

**STATE OF MINNESOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION**

Katie J. Sieben	Chair
Joseph K. Sullivan	Vice-Chair
Audrey Partridge	Commissioner
Hwikwon Ham	Commissioner
John Tuma	Commissioner

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

MPUC DOCKET NO. E-002/C-25-435

**REPLY COMMENTS OF  
ENVIRONMENTAL LAW & POLICY CENTER AND VOTE SOLAR**

On March 13, 2026, five parties filed initial comments in this proceeding—Hennepin County, Xcel Energy, the Department of Commerce (Department), the Joint Solar Parties (JSP), and Environmental Law & Policy Center and Vote Solar (together, ELPC/VS). Pursuant to the Commission’s January 15, 2026 Notice of Comment Period, ELPC/VS submit these brief reply comments. ELPC/VS continue to recommend that the Commission investigate the Formal Complaint and Request for Relief by Hennepin County against Xcel Energy.

At the outset, ELPC/VS note that all parties agree that the Commission has jurisdiction over the subject matter of the Complaint.<sup>1</sup> However, all parties but Xcel Energy argue that: (1) there are reasonable grounds to investigate Hennepin County’s allegations; and (2) it is in the

---

<sup>1</sup> Hennepin County Initial Comments at 3-4; Xcel Energy Initial Comments at 3-4; Department Initial Comments at 2-3; JSP Initial Comments at 5-6; ELPC/VS Initial Comments at 2-3.

public interest for the Commission to do so.<sup>2</sup> Xcel argues to the contrary and therefore requests that the Commission dismiss the Complaint.<sup>3</sup>

The dispute in this case revolves around whether Minnesota’s net metering statute and rules inherently implicate the “one-mile rule” contained in federal rules for qualifying facilities (QFs). Xcel argues that the “fundamental purpose” of the relevant statute, Minn. Stat. § 216B.164, is “to implement the Public Utility Regulatory Policies Act of 1978 (PURPA) and the related FERC regulations.”<sup>4</sup> In sum, Xcel posits that a net-metered facility under Minnesota law is equivalent to a QF and should be subject to all the same requirements, including the one-mile rule. Xcel claims that it has properly applied the law and therefore the Commission has no reasonable grounds to investigate the matter further.<sup>5</sup>

In contrast, ELPC/VS and other parties highlight the explicit statutory intent “to give the maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public.” Minn. Stat. § 216B.164, Subd. 1.<sup>6</sup> This intent goes beyond mere implementation of PURPA and related regulations; rather, the statute both addresses PURPA implementation and establishes Minnesota’s net-metering framework—a separate retail rate-based compensation scheme for distributed generation. Minn. Stat. § 216B.164 and the associated rules do not explicitly or implicitly incorporate federal QF regulations into the net metering paradigm. Thus, the Company has *violated* the state’s net metering statute and rules by improperly applying the federal one-mile rule. For this reason, it is not just reasonable but also essential for the Commission to address Hennepin County’s Complaint.

---

<sup>2</sup> Hennepin County Initial Comments at 4-7; Department Initial Comments at 3-4; JSP Initial Comments at 7-18; ELPC/VS Initial Comments at 3-9.

<sup>3</sup> Xcel Initial Comments at 2, 4-11.

<sup>4</sup> Xcel Initial Comments at 2.

<sup>5</sup> Xcel Initial Comments at 4, 16.

<sup>6</sup> ELPC/VS Initial Comments at 4, 7-8; Hennepin County Initial Comments at 6, 9; JSP Initial Comments at 7-8, 15-16; Department Initial Comments at 3.

Even if the Commission were to agree with Xcel's position, the dispute has introduced confusion for customers and the solar market that it is reasonable and important for the Commission to resolve. Moreover, it is in the public interest, given Minnesota's policy to encourage distributed generation and clean energy development, as well as the number of customers and businesses that rely on the state's net metering program.

As in our initial comments, ELPC/VS again emphasize the well-established distinction between the federal QF regime involving wholesale energy transactions and the state-jurisdictional net-metering program involving retail rate-based compensation.<sup>7</sup> Xcel Energy points to the decision of the Federal Energy Regulatory Commission (FERC) in *SunE B9 Holdings* (157 FERC ¶ 61,044) to support of its application of the one-mile rule to Hennepin County's solar facilities.<sup>8</sup> However, the facilities in *SunE B9 Holdings* were QFs selling energy via wholesale transactions under power purchase agreements with the utility. They were not net-metered facilities like Hennepin County's projects, to which the one-mile rule does not apply. Therefore, Xcel Energy's reliance on *SunE B9 Holdings* is misplaced.

Finally, on the question of procedure, ELPC/VS support Hennepin County's recommendations. Both Hennepin County and Xcel Energy agree that there are no disputed facts.<sup>9</sup> Rather, the Complaint raises questions of law. The Commission can fairly and expeditiously resolve these questions through the process Hennepin County described, involving an answer from Xcel Energy and prompt briefs from the County and the Company as well as

---

<sup>7</sup> ELPC/VS Initial Comments at 4-7.

<sup>8</sup> Xcel Energy Initial Comments at 7-8.

<sup>9</sup> Hennepin County Initial Comments at 7-8; Xcel Energy Initial Comments 15; *see also* Department Initial Comments at 4 ("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."); JSP Initial Comments at 18 ("After the Answer is filed, because there are no material facts in dispute, an expedited proceeding is authorized by Minn. R. 7829.1900, subp. 1, and the County requested an expedited hearing, the Commission should conduct an expedited hearing pursuant to Minn. R. 7829.1200.").

comments from interested parties.<sup>10</sup> Moreover, a timely resolution of the Complaint is in the public interest, given the implications for other Xcel Energy net-metering customers similarly situated to Hennepin County and for the solar industry serving these customers, as well as Minnesota's clean energy and distributed generation policy goals.

Respectfully submitted,

*/s/ Erica S. McConnell*

---

Erica S. McConnell  
Staff Attorney  
Bradley D. Klein  
Managing Attorney  
Environmental Law & Policy Center  
35 E. Wacker Drive, Suite 1600  
Chicago, IL 60601  
(312) 673-6500  
[emcconnell@elpc.org](mailto:emcconnell@elpc.org)  
[bklein@elpc.org](mailto:bklein@elpc.org)

*/s/ William D. Kenworthy*

---

William D. Kenworthy  
Senior Regulatory Director, Midwest  
Vote Solar  
1 South Dearborn Street, Suite 2000  
Chicago, IL 60603  
[will@votesolar.org](mailto:will@votesolar.org)

Date: April 10, 2026

---

<sup>10</sup> See Hennepin County Initial Comments at 7-10.