



414 Nicollet Mall  
Minneapolis, MN 55401

January 11, 2021

—Via Electronic Filing—

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

RE: COMMENT ON THREE ISSUES FROM JANUARY 4, 2021 NOTICE  
IN THE MATTER OF A FORMAL COMPLAINT AND REQUEST FOR EXPEDITED  
RELIEF BY SUNRISE ENERGY VENTURES LLC AGAINST NORTHERN STATES  
POWER COMPANY  
DOCKET NO. E002/C-20-892

Dear Mr. Seuffert:

Northern States Power Company, doing business as Xcel Energy (Company), submits its Comment On Three Issues From the January 4, 2021 Commission's Notice of Comment Period regarding SUNRISE ENERGY VENTURES LLC (Sunrise) Formal Complaint and Request for Expedited Relief regarding SolarClub 11 LLC (SC 11), SolarClub 26 LLC (SC 26) and SolarClub 34 LLC (SC 34) projects.

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

Sincerely,

/s/

JAMES DENNISTON  
ASSISTANT GENERAL COUNSEL

Enclosures  
c: Service List

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph Sullivan	Commissioner
John A. Tuma	Commissioner

IN THE MATTER OF A FORMAL  
COMPLAINT AND REQUEST FOR  
EXPEDITED RELIEF BY SUNRISE ENERGY  
VENTURES LLC AGAINST NORTHERN  
STATES POWER COMPANY D/B/A XCEL  
ENERGY

DOCKET NO. E002/C-20-892

**COMMENT ON  
THREE ISSUES FROM  
JANUARY 4, 2021 NOTICE**

### INTRODUCTION

Northern States Power Company, doing business as Xcel Energy (Company), submits its Comment pursuant to the Commission's January 4, 2021 Notice of Comment Period regarding SUNRISE ENERGY VENTURES LLC (Sunrise) Formal Complaint and Request for Expedited Relief regarding SolarClub 11 LLC (SC 11), SolarClub 26 LLC (SC 26) and SolarClub 34 LLC (SC 34) projects.

### BACKGROUND

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?

The undisputed facts of this case are that the Company, upon receiving Sunrise's three applications, informed Sunrise that their proposed sites were not viable. Sunrise has continued to press for irregular treatment that the Company cannot accommodate. In April and May 2020, the Sunrise applications for SC 11, SC 26 and

SC 34 were Deemed Complete by the Company. These are at locations that all correspond to the same St. Cloud SCL322 feeder. At that time and now, our queue report—which is publicly posted on our website<sup>1</sup>—showed that there are 35 MW of active Distributed Energy Resources (DER) built on this feeder, the vast majority of which are community solar garden projects. Also, our hosting capacity report at that time that the applications were submitted showed that there was no hosting capacity available on this feeder.

Through participation in industry groups such as EPRI, it is our understanding that most other utilities limit the amount of DER per feeder to a range somewhere between Daytime Minimum Load (DML) and Peak Load. Were we to impose similar limitations, the DER on the St. Cloud SCL322 feeder would have been substantially less than 35 MWs. In order to accommodate additions of DER beyond the Peak Load level, however, we perform our System Impact Study (SIS) by looking at the limiting element of a feeder or substation and provide a pathway to resolve this limit. This allows us to find ways to increase DER on a given feeder, most often with additional reconductoring or equipment installation.

As an aside, although we have historically followed this practice, as a greater percentage of feeders on our system near capacity and/or begin to significantly exceed DML and Peak Load, we have let the Distributed Generation Working Group (DGWG) in Docket 16-521 know that we are investigating limiting new community solar gardens on a feeder based on percentage of available capacity in order to address reliability, quality of service, and reserving capacity on feeders for non-community solar garden DER. We would intend to implement such an approach only after it is more fully developed on a going-forward basis for applications deemed complete after a certain date.

Because each of the prior DER interconnections on the SCL322 feeder required engineering studies, our DER engineering group was already very familiar with the feeder when Sunrise submitted interconnection applications for SC 11, SC 26 and SC 34. In May 2020, before starting any SIS for these three Sunrise applications, Xcel Energy informed Sunrise that there likely would be a thermal loading issue on the feeder with these projects. In other words, the feeder likely could not be used for the proposed community solar gardens because—aside from some legacy transmission facilities on this feeder that date back to when it was a transmission line—it had already been fully reconducted to 336 AL, which is the maximum conductor size used for DER interconnections. Although Sunrise has asked the Company to use 556 AL to facilitate the interconnection of its projects to this feeder, we do not

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<sup>1</sup> [https://www.xcelenergy.com/working\\_with\\_us/how\\_to\\_interconnect](https://www.xcelenergy.com/working_with_us/how_to_interconnect)

reconductor using 556 AL to accommodate DER as a matter of course based on reliability and quality of service concerns, which we will describe in greater detail below.

Notwithstanding the Company's initial communications regarding the limits of the SCL322 feeder, Sunrise nonetheless asked the Company to proceed. Then prior to initiating the SIS, Xcel Energy once again notified Sunrise that the proposed locations were downstream of the apparent thermal violation and likely would not receive capacity. Sunrise nonetheless requested the Company continue with the SIS. The SIS study in June 2020 confirmed that there was a thermal loading issue and that no additional capacity, sufficient to serve Sunrise's projects, was available on the feeder. Given the limitations of the SCL322 feeder, the Company offered Sunrise the opportunity to fund an additional phase two analysis to determine if we could install a new feeder in order to interconnect these Sunrise projects. Sunrise refused this offer.

Through the course of several weeks, the Company met with Sunrise representatives to discuss study details and answer further questions regarding technical details. During these discussions, Sunrise requested the Company utilize 556 AL which we declined based on reliability and quality of service concerns. Sunrise further requested that the Company conduct a hypothetical analysis utilizing the 556 AL to verify whether additional violations would occur. The Company declined to provide additional hypothetical analyses using a conductor size not supported for interconnection.

Sunrise then filed the present Complaint, seeking to require the Company to study the use of 556 AL on this feeder (to replace the 336 AL in sufficient segments to allow the interconnections). We note that, as applied to the facts here and when considering other thermal limits on the feeder, the use of 556 AL would only allow about 40 additional amps—equating to an additional 1–2.5 MW of DER—but would result in a significant reduction in our future ability to manage our network for reliability and quality of service issues.

For one of these applications (SC 11), Sunrise seeks to require the Company to study the interconnection on a different feeder of its choosing instead of the feeder that crosses that property and is assigned to that location. Alternatively, it wants to force the Company, at no cost to Sunrise, to find other locations where Sunrise can submit interconnection applications.

As discussed below, we recommend that the Commission find that there is no public interest for it to investigate the Complaint and that it dismiss the Complaint. Should the Commission determine that there is a public interest in investigating any of the

issues raised in Sunrise's Complaint, we recommend that these issues be referred to a generic docket and include all utilities in the state, given that the issues are likely to arise in other contexts involving other parties, and that the Commission dismiss the Complaint.

With this as background, we address the specific issues noticed for comment by the Commission.

## **I. COMMISSION JURISDICTION**

The Commission has jurisdiction over the subject matter of the Complaint, consistent with Minn. Stat. § 216B.09 (allowing the Commission to consider complaints with respect to services provided by utilities). The general nature of the complaint relates to three applications submitted to the Company's Solar\*Rewards Community program, as developed in Docket No. E002/M-13-867, as well as to interconnection applications specific to the SC 11, SC 26 and SC 34 projects that were submitted pursuant to the State of Minnesota Distributed Energy Resources Interconnection Process (MN DIP). These applications are subject to the Company's tariffs that the Commission has approved. The Solar\*Rewards Community program and the MN DIP interconnection process are regulated by the Commission.

## **II. PUBLIC INTEREST ANALYSIS OF THE ENGINEERING ISSUES**

Given the wide range of allegations and issues set forth in the Complaint, for purposes of addressing the public interest test requested in the Notice we focus on three engineering issues contained in the Request for Relief in the Complaint. We refer to these as the *556 AL issue*, the *feeder choice issue*, and the *utility to propose DER locations issue*. We discuss these immediately below. There are many other issues raised in the Complaint, but we believe that these would only be addressed by the Commission were it to consider allowing any of the engineering issues to be further pursued in the Complaint process.

### **A. The *556 AL issue***

This issue involves whether a Distributed Energy Resources (DER) customer can require a utility to reconduct a feeder using conductor it reserves for reliability purposes. This is tied to the Complaint's Request for Relief points 1, 2, 3, 4, and 7.

As a general matter, certain engineering concerns raised in the MN DIP System Impact Study (SIS), such as steady state over-voltage, voltage fluctuation, and thermal overloads can be resolved by replacing current segments of feeder with larger gauge

conductor going up to 336 AL. The Company only allows use of reconductoring up to 336 AL (for overhead) in order to resolve these types of issues found in the SIS. The Complaint requests that the Commission mandate the use of 556 AL or higher conductor where a feeder has already been fully reconducted at 336 AL and the SIS shows that a DER interconnection cannot be allowed with the current reconductoring.<sup>2</sup> Although 556 AL is the largest standard conductor we install on our distribution system, it is not a standard conductor for DER interconnection. If we were to install 556 AL regularly in order to accommodate new DER applications, and fully reconducted a feeder with 556 AL to allow the maximum DER installed on that feeder, we would not be able to use 556 AL to mitigate potential future changes, such as a subsequent drop in load on a feeder, changes in loading profile of a feeder, or if there is a need to change the feeder configuration.

In such a situation, in order to preserve the quality and reliability of service to our retail customers, we would need to curtail several of the larger DER systems on that feeder—potentially for a period of years. We do not believe it is good public policy for utilities to enter into interconnection agreements with DER applicants knowing at the time of execution that the DER systems would be subject to that risk of long-term curtailment. In other words, 556 AL is the emergency parachute equivalent of conductor, used only to address reliability and quality of service issues that are associated with already-installed DER.

The Complaint in par. 45 alleges that our practice of not allowing 556 AL to be used to interconnect DER is a discriminatory practice. The correct legal standard is set forth in Minn. Stat. 216B.03, and the standard is whether this is a unreasonably discriminatory practice. Our practice is appropriate. Where we have increased load on a feeder that can be addressed by reconductoring with 556 AL, we will do so. In this situation if there were later to be a decrease in load, then there would be no quality of service or reliability issues. On the other hand, if we installed 556 AL to address issues so as to allow the interconnection of a DER, and if there were later to be a decrease in load, then there would be quality of service or reliability issues for our consumers and/or curtailment of the DER on that feeder. The two different situations require different approaches.

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<sup>2</sup> We also note that par. 56 of the Complaint explains that Sunrise is requesting that the Commission order the Company to run a complete study using 556 AL conductor. The Request for Relief points 1 2, 3, 4, and 7 directly relate to Sunrise's requested use of the 556 AL.

There is no public interest for the Commission to dictate utility practices on the protocols involved in the *556 AL issue*. Doing so would take important discretion and tools away from the Company in how it manages the grid reliably and safely.

## **B. The Feeder Choice Issue**

This issue involves whether a DER customer can choose which feeder will connect a project to the utility distribution network, even if that feeder is not the one crossing the property at issue. This is tied to the Complaint's Request for Relief point 5.

We do not allow a DER applicant to choose the feeder to which it will interconnect. Here, the feeder assigned to SC 11 crosses the project's property. Sunrise, however, wants to be able to force the Company to study and offer interconnection on a different feeder.

This request is inconsistent with Commission precedent. For example, the Commission supported the Company's position on this issue in its November 1, 2016 *Order Resolving Independent-Engineer Appeals and Establishing Procedures for Future Disputes*, in Docket No. E002/M-13-867. At page 14 of that Order, the Commission affirmed the Independent Engineer determination that it was proper for Xcel Energy to assign the Community Solar Garden application to the feeder nearest to the garden, over the objection of the developer who wanted to interconnect to a different feeder.

We provide some examples of practical considerations that inform the Company's policy. Allowing an applicant to choose a feeder could result in feeders crossing each other. This would result in unsafe practice. For example, in the event of an outage such as caused by a storm, two different feeders could become entangled with a live feeder physically connecting (at times) with a feeder that may otherwise be out of service. Or, in trying to locate a feeder that needs maintenance or repair there would be increased difficulty and elevated risk in identifying the correct feeder if two feeders crossed.

Allowing feeders to cross would potentially be inconsistent with state law and local permitting guidelines. This would appear to violate public policy as described in Minn. Stat. § 216B.01, which states in part: "*It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided in order to ... avoid unnecessary duplication of facilities which increase the cost of service to the consumer ...*" Also, local units of government which issue permits generally have their own physical design standards and do not like to have feeders cross. Even if the Commission were to allow or require feeders to cross in order to accommodate a DER request to interconnect to a specific feeder, local units of government might still refuse permits for this.

If we were to re-assign an application to another feeder, and instead of crossing our facilities we re-assign retail customers to the newly extended feeder that crosses their property, and remove portions of feeders that would otherwise cross, then this could result in a reduction in load on the original feeder causing us to potentially need to restudy installed or pending DER projects on that original feeder. In some situations, this could result in increased interconnection costs to those DER applications or could result in some DER projects for which we previously assigned capacity to now have no or reduced capacity.

As with the *556 AL issue*, there is no public interest for the Commission to dictate utility practices on the protocols involved on the *feeder choice issue*. The Complaint seeks to take discretion and tools away from the Company in how it manages its network.

### **C. *The Utility to Propose DER Locations Issue***

This issue involves whether a utility should be compelled to suggest new sites to Sunrise to submit new Community Solar Garden applications at no additional cost to Sunrise and is tied to the sentence in the Request for Relief after point 8.

Having the utility propose sites for DER projects runs counter to the MN DIP interconnection process whereby developers submit applications and, only after the application is submitted, does the utility study the application based on then-current network conditions, queue position, location, size and type of DER. Further, the DER applicant as the cost-causer for work being done by the utility is required to pay for this work. Sunrise is essentially seeking a completely different interconnection process. There is no public interest for the Commission to consider such a request.

On this issue, Sunrise asserts that it is entitled to seek a waiver of our MN DIP tariff, claiming that, under Minn. R. 7829.3200, it has met three conditions for waiver of a Commission rule. The MN DIP process, however, is not a Commission rule and therefore Minn. R. 7829.3200 does not apply here. But, even were Minn R. 7829.3200 to apply to the requested waiver of the MN DIP interconnection process, Sunrise has not met the required elements. First, enforcement of a rule would violate Minn. R. 7829.3200, Subp (1)(a) because it would impose excessive burden on the utility by shifting interconnection costs from developers to the utility. Second, Sunrise has not shown how this selective waiver of the MN DIP process is in the public interest, as required under Minn. R. 7829.3200, Subp (1)(b). Finally, it would violate Minn. R. 7829.3200, Subp (1)(c) by providing Sunrise with a preferred position compared to all other developers. (See, Minn. Stat. §216B.03 and 216B.21 allowing the Commission to



act to address unreasonable or unjustly discriminatory “rates”; and Minn. Stat. § 216B.02, Subd. 5 that defines “rates” as including services, rules and practices).

We also note that we currently publicly provide on our website much information to help inform developers of where there may be hosting capacity, and this is in the hosting capacity section at the same URL provided in the Background section above. Sunrise, or any developer, could look for feeders with no or minimal DER as shown on the tabular Hosting Capacity Study Results link and then search for properties served by those feeders. We also provide a monthly updated interconnection queue by feeder on the same website section.

For these reasons it is not in the public interest for the Commission to consider the engineering issues in the Complaint. 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. We support this approach here.

### **III. NEXT PROCEDURAL STEPS IF THE COMMISSION DETERMINES THAT IT IS IN THE PUBLIC INTEREST TO FURTHER EXAMINE THE ENGINEERING ISSUES**

In the past, the Commission has ordered a number of different approaches to address how a complaint should be handled where the Commission has determined that it wants to consider the issues raised in the complaint. Where an issue is more of an industry-wide issue, or is the type of issue likely to recur in different contexts, the Commission has dismissed complaints and instead opened a new docket or investigation so that all interested stakeholders can engage on the issue. See, for example, the September 11, 2011 order in *In the Matter of a Complaint by Three Customers and Community Action of Minneapolis Against Xcel Energy Regarding Various Tariffs and Billing Practices*, Docket No. E002/C-11-423 where the Commission dismissed a complaint and instead requested Staff to open a docket to examine, on an industry-wide basis, the generic issues raised in the complaint about charging tenants for energy or gas usage for de minimis usage in common areas. See also, August 24, 2001 Order in *In the Matter of the Complaint Regarding Northern States Power Company's Refusal to Allow ConServe Corporation, Park Point Apartments, and Riverwood Apartments to Convert Their Buildings to Master-Metered Commercial Service and to Submeter* (Docket No. E002/C-00-954); and, *In the Matter of an Investigation into Allowing Submetering by Building Owners in Multi-unit Residential Buildings Already Individually Metered by an Electric Utility* (Docket No. E999/CI-01-1128), where the Commission dismissed complaints that raised significant practical and public policy issues that could not be resolved in the record in the complaint proceeding, and would be the type of issue likely to recur in other

contexts. The Commission instead opened an investigation to develop criteria for the Commission to evaluate future petitions for submetering.

If the Commission believes that the *556 AL issue*, the *feeder choice issue*, or the *utility to propose DER locations issue* are in the public interest for investigation, we recommend that, as to any of these issues, the Commission open a generic proceeding that includes all utilities in the state and all interested stakeholders, and that the entirety of the Complaint be dismissed. Doing so would allow other utilities and interested parties to participate in the development and resolution to these issues on a consistent and state-wide basis. These issues all are complex and, depending on how these are resolved, may have a cascading impact on other issues. To the extent these issues involve interconnection, this approach would be consistent with Minn. Stat. § 216B.1611, Subd. 2(a)(2), which provides for the “standardized interconnection of facilities”, one of the issues that MN DIP was attempting to address.

#### **IV. IF THE COMMISSION IS CONSIDERING ALLOWING SOME PORTION OF THE COMPLAINT TO PROCEED, OTHER ISSUES NEED TO BE FIRST ADDRESSED**

If the Commission does not dismiss the Complaint, and instead wants some portion of the Complaint to proceed, then there are a number of other issues that the Commission would need to address before doing so.

##### **A. Should Mediation be Required for MN DIP-related Interconnection Complaints Before Filing a Formal Complaint.**

The Commission has not yet addressed whether a party that has submitted a MN DIP interconnection application needs to go through the MN DIP dispute resolution process beginning at MN DIP 5.3.1, including mediation, before it can file a complaint with the Commission. Sunrise (and SC 11, SC 26 and SC 34) did not pursue mediation prior to filing the current Complaint. The MN DIP wording here sets forth in sequence the steps for dispute resolution. MN DIP 5.3.6 provides that following best efforts of the parties to resolve the dispute, they may either continue negotiations or proceed to mediation. MN DIP 5.3.7 provides that if the results of the mediation are not accepted, then the dispute shall proceed to the Commission’s Formal Complaint process, and MN DIP 5.3.8 provides that at any time a party may file a complaint before the Commission. The sequence of steps for dispute resolution in MN DIP seems to indicate that mediation is required before filing a formal Complaint, but MN DIP 5.3.8 creates some ambiguity. The Commission may want to determine whether mediation is a condition precedent before filing a formal Complaint.

**B. May a Parent Company Bring a Complaint on Behalf of its Subsidiary Project Companies.**

We believe that the parties that are the legal entities on the interconnection applications here (SC 11, SC 26 and SC 34) need to be included as the complainants. Merely having their corporate parent (Sunrise) bring the Complaint is insufficient and does not state a proper cause of action. The Commission would be without authority to grant any relief on the Complaint if the real parties in interest are not parties to this proceeding.

**C. Should Expedited Relief be Granted.**

The Complaint has requested expedited relief under Minn. R. 7829.1200, subp. 1. It is unclear what Sunrise is specifically seeking. In other contexts, without granting expedited relief, the Commission has allowed a process for rather prompt consideration of the issues such as through an exchange of comments followed by the Commission hearing the matter.

Moreover, should the Commission decide that it is in the public interest for it to address the engineering issues, then it should make sure that it has a complete record upon which to make its determinations. The amount of time this should take should depend on the issues it would like to address and the complexity of each issue. This perhaps could take the form of comments or perhaps may require a contested case, depending on what contested facts the Commission would like to see addressed. (Without support, Sunrise asserts there are no contested facts.) Also, it might start out requiring an answer followed by a comment period, and if as a result of this all significant factual issues have not been resolved to its satisfaction, then under Minn. Stat. §216B.17, Subd. 8, the Commission shall order a contested case proceeding.

**D. Should MN DIP timelines be stayed while “any dispute” remains unresolved.**

Sunrise has requested that the Commission stay all MN DIP timelines applicable to the three applications at issue here while “any dispute” remains unresolved. To be clear, the Sunrise request is not limited to the timeframe that its formal Complaint is pending, but arguably extends well beyond that. This requires consideration of how allowing this may adversely impact interconnection applications submitted by others. Accordingly, how the Commission resolves this issue in the current docket may not be appropriate precedent on how to address this type of issue in future dockets.

Although we do not object in this instance to staying the MN DIP timelines while the engineering issues identified above are pending at the Commission, we do not believe that this should be uniform precedence for other disputes.

The table below shows the current queue information on feeder SCL322, with Queues 15, 16, and 17 being the Sunrise applications:

Case	Queue	Program Type	Queue Date	AC (kW)	Case: Status
03590725	15	Solar*Rewards Community	4/7/2020 21:21	1000	On Hold
03572228	16	Solar*Rewards Community	4/15/2020 13:42	1000	On Hold
03688348	17	Solar*Rewards Community	4/21/2020 14:29	1000	On Hold
03698055		Solar*Rewards	7/13/2020 15:59	4.32	Permission to Operate
03840523		Solar*Rewards	7/20/2020 7:58	9.994	Permission to Operate
03896564		Distributed Generation	7/21/2020 10:06	5	Design and Construction
03774476		Solar*Rewards	9/1/2020 17:17	5	Design and Construction
03975829	18	Solar*Rewards Community	9/28/2020 13:05	1000	On Hold

The project in Queue 18 would be put on hold possibly for an extended period of time if the Sunrise request to extend all of their MN DIP deadlines were to be granted while this matter remains as a Complaint before the Commission. Ordinarily, this could cause concern as it could harm/delay the later in queue project from proceeding through the interconnection review process. However, we know that this last-in-queue project here will hit a hard thermal loading limit on the feeder near the substation and that any new Community Solar Garden wanting to connect on this feeder, regardless of location, will run into that same issue even if the three Sunrise projects were to be cancelled. The smaller DER projects have no material impact on the larger DER projects in queue and therefore have not been placed on hold. Accordingly, based on the facts here, we do not object to the Sunrise request while any of the current engineering issues identified above are still pending at the Commission. We also note that there should not be a universal rule that stays all MN DIP deadlines while “any dispute” remains unresolved during the MN DIP process, as different facts may be applicable in different situations and it is also important to consider the impact on those behind in queue.

**E. Minn. Stat. § 216B.164 (the PURPA statute) Should not Apply to the Complaint.**

The Complaint at pages 3 and 22 argues that, under Minn. Stat. § 216B.164, Subd. 5, the burden of proof should be shifted to the Company, and in its Request for Relief point 8 seeks attorney fees and costs applies under this statute. It also cites to Minn. Stat. § 216B.164 throughout (pages 1, 3, 4, 20, 21, 22, and 23). The applicability of this statute is to implement PURPA. See, Minn. Stat. § 216B.164, Subd. 2. But, the Community Solar Gardens program is not a PURPA program, so this statute does not apply here.

The Minnesota Court of Appeals has determined that the Community Solar Gardens program is not a PURPA program. In the Sunrise appeal challenging the Commission's orders prohibiting co-located gardens above 1 MW (after a phase-in allowing co-located gardens up to 5 MW that had submitted applications by a certain date), the Commission noted in its appellate brief that the Community Solar Garden Program is not a PURPA program, stating at page 22 of its January 22, 2016 appellate brief in that matter: "*The Minnesota Legislature enacted the CSG statute as an alternative program to the PURPA/Section 10 process.*" The Appellate Court agreed, and stated:

The entirety of Sunrise's PURPA argument rests on the contention that PURPA controls and, therefore, prohibits Xcel from denying a project on the basis of interconnection costs. But the CSG is an alternative program to the section 10 tariff that governs larger utility-scale projects because Minn. Stat. § 216B.164 already offers developers a vehicle for solar development. *In the Matter of the Petition of Northern States Power Company, d/ b/ a Xcel Energy, for Approval of Its Proposed Community Solar Garden Program*, Minn. Ct. of Appeals A15-1831, May 31, 2016, p. 19.

If the Commission decides to proceed with the Complaint, it should exclude from its consideration any references in the Complaint to Minn. Stat. § 216B.164 and further exclude from its consideration the Request for Relief point 8.

**F. There is no "right" to file an amended complaint.**

Sunrise asserts in its Complaint on page 25 that it has a "right" to modify or expand its request for relief. The Commission should not allow Sunrise to continue to allege that it has a "right" to later amend its complaint.

There is no "right" to amend a complaint before the Commission. Further, the Commission needs to know the allegations, issues, and requested relief now in order to determine if it is in the public interest for the Commission to address the issues,

and if so, what process the Commission should consider to address such issues. Waiting until after the Commission makes these determinations to then amend the Complaint would be against the public interest and would not align with the process the Commission employs when addressing Complaints. If some portion of the Complaint is allowed to proceed, and Sunrise later believes that the Complaint should be amended, it would need to file a motion with the Commission seeking permission to amend the complaint and the Company should be allowed to respond to that motion before the Commission makes its ruling.

**G. The Commission’s Consideration of the Complaint Should be Limited to the Particular Issues in the Complaint.**

Portions of the Complaint—and in particular, the introduction—includes broad invective about the Company and its overall Community Solar Garden program that are not pertinent to the Request for Relief in the Complaint. Should the Commission decide to proceed with the Complaint, and require the Company to respond to the Complaint, the Company should be required to respond to only those allegations specifically related to Sunrise’s projects that directly tie to the Request for Relief in the Complaint.

**CONCLUSION**

We ask that the Commission dismiss the Complaint and take no further action. If the Commission wants to further address any of the engineering issues, it should be done in a generic docket. If any portion of the Complaint is allowed to proceed, then the Commission would first need to address several issues identified above.

Dated: January 11, 2021

Northern States Power Company

## CERTIFICATE OF SERVICE

I, Crystal Syvertsen, 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; or

xx by electronic filing.

**DOCKET No.: E002/ C-20-892**

Dated this 11th day of January 2021.

/s/

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Crystal Syvertsen  
Regulatory Administrator

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-892_C-20-892
James	Denniston	james.r.denniston@xcelenergy.com	Xcel Energy Services, Inc.	414 Nicollet Mall, 401-8  Minneapolis, MN 55401	Electronic Service	No	OFF_SL_20-892_C-20-892
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_20-892_C-20-892
Dean	Leischow	dean@sunrisenrg.com	Sunrise Energy Ventures	315 Manitoba Ave  Wayzata, MN 55391	Electronic Service	Yes	OFF_SL_20-892_C-20-892
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-892_C-20-892
Angie	Schreiner	angie@sunrisenrg.com	Sunrise Energy Ventures, LLC	315 Manitoba Avenue Suite 200 Wayzata, MN 55391	Electronic Service	Yes	OFF_SL_20-892_C-20-892
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-892_C-20-892
Lynnette	Sweet	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7  Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_20-892_C-20-892
Joseph	Tierney	joe@sunrisenrg.com	Sunrise Energy Ventures	315 Manitoba Ave  Wayzata, MN 55391	Electronic Service	Yes	OFF_SL_20-892_C-20-892
Curtis	Zaun	curtis@cpzlaw.com		3254 Rice Street  Little Canada, MN 55126	Electronic Service	Yes	OFF_SL_20-892_C-20-892