letter are overstated and, in

¹³ Xcel Comments, February 10, 2015, Attachment A.

¹⁴ Minn. Stat. §216B.1641(e)(2).

¹⁵ April 7, 2014 Order Rejecting Xcel's Solar-Garden Tariff Filing and Requiring the Company to File a Revised Solar-Garden Plan at 11.

¹⁶ FERC, Small Generator Interconnection Agreements & Procedures, 78 Fed. Reg. 73,240 (Dec. 5, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-12-05/pdf/2013-28515.pdf>; IREC Model Interconnection Procedures (2013), available at www.irecusa.org/wp-content/uploads/2013-IREC-Interconnection-Model-Procedures.pdf.

some cases, misleading. The Commission should disregard Xcel's narrow view of the S*RC program's legislative intent and misleading cost analysis and instead should order the parties to work together to identify barriers and bottlenecks in Xcel's existing interconnection process. The Commission should also re-affirm its September 17, 2014 Order as well as limit uncertainty by re-affirming the principle that any program changes will not be retroactive to filed S*RC applications. These Joint Commenters will provide additional discussion and recommendations regarding the S*RC bill credit formula for future projects in our March 2, 2015 Reply Comments.

/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

/s/ John Farrell

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

/s/ Eric Jensen

Eric Jensen
Izaak Walton League of America - Midwest
Office
ejensen@iwla.org