

## Staff Briefing Papers

Meeting Date	October 25, 2018	Agenda Item **3
Company	Xcel Energy <b>E002/M-18-381</b>	
Docket No.	<b>In the Matter of Xcel Energy’s Solar*Rewards Program and Community Solar Garden Program Tariff Updates</b>	
Issues	Should the Commission approve the proposed tariff revisions to Solar*Rewards and Solar*Rewards Community Customer Contracts provided in Xcel Energy’s August 14, 2018 Reply comments in this docket?	
Staff	Michelle Rosier <a href="mailto:Michelle.Rosier@state.mn.us">Michelle.Rosier@state.mn.us</a>	651-201-2212

---

Relevant Documents	Date
Xcel Energy, Reply	Aug. 14, 2018
iDeal Energies, Supplemental Initial	Sep. 17, 2018
Sundial Solar, Supplemental Comments	Sep. 18, 2018
Xcel Energy, Supplemental Initial Errata	Sep. 19, 2018
Energy Concepts, Inc., Supplemental Reply	Sept. 26, 2018
MN Solar Energy Industry Association, Supplemental Reply	Sep. 27, 2018
Xcel Energy, Supplemental Reply	Sep. 27, 2018
iDeal Energies, Supplemental Reply	Sep. 27, 2018

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) for assistance.

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

## Statement of the Issues

Should the Commission approve the proposed tariff revisions to Solar\*Rewards and Solar\*Rewards Community Customer Contracts provided in Xcel Energy's August 14, 2018 Reply comments in this docket?

In considering this issue, the following questions have been raised:

- Do the proposed tariff revisions in Xcel Energy's August 14, 2018 Reply comments comply with the revised Minn. Stat. §116C.7792?
- Did the 2018 legislative change to Minn. Stat. §116C.7792 establish an aggregate capacity limit of 40 kW for all solar systems or all solar systems receiving the Solar\*Rewards at a customer's premise?
- Is a customer allowed to bifurcate a portion of a solar system larger than 40 kW to qualify for Solar\*Rewards incentives?

## Background

On June 8, 2018, Xcel Energy filed proposed tariff updates for both the Solar\*Rewards Program (Docket No. E002/M-13-1015) and Community Solar Gardens Program (Docket No. E002/M-13-867) to comply with 2018 legislation (Minn. Session Law Chapter 193, Section 1) that, in part, revised Minn. Stat. §116C.7792.

On August 14, 2018, Xcel Energy filed revisions to the proposed tariff updates filed on June 8<sup>th</sup> clarifying the aggregate capacity cap applied to all solar installed on a premise if a new Solar\*Rewards application is accepted after June 1, 2018.

On August 22, 2018, iDeal Energies late-filed comments opposing Xcel Energy's proposed tariff revisions and interpretation of the legislative changes to Minn. Stat. §116C.7792, arguing the aggregate capacity cap applied to all solar system(s) receiving a Solar\*Rewards incentive.

On August 23, 2018, the Commission deferred a decision on Xcel Energy's proposed tariff revisions to the Solar\*Rewards and Solar\*Rewards Community Customer Contracts as proposed in the Company's August 14<sup>th</sup> Reply to seek additional comment.

## Parties' Comments

Comments in the docket can be broken down into two perspectives: Xcel Energy's, and the Solar Developers (iDeal Energies, Sundial Solar, Energy Concepts, and MNSEIA). Comments are summarized below by topic.

### Party Positions

Solar Developers request denial of the August 14<sup>th</sup> tariff revisions as not in compliance with Minn. Stat. §116C.7792 when considering the plain statutory language in light of the legislative intent to expand the amount of solar that a customer can have subject to the Solar\*Rewards

program. Solar Developers request the Commission direct Xcel Energy to file tariff language that clarifies the aggregate nameplate limit at the customer premise applies only to the systems that receive Solar\*Rewards.

Xcel Energy's position is that its August 14<sup>th</sup> tariff revisions also comply with the plain language of the statute and legislative intent to limit a customer's choice of the amount of solar it can have if it elects to participate in the Solar\*Rewards program, and therefore its August 14<sup>th</sup> tariff revisions should be approved.

Both the Solar Developers and Xcel Energy address interim transition considerations if Xcel's August 14<sup>th</sup> tariff revisions are approved, as discussed in section F below. No other comments were received.

### **Statutory Compliance**

Commenters disagree on how to interpret this revision (underlined) to §116C.7792:

The utility subject to section 116C.779 shall operate a program to provide solar energy production incentives for solar energy systems of no more than a total aggregate nameplate capacity of ~~20~~ 40 kilowatts direct current per premise. The owner of a solar energy system installed before June 1, 2018, is eligible to receive a production incentive under this section for any additional solar energy systems constructed at the same customer location, provided that the aggregate capacity of all systems at the customer location does not exceed 40 kilowatts.

Both Xcel Energy and the Solar Developers agree there is an aggregate capacity limit of 40 kW for Solar\*Rewards eligible solar systems. Both also agree the limit applies regardless if it is 40 kW of new system capacity or a combination of an existing Solar\*Rewards system (previously limited to 20 kW) and a new system. The disagreement comes in interpreting if the statute addresses whether a customer's premise can have additional solar beyond the 40 kW cap and remain eligible for the Solar\*Rewards incentive for the 40 kW solar that comes within the statutory cap.

Xcel Energy argues the "plain language of the modified statute limits eligibility for receiving a production incentive to no more than a total aggregate system nameplate capacity per premise of 40 kW."<sup>1</sup> Further Xcel explains:

The statute is express with respect to customers with systems installed prior to June 1, 2018; it is silent, however, with respect to customers who did not install a system prior to June 1, 2018 ... [it is a] reasonable application of the statute that a customer installing a system after June 1, 2018 is eligible for a Solar\*Rewards incentive only if the aggregate nameplate capacity of systems (whether incentivized or not) at the premise do not exceed 40 kW.<sup>2</sup>

---

<sup>1</sup> Xcel Energy, Supplemental Initial, p. 1

<sup>2</sup> *IBID*, p. 3

....

In our June filing we proposed tariff language that directly tracked the modified statutory language that, “the total aggregate nameplate capacity per premise of all solar energy shall be no more than 40 kilowatts DC”...the August 14 proposal addresses the circumstances of customers with a project receiving the Solar\*Rewards incentive installed prior to June 2018 and separately addresses those systems installed after June 2018.<sup>3</sup>

Where Xcel reads the 2<sup>nd</sup> sentence as applying a limit on all solar at a premise, iDeal Energies argues: “When read in context with the first sentence, the plain language of the second added sentence merely clarifies the revised limitation in the first: owners can obtain the solar rewards incentive for up to 40 kilowatts at a particular service address.”<sup>4</sup> According to iDeal, the statutory language does not address at all whether there is any other non-Solar\*Rewards-eligible solar at the premise; the statute focuses only on limiting the amount of solar at a location that is eligible for the production incentive.

Xcel takes issue with iDeal Energies’ plain language interpretation:

[iDeal's] approach conflicts with established law that in interpreting a statute one cannot add words to a statute and cannot supply what the legislature either purposefully omitted or inadvertently overlooked.

iDeal Energies says of Xcel Energy’s interpretation:

Xcel's restrictive interpretation of "all systems" is predicated on reading that phrase in isolation and out of context in [violation] of established rules of statutory construction that Minnesota courts have reaffirmed time and time again.<sup>5</sup> ... Xcel fails to explain how the revisions to § 116C. 7792 dictate mandatory incentive disqualification when systems on-site exceed 40 kW given [that] (1) the prior iteration of the Solar Rewards statute did not include such a requirement for the former capacity threshold of 20 kW and (2) the revisions to § 116C.7792 were intended to *expand* solar incentive eligibility.<sup>6</sup>

iDeal Energies points out that if the Commission believes both interpretations of the revisions to §116C.7792 are reasonable or concludes that the revisions are ambiguous, the Commission should use the considerations of legislative intent outlined in Minn. Stat. §645.16.

To that end, iDeal Energies outlines its argument that the legislative intent was for “...the revisions to 116C.7792 [to] effectuate the straightforward goal of revising solar rewards

---

<sup>3</sup> *IBID*, p. 1

<sup>4</sup> iDeal Energies, Supplemental Initial, p. 1

<sup>5</sup> iDeal Energies, Supplemental Reply, p. 2

<sup>6</sup> iDeal Energies, Supplemental Reply, p. 3

eligibility to match eligibility requirements in the former Made in Minnesota Program”<sup>7</sup> and “broaden eligibility requirements.”<sup>8</sup> iDeal quotes testimony of one of the House bill authors, iDeal’s lobbyist’s testimony, and House Research’s bill summary to support their claim.<sup>9</sup> iDeal highlights a “bargained-for exchange” between the parties which included Xcel-proposed language on the “120% of the customer’s on-site annual energy consumption combined with other distributed generation resources and subscriptions provided under section 216B.164 associated with the premise” in addition to increasing the small-scale solar carve out eligible capacity from 20 to 40 kW.<sup>10</sup> MNSEIA and Energy Concepts, Inc. support iDeal’s interpretation.<sup>11</sup>

iDeal also describes a legislative compromise made with Xcel Energy:

In this case, the language of H.F. 3232 [§116C.7792 revisions] was crafted specifically with the understanding that the current tariff language in effect would be operative and that no additional changes to those underlying rules would be necessary. That was the entire reason for the language ... which provides that Xcel would not be required to file a plan with the Commissioner [of Commerce] to effectuate the amendments to §116C.7792.<sup>12</sup>

Xcel argues the discussions at the Legislature did not consider the following scenarios:<sup>13</sup>

[S]ome developers want to target customers with existing on-site solar systems who already receive incentives under either Solar\*Rewards or Made in Minnesota, and to sell them additional solar arrays of unlimited size and to access other tariffed benefits without causing that customer to lose eligibility for its ten year stream of small solar incentive payments. [Further] ... some developers are encouraging customers to install larger capacity systems, such as a single system constructed after June 1, 2018, and sized to 100 kW for example, and to bifurcate a 40 kW portion for participation in the Solar\*Rewards program in order to buy down the overall system cost.

Xcel “...urges caution in determining broad policy decisions regarding program eligibility as not all customers are similarly impacted.”<sup>14</sup> And Xcel notes that: “This bright line definition [after June 1, 2018] sets expectations prior to the installation of any photovoltaic system so customers understand the rules and requirements for their ten year commitment under the Solar\*Rewards Program.”<sup>15</sup>

---

<sup>7</sup> iDeal Energies, Supplemental Initial, p. 6

<sup>8</sup> *IBID*, p. 4

<sup>9</sup> *IBID*

<sup>10</sup> *IBID*, p. 7

<sup>11</sup> Energy Concepts, Supplemental Reply, p. 1; MNSEIA Supplemental Reply, p. 1)

<sup>12</sup> iDeal Energies, Supplemental Initial, p. 6-7

<sup>13</sup> Xcel Energy, Supplemental Reply, p. 2

<sup>14</sup> Xcel Energy, Supplemental Initial, p. 1

<sup>15</sup> *IBID*, p. 2

## Staff Analysis

Historically, the Commission has recognized that Solar\*Rewards program design and policy considerations are under the purview of the Department of Commerce per Minn. Stat. §116C.7792. Typically, Xcel Energy, with Department of Commerce approval, sets terms and conditions of Solar\*Rewards which are then tariff compliance filings with the Commission. In fact, the Solar\*Rewards program is currently open for comment in Docket No. E-002/M-13-1015 under the review and approval of the Department of Commerce Commissioner. However, along with the increase in nameplate capacity eligibility, the 2018 revision to the statute included:

“A change to the program to include projects up to a nameplate capacity of 40 kilowatts or less does not require the utility to file a plan with the commissioner.”

What initially appeared to be simple tariff revisions has developed into a disagreement about the intent of the Legislature in revising the cap placed on the production incentive for small solar systems. Staff’s common sense understanding of the language in question was offered in the initial June 28, 2018 Notice of Comment when a list of legislative changes to the statute did not mention an aggregate nameplate capacity limit to a customer’s premise, but rather “changes to the solar energy system(s) nameplate capacity eligible for a solar energy production incentive.”<sup>16</sup> Staff arrived at that common sense interpretation because the first sentence of the contested statutory language does not explicitly set an aggregate limit on the amount of solar a customer can have at a premise.

When Xcel first made explicit in its tariff revisions that it read the statute to impose a limit on all solar systems on a customer’s premise and not on all Solar\*Reward systems<sup>17</sup>, staff could see how Xcel’s interpretation relies on a plain language reading of the second sentence, which is limited to a subset of customers who own systems installed before June 1, 2018, and states “the aggregate capacity of all systems at the customer location does not exceed 40 kilowatts.” The problem staff sees with Xcel’s interpretation, however, is the “all systems” language can fairly be read as referring to the combination of the systems installed at the location before June 1, 2018 and those installed at the location after that date must together be no more than 40 kW to be eligible for the Solar\*Rewards incentive. Xcel addresses this issue by pointing out that the legislative intent was not to allow the aggregation of solar systems at a single location using a variety of different solar incentives, but rather using discrete incentives or compensation rates targeted at different types of solar system development options. Staff agrees that reading the statutory revision as Xcel does makes sense if that was the legislative intent behind the revision.

If the Commission finds the statute to be ambiguous because it can be fairly read in the two different ways identified by the parties, the Commission can decide to either: 1) make a determination based on the policy implications of the statutory interpretations; or 2) defer the

---

<sup>16</sup> June 28, 2018 Notice of Comment Period, p. 1

<sup>17</sup> Xcel Energy, Reply (Aug. 14, 2018)

question of whether the aggregate nameplate capacity of 40 kW applies to Solar\*Reward eligible systems or to the customer's premise to the Department of Commerce as a policy consideration that goes beyond "... a change to the program to include projects up to a nameplate capacity of 40 kilowatts or less."

As Xcel Energy notes, the legislative intent of the change in the size of aggregate nameplate capacity eligible for Solar\*Rewards to 40 kW may not have addressed valid policy considerations. Staff does not disagree; and it may be more appropriate for Xcel Energy to address such policy implications first in the program design of Solar\*Rewards, subject to the Department's review and approval, before it comes before the Commission in the form of a revised tariff.

### **Impact of Xcel's Proposed Tariff Revisions**

One of the considerations of legislative intent where the commenters disagree is "the consequences of a particular interpretation."<sup>18</sup> Xcel Energy on the policy considerations:

We believe there is a relatively straightforward issue before the Commission: whether it is consistent with statute and good public policy that a customer who has received an incentive to install a small solar system can continue to add co-located solar arrays at their premise without foregoing their future incentive payments for Solar\*Rewards systems installed after June 1, 2018.<sup>19</sup>

MNSEIA highlights the Solar Developers' position:

Xcel's proposed interpretation would have a detrimental impact across the commercial solar industry by disqualifying many solar customers that would like to participate in the Solar\*Rewards program, and by essentially barring these customers who participate in the Solar\*Rewards program after June 1st, 2018 from installing any additional solar through the Photovoltaic Demand Credit Rider, or any future commercial solar incentive program for the next 10 years.<sup>20</sup>

Xcel offers for Commission consideration: 1) financial factors based on the customer class and size of solar system<sup>21</sup>; and 2) application or installation count and MW by solar system size and whether or not enrolling in Solar\*Rewards.<sup>22</sup>

---

<sup>18</sup> Minn. Stat. 645.16; (6)

<sup>19</sup> Xcel Supplemental Reply, p. 4

<sup>20</sup> MNSEIA Supplemental Reply, p. 1

<sup>21</sup> Xcel Supplemental Initial, p. 6

<sup>22</sup> Xcel Supplemental Reply, p. 4

**Table 1: Examples of Financial Factors in Solar Rooftop Installations**

System Type	ITC	Est Solar*Rewards \$ as % of Cost (Pre ITC)	Depreciation Tax Benefits	Total % of cost
Residential System (8 kW @ \$3.59/W installed cost)	30%	28%	0%	58%
Commercial - Solar*Rewards (40 kW @ \$3/W)	30%	34%	37%	101%
Commercial - PV Demand Credit Rider (100 kW @ \$2.50/W)	30%	0%	37%	67%

**Table 2: Application by Category as of September 5, 2018**

Year-Program	PV Size (DC)	Applications Received	Total MW
2018 Solar*Rewards Applications	<20 kW	826	7.88
2018 Solar*Rewards Applications	>20 kW - ≤40 kW	106	3.90
2018 Non-Solar Rewards Solar Installation	<20 kW	14	0.10
2018 Non-Solar Rewards Solar Installation	>20 kW - ≤40 kW	3	0.09
2018 Non-Solar Rewards Installation	>40 kW - ≤ 1000 kW	39	9.45
<b>Total</b>		<b>988</b>	<b>21.42</b>

Xcel Energy draws a comparison to Community Solar Garden co-location and bifurcation issues:

... [S]tate’s experience with co-location and bifurcation in the context of community solar gardens reminds us about the importance of clear requirements, and about determining eligibility for benefits based on the underlying policy giving rise to the benefits.<sup>23</sup>

Xcel notes that from a distribution engineering perspective the solar on the customer’s premise appears as one system even if metered separately.<sup>24</sup> Further, Xcel argues:

[A] customer seeking to arbitrage different programs should not be allowed to bifurcate or co-locate systems on a premise so as to artificially avoid program rules and/or obtain a benefit intended for a different market sector.<sup>25</sup>

<sup>23</sup> Xcel Energy, Supplemental Initial, p. 6-7

<sup>24</sup> *IBID*, p. 7

<sup>25</sup> *IBID*



Sundial suggests a Solar\*Rewards system may be a “trial system” for a larger customer:<sup>26</sup>

We have had several clients with large rooftops, e.g. 500 kW potential capacity, who have approached us years after installing a 20-40 kW incentive (Solar\*Rewards or Made in Minnesota) system to install a second system that would utilize the rest of their roof space. It is our expectation to have many more of these incentive clients come to us in the future hoping to expand on their system using the non-incentive PV Rider. Large solar systems, e.g. 100 kW+, are large investments and many business owners feel more comfortable first installing a small, incentive sized system and seeing the pay-off on that before committing to a much larger one.

Energy Concepts, Inc. adds some customers:

... were advised by Xcel’s previous Solar Rewards management team, to install parallel systems; one with a solar rewards contract and one – with a separate and dedicated point of connection - that could be enrolled under the PV Demand Credit Rider once it was approved in its final form...[and now]... would have to choose to either enroll the larger second systems under the PV Demand Credit Rider and lose Solar rewards on that separate system or keep Solar Rewards and not garner the payback that was projected for the implementation of the much larger system using the PV Demand Credit Rider.

### Staff Analysis

Staff offers a comparison of Xcel Energy’s and the Solar Developers’ positions on Xcel Energy’s sample configurations. In each of these examples, Xcel Energy and the Solar Developers are consistent with their positions on how to interpret the statute.

---

<sup>26</sup> Sundial Solar Comments, p. 1

**Table 3: Would the project qualify to receive Solar\*Rewards incentives?**

Key	Xcel Proposed Scenarios	Xcel Energy	Solar Developers
S*R – Solar*Rewards; MiM – Made in Minnesota			
A	New or existing S*R Customer applies for S*R after 6/1/18 and total solar on premise is ≤ 40 kW.	Yes.	Yes.
B	Existing S*R customer with ≤ 20 kW system installs a total of > 40 kW solar on premise with no additional S*R incentive.	Yes. Prior to 6/1/18 S*R incentive remains.	Yes.
C	New or existing S*R Customer applies for S*R after 6/1/18 and total solar on premise is > 40 kW. (co-location)	No.	Yes. If ≤ 40 kW solar is separate metered.
D	New S*R customer applies for new system after 6/1/18 and has an existing Made In Minnesota incentive. Total ≤ 40 kW solar on premise	Yes.	Yes.
E	New S*R customer adds 40 kW system for S*R incentive after 6/1/18; and later adds 960 kW on the premise.	No.	Yes.
F	New Customer applies for 40 kW S*R incentive for a new > 40 kW solar system.	No.	No. Unless ≤ 40 kW solar is separate metered.
G	New Customer installs 120 kW solar on site under different offerings (40 kW S*R system and 80 kW PV Demand Credit Rider on net metering)	No.	Yes. If ≤ 40 kW solar is separate metered.
H	Customer 1: MiM (40 kW) + pre-2018 S*R (20 kW) + 2018 S*R (20 kW). 80 kW on premise.	No.	Yes.
I	Customer 2: MiM (40 kW) + 2018 S*R (40 kW). 80 kW on premise.	No.	Yes.
J	Customer 3: 2018 S*R (40 kW) + 2018 NEM application (22 kW). 62 kW on premise.	No.	Yes.
K	Customer 4: Pre-2018 S*R application (20 kW) + 2018 NEM application (40 kW). 60 kW on premise.	Yes.	Yes.
L	Customer 5: Pre-2018 S*R application (20 kW) + 2018 S*R application (20 kW). 40 kW on premise.	Yes.	Yes.

Xcel Energy raises the issue of how specific tariffs may treat these systems compared to how the systems may be viewed from a “distribution engineer’s perspective.” From an engineering perspective, and depending on the design, a “solar system” may refer to all solar behind a single point of common coupling with the utility, regardless of whether multiple solar systems are metered separately behind the same point of common coupling. This issue has been

touched on in the technical subgroup on Phase II of the interconnection standards update in Docket No. E-999/CI-16-521. While the technical interconnection issues should be carefully considered, the August 14<sup>th</sup> tariff revisions Xcel Energy supports attempts to recognize two separate solar systems for Solar\*Rewards: “Each PV system at the Service Address needs its own production meter.”<sup>27</sup> This is the result of program or tariff design, not a result that flows from interconnection requirements.

The Solar Developers offer another example, albeit outside the scope of this docket, of the challenge of interpreting whether a tariff applies to all solar on the site or to co-located, separately metered systems. Xcel Energy’s PV Demand Credit Rider was adopted by the Commission’s April 20, 2018 Order in Docket No. E999/CI-15-115, and describes availability as follows:

AVAILABILITY – GENERAL Applicable by customer request to demand-metered commercial and industrial customers that use Solar Photovoltaic as a customer-sited generation source with a capacity greater than 40 kW (AC) with a single production meter to serve all or a portion of customer's electric energy requirements. Not available to customer-sited generation that is the subject of another incentive program such as Solar\*Rewards.

While the PV Demand Credit Rider availability addresses Solar\*Rewards as described above, it was not discussed in comments or before the Commission. The language in the tariff is not explicit with respect to whether “customer-sited generation” refers to all generation from all systems or the generation of a co-located, separately metered system in the case of multiple systems on the same premise.

### **Solar Energy Standard Small Scale Solar Requirement**

Xcel further claims the Commission should consider parity between what is eligible for the small-scale solar carve out of the Solar Energy Standard and for the Solar\*Rewards and Community Solar Garden programs:<sup>28</sup>

[T]he Commission previously denied the request of the Company to apply community solar garden subscriptions of less than 20 kW towards its small-scale solar obligation because, in part, the purpose of the statute is to promote small-scale distributed solar generation. If bifurcation is permitted for purposes of determining eligibility for Solar\*Rewards, however, it should also be permitted for purposes of determining compliance with the SES small solar carve-out.

---

<sup>27</sup> Xcel Energy, Reply (August 14, 2018), Red-lined Section No. 9; 1<sup>st</sup> Revised Sheet No. 37

<sup>28</sup> Xcel Energy, Supplemental Initial, p. 6

## Staff Analysis

The Commission has been consistent in its interpretation of Minn. Stat. 216B.1692, Subd 2f:

(b) For a public utility with more than 200,000 retail electric customers, at least ten percent of the 1.5 percent goal must be met by solar energy generated by or procured from solar photovoltaic devices with a nameplate capacity of 40 kilowatts or less.

As mentioned by Xcel, the Commission's October 20, 2017 Order in Docket No. E-999/M-17-283 & E-999/CI-13-542 denied the Company's request to count Community Solar Garden subscriptions toward meeting this statutory requirement<sup>29</sup>:

The Commission previously rejected a similar request from Minnesota Power, reasoning that counting small individual subscriptions that are part of a larger community solar garden exceeding 20 kW "is inconsistent with the plain language of the statute, and the purpose of the requirement – to promote small-scale (e.g., rooftop) distributed solar generation."<sup>30</sup> Following the Commission's decision, the Legislature amended the SES statute to allow utilities having "between 50,000 and 200,000 retail electric customers" (this includes Minnesota Power and Otter Tail) to apply community solar garden subscriptions of 40 kW or less toward the SES's small-scale solar requirement. But the Legislature did not extend this permission to a public utility with more than 200,000 retail electric customers, i.e., Xcel, and the Commission's prior reasoning still applies.

If the Commission chooses to make a determination on the statutory interpretations for the purpose of the Solar\*Rewards tariffs, staff advises against making additional policy decisions in this docket based on the limited record and initial scope of this docket.

## **Transition or Interim Issues**

A recurring theme in iDeal Energies' comments is the lack of transparency from Xcel Energy about the change in Solar\*Rewards to have an aggregate nameplate capacity limit for all solar systems at a customer's premise. iDeal outlines a number of opportunities to inform customers of the proposed change.<sup>31</sup>

iDeal also raises the following concern: "The current agreements that Xcel requires its customers to sign are issued through an electronic system called Sertifi. These agreements are not available to view until after the project is completed."<sup>32</sup> As a result, the current customers,

---

<sup>29</sup> MN PUC, Order Accepting Reports, Denying Request, and Setting Additional Reporting Requirements (October 20, 2017), Docket No. E999/M-17-283, p. 3

<sup>30</sup> *IBID.* Footnotes: MN PUC, Order Approving Pilot Program with Modifications (July 27, 2016), Docket No. E015/M-15-825

<sup>31</sup> iDeal Energies, Supplemental Reply, p. 5-7, Exhibits A – D (pdf pgs 8-37)

<sup>32</sup> *IBID.*, p. 6

“including local government units, schools, cities, non-profits and other Minnesota businesses, ... acted in good faith to receive the Solar Rewards they deserve under the law”:<sup>33</sup>

They applied to and were accepted into the Solar Rewards Program, paid Xcel application fees (*twice*, despite Xcel's assurance that only one application fee would be charged for Solar Rewards applications amended up to 40 kW DC), performed structural engineering, applied for and received electrical and building permits, purchased equipment (much of which is specialized for a customer's unique site), and employed Minnesotans with the expectation that the work would be performed.

MNSEIA and Energy Concepts, Inc. support iDeal's request that Xcel honor the pre-existing customer applications installed prior to June 1, 2018 by allowing both the parallel Solar\*Rewards and PV Demand Credit Rider “as was advised by Xcel during the Docket stage of the Rider.”<sup>34</sup>

MNSEIA requests Xcel honor pre-existing parallel systems installed prior to June 1, 2018. Assuming they meet the 120% rule for combined systems, preexisting parallel systems should be allowed both the parallel Solar\*Rewards and PV Demand Credit Rider, as was advised by Xcel during the Docket stage of the Rider. These customers – compliant with program requirements and direction from Xcel management – have expended significant capital in good faith anticipation of this result.<sup>35</sup>

Xcel Energy proposes:

The Company would not oppose a transitional waiver for customers that submit Solar\*Rewards applications prior to January 1, 2019, but not installed by June 1, 2018, to receive the incentive provided that:

- adding the Solar\*Rewards project subject to this transitional waiver does not result in the total aggregate nameplate capacity of all Solar\*Rewards projects at the Service Address to exceed 40 kW;
- sum of the total aggregate capacity of all photovoltaic generating systems at the Service Address does not exceed the total installed as of January 1, 2019, plus the capacity of the Solar\*Rewards application(s) submitted or pending in 2018 but not installed by January 1, 2019;
- all other program requirements are met.<sup>36</sup>

... any other application submitted after January 1, 2019, to have any additional photovoltaic generating capacity at the Service Address, then the customer will not be eligible to continue to receive the incentive for any Solar\*Rewards system

---

<sup>33</sup> iDeal Energies, Supplemental Reply, p. 4

<sup>34</sup> Energy Concepts, Supplemental Reply, p. 2; MNSEIA, Supplemental Reply, p. 2

<sup>35</sup> MNSEIA, Reply, p. 2

<sup>36</sup> Xcel Energy, Supplemental Reply, p. 4-5

added on or after June 1, 2018 once the total aggregate capacity of all photovoltaic generating systems at the Service Address exceeds 40 kW DC.

### Staff Analysis

Staff understands Xcel Energy's proposal (Decision Option 3.a.) to mean:

- 1) For customers who have not installed Solar\*Rewards projects before June 1, 2018, the transitional waiver:
  - a. Allows Solar\*Rewards projects not to exceed 40 kW on the customer premise regardless of the aggregate nameplate capacity of all solar installed on the customer premise if the Solar\*Rewards application is submitted prior to January 1, 2019.
  - b. Revokes Solar\*Rewards eligibility if the customer adds additional solar on the beyond what is allowed under a. unless the total does not exceed 40 kW.
  - c. All other program requirements are met.

The proposed transitional waiver is consistent with the Company's interpretation of this sentence of the statute:

The owner of a solar energy system installed before June 1, 2018, is eligible to receive a production incentive under this section for any additional solar energy systems constructed at the same customer location, provided that the aggregate capacity of all systems at the customer location does not exceed 40 kilowatts.

Staff understands the Solar Developers' position to "honor pre-existing parallel systems installed prior to June 1, 2018 by allowing both the parallel Solar\*Rewards and PV Demand Credit Rider" as allowing co-located, separately metered solar systems to apply for separate tariffs consistent with their interpretation of the sentence highlighted above as applicable to eligibility for the Solar\*Rewards program alone.

Staff interprets the Solar Developers' position to amend Xcel Energy's transitional waiver proposal by: 1) making it eligible for all customers and 2) establishing the an aggregate nameplate capacity limit on the customer's premise going forward from whatever has been installed as of January 1, 2019 (regardless if Solar\*Rewards or another application) plus any additional Solar\*Rewards capacity submitted by the same date as long as the Solar\*Rewards cap in part a. is maintained. (Decision Option 3.b.) Staff notes Solar Developers did not advocate for a specific deadline (e.g. January 1, 2019) of the transitional waiver.

## Decision Options

1. Approve Xcel Energy's proposed tariff revisions as attached to Xcel's August 14, 2018 Reply Comments. (*Xcel Energy*)
2. Require Xcel Energy to file within 10 days a compliance filing modifying the Company's initial June 8, 2018 tariff revisions to clarify: "The total aggregate nameplate capacity per premise of all solar energy systems eligible for any Solar\*Rewards incentive shall be no more than 40 kilowatts DC." (*Staff amendment of iDeal Energies, MNSEIA, Energy Concepts, Sundial*)

*If Decision Option 1:*

3. Require Xcel to offer a transitional waiver:
    - a) For customers that submit Solar\*Rewards applications prior to January 1, 2019, but not installed by June 1, 2018, to receive the incentive provided that:
      - (1) adding the Solar\*Rewards project subject to this transitional waiver does not result in the total aggregate nameplate capacity of all Solar\*Rewards projects at the Service Address to exceed 40 kW;
      - (2) sum of the total aggregate capacity of all photovoltaic generating systems at the Service Address does not exceed the total installed as of January 1, 2019, plus the capacity of the Solar\*Rewards application(s) submitted or pending in 2018 but not installed by January 1, 2019;
      - (3) all other program requirements are met. (*Xcel Energy*)
- 

OR

- b) For customers that submit Solar\*Rewards applications prior to January 1, 2019, ~~but not installed by June 1, 2018~~, to receive the incentive provided that:
    - (1) adding the Solar\*Rewards project subject to this transitional waiver does not result in the total aggregate nameplate capacity of all Solar\*Rewards projects at the Service Address to exceed 40 kW;
    - (2) sum of the total aggregate capacity of all photovoltaic generating systems at the Service Address does not exceed the total installed as of January 1, 2019, plus the capacity of the Solar\*Rewards application(s) submitted ~~or pending in 2018 but not installed~~ by January 1, 2019;
    - (3) all other program requirements are met. (*Staff interpretation of iDeal Energies, MNSEIA, Energy Concepts, Sundial*)
-