

March 13, 2026

Sasha Bergman
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce
E-002/C-25-435

Dear Ms. Bergman,

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

*In the Matter of Formal Complaint of Hennepin County, Minnesota Against Xcel
Energy Under Minn. Stat. 216B.164.*

The Complaint was filed by Hennepin County on December 23, 2025.

The Department recommends the Commission determine if it has jurisdiction over the complaint and investigate the allegations, and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Dr. SYDNIE LIEB
Assistant Commissioner of Regulatory Analysis

AMC/PT/ad



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. E-002/C-25-435

I. INTRODUCTION

On December 23, 2025, Hennepin County, Minnesota (the County) filed a Formal Complaint against Xcel Energy alleging that Xcel was engaged in unlawful restriction of net metering in violation of Minn. Stat. § 216B.164 and illegal ratemaking in violation of Minn. Stat. § 216B.16, and was subjecting the County to unreasonable, prejudicial, and discriminatory practices in violation of Minn. Stat. § 216B.07.

According to the complaint, Xcel intends to apply the “one-mile rule” to restrict the County’s participation and compensation under the net metering program.¹

On January 15, 2026, the Minnesota Public Utilities Commission (Commission) issued a Notice of Comment Period requesting comment on whether the Commission has jurisdiction over the complaint, if there are reasonable grounds to investigate the allegations and whether such an investigation is in the public interest, and what procedure should be used to investigate the complaint.

II. PROCEDURAL BACKGROUND

December 23, 2025 Hennepin County filed a complaint against Xcel Energy.²

January 15, 2026 The Public Utilities Commission (Commission) posted a notice of comment period for the complaint.

Topic(s) open for comment:

- Does the Commission have jurisdiction over the subject matter of the Complaint?
- Are there reasonable grounds for the Commission to investigate these allegations?
- 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 to do so?

¹ See [Minn. Stat. § 216B.164](#) (2023).

² *In the Matter of Formal Complaint of Hennepin County, Minnesota Against Xcel Energy Under Minn. Stat. 216B.164*, Hennepin County, Complaint, December 23, 2025, Docket No. E-002/C-25-435, (eDockets) [202512-226141-01](#) (hereinafter “Complaint”).

III. DEPARTMENT ANALYSIS

A. JURISDICTION

The Department concludes that the Commission has jurisdiction over the subject matter of the County's complaint. The County entered into separate Uniform Statewide Contracts for Cogeneration and Small Power Production for two solar arrays associated with distinct buildings owned by the County. Under both contracts, Xcel agreed to compensate the County for each array's net input to the Xcel distribution grid in the form of a bill credit.³ The contracts are consistent with the net-metering scheme established in Minn. Stat. § 216B.164.

According to the Complaint, Xcel subsequently informed the County that it must combine the capacities of the arrays because they are located within one-mile of one another.⁴ If the capacities are combined, then the total capacity would exceed the 1 MW limit for net-metered facilities. Xcel asserted that as a result the arrays were ineligible for the net metering structure established under the contracts, and ultimately offered the County a power purchase agreement at an avoided cost rate.⁵

Minn. Stat. § 216B.164, subdivision 5, provides: "In the event of disputes between a public utility and a qualifying facility, either party may request a determination of the issue by the commission."⁶ The Minnesota Rules adopted to implement Minn. Stat. § 216B.164 similarly allow a party to request that the Commission make a determination in the event of a dispute: "In case of a dispute between a utility and a qualifying facility or an impasse in the negotiations between them, either party may request the commission to determine the issue. When the commission makes the determination, the burden of proof must be on the utility."⁷

Here, the dispute between Hennepin County and Xcel arose based on Xcel's contention that Hennepin County's solar arrays are ineligible for the net metering structure established under Minn. Stat. § 216B.164 despite the fact that Hennepin County and Xcel have executed Uniform Statewide Contracts for Cogeneration and Small Power Production. Hennepin County is therefore entitled to request that the Commission make a determination on the dispute under Minn. Stat. § 216B.164, subd. 5, and Minn. R. 7835.4500.

Additionally, Minn. Stat. § 216B.17 allows the Commission, on its own motion, to investigate a public utility concerning whether that utility's rates or practices are "unreasonable, insufficient, or unjustly discriminatory."⁸ The Commission also has "jurisdiction to regulate [...] every public utility" operating in Minnesota.⁹ Therefore, the Commission has broad authority to address the County's more general

³ Complaint at 3-4.

⁴ Complaint at 4.

⁵ Complaint at 76-80.

⁶ [Minn. Stat. § 216B.164, subd. 5](#) (2023).

⁷ [Minn. R. 7835.4500](#).

⁸ [Minn. Stat. § 216B.17](#) (2024).

⁹ [Minn. Stat. § 216B.08](#).

allegations regarding Xcel's practices. Accordingly, the Department recommends the Commission determine it has jurisdiction over the subject matter of the complaint.

B. REASONABLE GROUNDS TO INVESTIGATE

The Department concludes there are reasonable grounds to investigate the County's allegations. The County's filing includes copies of communications from Xcel that confirm Xcel's position that once both arrays are operational, their capacities will need to be combined because they are located within a one-mile radius, and as a result the County will no longer be eligible for the previously agreed upon net-metered rates.¹⁰ Xcel also made this position clear in a previous docket related to different net-metering tariffs in which Hennepin County raised this dispute.¹¹ It is apparent there is a dispute between Xcel and the County over the County's net-metering eligibility and the enforceability of the Uniform Statewide Contract(s) for Cogeneration and Small Power Production. The parties have attempted to resolve this dispute but have been unable to do so. On this record, the Department believes there are reasonable grounds for the Commission to investigate the County's allegations against Xcel.

C. INVESTIGATION IN THE PUBLIC INTEREST

The Department believes that it is in the public interest for the Commission to investigate the allegations. Minn. Stat. § 216B.164, subd. 1, provides: "This section shall at all times be construed in accordance with its intent to give the maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public." Because the stated intention of Minn. Stat. § 216B.164 is to encourage cogeneration and small power production, it is in the public interest for the Commission to ensure that any limitation on eligibility for net metering is legally permissible.

Moreover, the resolution of this dispute has implications to parties beyond Xcel and the County. When the County raised this issue in a prior docket, MnSEIA¹² and the Association of Minnesota Counties¹³ filed comments indicating that the determination as to whether the one-mile rule applies to net-metered facilities could have significant impacts on their members and disincentivize entities from pursuing new investments in small scale renewable energy projects. In order to encourage cogeneration and small power production and more broadly support the state's renewable energy

¹⁰ Complaint at 76-83 (Attachments 5 and 6).

¹¹ *In the Matter of the Petition of Northern States Power Co. d/b/a Xcel Energy to Revise its Net Metering Tariffs to Apply to Qualifying Facilities up to 5 MW*, Xcel Energy, Answer to Petition for Amendment and Reconsideration, July 25, 2025, Docket No. E002/M-24-389 (eDockets), [20257-221444-01](#).

¹² *In the Matter of the Petition of Northern States Power Co. d/b/a Xcel Energy to Revise its Net Metering Tariffs to Apply to Qualifying Facilities up to 5 MW*, MnSEIA, Answer to Petition for Amendment and Reconsideration, July 25, 2025, Docket No. E002/M-24-389 (eDockets), [20257-221388-01](#).

¹³ *In the Matter of the Petition of Northern States Power Co. d/b/a Xcel Energy to Revise its Net Metering Tariffs to Apply to Qualifying Facilities up to 5 MW*, Association of Minnesota Counties, Public Comment, July 28, 2025, Docket No. E002/M-24-389 (eDockets), [20257-221464-01](#).

goals, it is in the public interest for the Commission to determine whether the one-mile rule applies to net-metered facilities.

D. PROCEDURE

The Commission may address a formal complaint through a contested case proceeding, informal proceeding, or expedited proceeding.¹⁴ Because the material facts appear to be undisputed and the issues are primarily legal in nature, the Department does not believe a contested case proceeding is necessary. The Department therefore recommends using the process set forth in Minn. R. 7829.1800, which provides Xcel with 20 days from the Commission's Order establishing jurisdiction to file a response to the complaint and an additional 20 days for other parties to respond.

IV. DEPARTMENT RECOMMENDATIONS

In sum, the Department recommends that the Commission determine it has jurisdiction over the subject matter of the complaint, that there are reasonable grounds to investigate, and that it would be in the public interest for the Commission to investigate the matter. The Department recommends the Commission utilize the procedure established in Minn. R. 7829.1800 to address the complaint.

¹⁴ Minn. R. 7829.1900, subp. 1.

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of people by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. E002/C-25-435

Dated this **13th** day of **March 2026**

/s/Sharon Ferguson

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2	Matthew	Brodin	mbrodin@allete.com	Minnesota Power		30 West Superior Street Duluth MN, 55802 United States	Electronic Service		No	C-25-435
3	Mike	Bull	mike.bull@state.mn.us		Public Utilities Commission	121 7th Place East, Suite 350 St. Paul MN, 55101 United States	Electronic Service		Yes	C-25-435
4	John	Coffman	john@johncoffman.net	AARP		871 Tuxedo Blvd. St, Louis MO, 63119-2044 United States	Electronic Service		No	C-25-435
5	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	C-25-435
6	George	Crocker	gwillc@nawo.org	North American Water Office		5093 Keats Avenue Lake Elmo MN, 55042 United States	Electronic Service		No	C-25-435
7	James	Denniston	james.r.denniston@xcelenergy.com	Xcel Energy Services, Inc.		414 Nicollet Mall, 401-8 Minneapolis MN, 55401 United States	Electronic Service		No	C-25-435
8	Christopher	Droske	christopher.droske@minneapolismn.gov	Northern States Power Company dba Xcel Energy-Elec		661 5th Ave N Minneapolis MN, 55405 United States	Electronic Service		No	C-25-435
9	John	Farrell	jfarrell@ilsr.org	Institute for Local Self-Reliance		2720 E. 22nd St Institute for Local Self-Reliance Minneapolis MN, 55406 United States	Electronic Service		No	C-25-435
10	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	C-25-435
11	Todd J.	Guerrero	todd.guerrero@kutakrock.com	Kutak Rock LLP		Suite 1750 220 South Sixth Street Minneapolis MN, 55402-1425 United States	Electronic Service		No	C-25-435
12	Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association		4300 220th St W Farmington MN, 55024 United States	Electronic Service		No	C-25-435
13	Michael	Hoppe	lu23@ibew23.org	Local Union 23, I.B.E.W.		445 Etna Street Ste. 61 St. Paul MN,	Electronic Service		No	C-25-435

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15	Alan	Jenkins	aj@jenkinsatlaw.com	Jenkins at Law		2950 Yellowtail Ave. Marathon FL, 33050 United States	Electronic Service		No	C-25- 435
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17	Sarah	Johnson Phillips	sjphillips@stoel.com	Stoel Rives LLP		33 South Sixth Street Suite 4200 Minneapolis MN, 55402 United States	Electronic Service		No	C-25- 435
18	Farid	Khosravi	farid.khosravi@akerman.com	Akerman LLP		999 Peachtree Street NE Suite 1700 Atlanta GA, 30309 United States	Electronic Service		No	C-25- 435
19	Kavita	Maini	kmains@wi.rr.com	KM Energy Consulting, LLC		961 N Lost Woods Rd Oconomowoc WI, 53066 United States	Electronic Service		No	C-25- 435
20	Christine	Marquis	regulatory.records@xcelenergy.com	Xcel Energy		414 Nicollet Mall MN1180-07- MCA Minneapolis MN, 55401 United States	Electronic Service		No	C-25- 435
21	Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP		33 South Sixth St Ste 4200 Minneapolis MN, 55402 United States	Electronic Service		No	C-25- 435
22	David	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency		220 South Sixth Street Suite 1300 Minneapolis MN, 55402 United States	Electronic Service		No	C-25- 435
23	Carol A.	Overland	overland@legalelectric.org	Legaletric - Overland Law Office		1110 West Avenue Red Wing MN, 55066 United States	Electronic Service		No	C-25- 435
24	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	C-25- 435
25	Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy		26 E Exchange St, Ste 206 St. Paul MN, 55101-1667 United States	Electronic Service		No	C-25- 435

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27	Byron E.	Starns	byron.starns@stinson.com	STINSON LLP		50 S 6th St Ste 2600 Minneapolis MN, 55402 United States	Electronic Service		No	C-25-435
28	Carla	Vita	carla.vita@state.mn.us	MN DEED		Great Northern Building 12th Floor 180 East Fifth Street St. Paul MN, 55101 United States	Electronic Service		No	C-25-435
29	Joseph	Windler	jwindler@winthrop.com	Winthrop & Weinstine		225 South Sixth Street, Suite 3500 Minneapolis MN, 55402 United States	Electronic Service		No	C-25-435
30	Kurt	Zimmerman	kwz@ibew160.org	Local Union #160, IBEW		2909 Anthony Ln St Anthony Village MN, 55418-3238 United States	Electronic Service		No	C-25-435
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