

**Minnesota Public Utilities Commission**  
**Staff Briefing Papers**

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**Meeting Date:** December 12, 2013 ..... **Agenda Item # \*\*12**

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**Company:** Otter Tail Power Company, Xcel Energy, Interstate Power and Light Company, and Minnesota Power

**Docket Nos.** E017/M-13-609  
In the Matter of Otter Tail Power Company's Request to Amend the Standby Service Tariff

E002/M-13-642  
In the Matter of the Petition for Approval of Tariff Modifications Implementing Net Metered Facility Provisions, Standby Service Exemptions, and Meter Aggregations Pursuant to the 2013 Omnibus Energy Bill

E001/M-13-667  
In the Matter of Interstate Power and Light Company's Request for Approval of Changes to its Standby Tariff

E015/M-13-770  
In the Matter of Minnesota Power's Request for Approval to Changes to its Standby Tariff

**Issue:** 1) What action should the Commission take on the utility filings?

**Staff:** Michelle Rebholz ..... 651-201-2206

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**Relevant Documents**

13-609  
Otter Tail Power Company, *Initial Filing* ..... July 19, 2013  
Department of Commerce, *Comments* ..... August 2, 2013  
Otter Tail Power Company, *Reply Comments* ..... September 30, 2013

13-642  
Xcel Energy, *Initial Filing* ..... July 31, 2013  
Fresh Energy, *Letter and Attachment* ..... September 30, 2013  
Sam East, Inc and Walmart Stores East, *Comments* ..... September 30, 2013

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| Distributed Renewables Advocates, <i>Comments</i> .....         | September 30, 2013 |
| Department of Commerce, <i>Comments</i> .....                   | September 30, 2013 |
| Xcel Energy, <i>Reply Comments</i> .....                        | October 31, 2013   |
| 13-667  |                    |
| Interstate Power and Light Company, <i>Initial Filing</i> ..... | August 1, 2013     |
| Department of Commerce, <i>Comments</i> .....                   | September 4, 2013  |
| Interstate Power and Light Company, <i>Letter</i> .....         | September 16, 2013 |
| 13-770  |                    |
| Minnesota Power, <i>Initial Filing</i> .....                    | August 29, 2013    |
| Department of Commerce, <i>Comments</i> .....                   | September 9, 2013  |
| Minnesota Power, <i>Reply Comments</i> .....                    | September 19, 2013 |

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

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## Issues:

- 1) What action should the Commission take on the utility filings?
  - Should the tariff modifications to change the stand-by threshold from 60 to 100 kW and related non-contested changes be approved?
  - Is a new Commission determination on allowable costs to be collected through stand-by rates necessary before the utilities are permitted to charge stand-by rates to facilities over 100 kW?
  - Should the Commission open a generic proceeding on stand-by rates?
  - Should any of the modifications proposed by Xcel to implement other 2013 legislative changes to its distributed generation tariffs be approved?

## Background

Minn. Laws 2013, Chapter 85, Article 9, DISTRIBUTED GENERATION, made a number of amendments to Minn. Stat. §216B.164 COGENERATION AND SMALL POWER PRODUCTION<sup>1</sup>. These changes included prohibiting public utilities from imposing stand-by charges on facilities of 100 kW or less, and on facilities of more than 100 kW capacity “except in accordance with an order of the commission establishing the allowable costs to be recovered through stand-by charges”.

Prior to the 2013 amendments, Minn. Stat. §216B.164 did not address stand-by charges. The Commission’s rules adopted in 1983 implementing this statute, Minn. Rules, Part 7835, do not set size thresholds for stand-by charges<sup>2</sup>.

However, Minn. Stat. §21B.1611 INTERCONNECTION OF ON-SITE DISTRIBUTED GENERATION, enacted in 2001, required the Commission to initiate a generic proceeding to establish, by order, generic standards for utility tariffs for the interconnection of natural gas and renewable distributed generation of no more than 10 MW. The Commission’s September 28, 2004 Order in that generic proceeding, Docket E-999/CI-01-1023<sup>3</sup>, among many other things, exempted facilities of 60 kW or less from paying any stand-by charges. Utility tariffs adopted pursuant to that Order reflect the 60 kW exemption.

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<sup>1</sup> Article 9 of Chapter 85 makes many other additions and changes to 216B.164, including increasing the size limit for net metering from 40 kW to 1,000 kW for facilities connected to public utilities, requiring the Commission to develop a standard contract for facilities between 40 and 1,000 kW, requiring public utilities to allow aggregation of meters, and establishing procedures for developing a Value of Solar rate (alternative tariff). These changes have now been codified in 2013 Minnesota Statutes.

<sup>2</sup> These rules do define various components that generally make up stand-by charges (back-up power, maintenance power, and supplementary power), and require that these services be offered to all qualifying facilities.

<sup>3</sup> *In the Matter of Establishing Generic Standards for Utility Tariffs for Interconnection and Operation of Distributed Generation Facilities under Minnesota Laws 2001, Chapter 212, Docket No. E-999/CI-01-1023, ORDER ESTABLISHING STANDARDS, September 28, 2004.*

In early summer 2013, Commission staff contacted the four larger electric utilities subject to the 2013 legislation and asked them to submit modifications to their stand-by tariffs making the change from 60 kW to 100 kW to conform to the new legislation.

Otter Tail Power (OTP), Minnesota Power (MP), and Interstate Power and Light (IPL) filed tariff modifications essentially limited to the 60 to 100 kW stand-by rate change. Northern States Power Company d/b/a Xcel Energy (Xcel) made a much more extensive filing, proposing to modify its tariffs to also incorporate many other provisions of the new laws relating to distributed generation, including meter aggregation, a new standard contract, and language relating to REC ownership from net-metered facilities.

## **Initial Filings**

### OTP Initial Filing

At pages 1 and 7 of its Standby Service tariff, OTP changes the 60 kW reference to 100 kW to comply with statutory changes.

### MP Initial Filing

MP proposes to change the 60 kW reference to standby service to 100 kW at Section V, pages 61 of its tariff.

### IPL Initial Filing

At pages 30 and 30.2 of Volume 8 of its tariff, IPL proposes to change the 60 kW reference for standby service to 100 kW. IPL also removes the reference “and Supplementary Power” to pages 30.2, 30.3, 30.4, and 30.5.

### Xcel Initial Tariff Filing

Xcel’s description of its tariff filing, which is on the second page following its cover letter, states that Xcel:

- Added net metering provisions to Section 10, including a form contract, which covers systems from 40 kW to less than 1,000 kW;
- Removes mandatory standby service for systems up to 100 kW;
- Adds meter aggregation; and
- Makes other conforming adjustments to align the Company’s tariff with the revised statute.

Attachment A, page 1 of 1 of Xcel’s filing provides a table listing the location of the changes and the statutory provision that required the change. Xcel proposes changes to 4 sections of its tariff (not including the Table of Contents):

- 1) Standby service (*updates applicability from 60 kW to 100 kW*);
- 2) Net Energy Billing Service (NEBS) (*adds net metering language*);
- 3) Distributed Generation Standard Interconnection (*includes net metered facilities, adds aggregated metering, updates applicability for standby service*);

Net-Metered Facilities Contract (*adds new contract for net metered facilities that are over 40 kW but less than 1000 kW. STAFF NOTE: In this section, Xcel also proposes to add language giving it ownership of the RECs associated with the energy produced by the net metered facility.*)

## Comments

For the OTP, IPL and MP tariffs, only the Department filed comments. In each of the three tariffs the Department recommended approval. In the IPL, MP, and Xcel tariff filings, the Department also recommended the Commission undertake a generic proceeding on stand-by rates:

The Department notes that the statute requires “an order of the Commission establishing allowable costs to be recovered through standby charges” before the utility may impose a standby charge on a net metered or qualifying facility more than 100 kW. The Commission last addressed standby charges in September 28, 2004 Order in Docket No. E999/CI-01-1023. The recent amendment to the statute appears to contemplate a Commission proceeding to evaluate the appropriateness of existing standby charges. Consequently, the Department recommends the Commission open a generic [docket] to address the statutory requirement for a Commission Order before a utility may impose standby charges on facilities over 100 kW. A generic proceeding could address the methodology for determining standby rates, the appropriateness of existing charges and how those rates are applied.<sup>4</sup>

The Department’s recommendation for a generic standby docket was not filed in the OTP tariff docket. After learning of the Department’s recommendation, OTP filed reply comments. OTP stated:

Otter Tail does not support a generic standby proceeding because an Order from the Commission already exists, is appropriate, and believes further efforts are unnecessary. The utility standby services in effect today, at the 60 kW or greater level, are still appropriate for customers over 100 kW who seek backup, maintenance, supplemental, and other services. Solar, and other generation systems, were represented, addressed, and included in the E999/CI-01-1023

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<sup>4</sup> See, for example, Department comments in E001/M-13-667, page 2.

attachments (i.e., associated process, requirements, and agreements). (Footnotes omitted.)<sup>5</sup>

For the Xcel filing, in addition to the Department, comments were filed by Fresh Energy, Walmart, , and Distributed Renewables Advocates (DRA).<sup>6</sup> Fresh Energy provided a letter with a study attached<sup>7</sup>. Staff has not summarized the study in these briefing papers, but it is available in the record for review. Staff has summarized the issues by topic and has used the same order of topics as the Department's comments.

#### A. Standby Charges: Clarifications, Whether Standby Charges May Apply and to What Size Facilities, and the Need for a Generic Standby Proceeding(Xcel Tariff Sheets 5-101 and 5-106)

##### Walmart

Walmart provided a one page letter. Walmart quoted the new amended subdivision 3a(b), which exempts facilities under 100 kW, and stated that the exemption from standby charges should be extended consistent with the statutory extension of the net metering limit (1000 kW) instead. Walmart reasoned that the ratepayer is already paying for energy to be available throughout the day and year through its underlying tariff charge and an additional charge for standby generation could amount to a double charge for the same availability. Offering this protection would be consistent with Minn. Stat. §216B.164 subd. 1, which gives the “maximum possible encouragement to cogeneration and small power production consistent with the protection of ratepayers and the public.”

##### Department (p. 2)

Observing that Xcel proposed to update its standby tariff to reflect the legislative threshold from over 60 kW to over 100 kW when standby charges would apply, the Department noted the statute has a definition of capacity and recommended the tariff be clarified to reflect that definition: “the number of megawatts alternative current (AC) at the point of interconnection between a distributed generation facility and a utility’s electric system.” The Department recommended that the standby service tariff be clarified to reflect that it applies to facilities with over 100 kW capacity as measured at the point of interconnection between the distributed generation facility and the utility’s electric system.

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<sup>5</sup> OTP Reply comments, page 2.

<sup>6</sup> DRA is composed of The Alliance for Solar Choice, Environmental Law and Policy Center, Fresh Energy, Institute for Local Self Reliance, Interstate Renewable Energy Council, and Vote Solar Initiative.

<sup>7</sup> “Market Transformation Pathways for Grid-Connected Rooftop Solar PV in Minnesota,” Produced by Fresh Energy on behalf of the Minnesota Solar Challenge Program, 2013. The study was made possible by a grant from the U.S. DOE and Minnesota Department of Commerce.

As it did in its comments in the IPL and MP dockets, the Department also stated that the statute requires an order of the Commission before a utility may impose a standby charge on a net metered or qualifying facility more than 100 kW. Thus, the Department concluded that not only does the statute contemplate a generic proceeding on standby charges, but Xcel cannot charge any standby charges on facilities over 100 kW until it obtains a Commission Order. (The Department also noted that the appropriateness of Xcel's standby charges could be examined in its rate case.)

Distributed Renewable Advocates (DRA) (p. 10)

DRA stated that if Xcel plans to apply the Standby tariff to net energy metered (NEM) customers, then the Commission should require Xcel to amend its Standby service tariff to clarify, simplify, and rationalize the tariff, in line with both the 2013 legislative changes and Xcel's proposed NEM tariff. DRA states that the current Standby tariff is hard to understand, and the bill impact is very difficult to estimate in advance.

Xcel Reply Comments (pp. 6-7, pp. 2-3)

As to the Department's recommendation to clarify the tariff, Xcel agreed to make a clarification but proposed using the term "nameplate capacity." Xcel also noted the issue was confusing and was attempting to maintain consistency as much as possible:

However, the Company in this case is referring to "nameplate capacity" in its tariff where it uses the term "capacity" since solar distributed generation systems produce electricity in direct current (DC) the measure of their size can be most practically measured in terms of DC nameplate capacity. Therefore, the Company recommends replacing the term "capacity" with the term "nameplate capacity" in its Standby Service and Distributed Generation facilities tariffs in order to directly refer to the generating unit nameplate for purposes of determining eligibility for service under these tariffs.

The new energy law also used DC as the way to measure "nameplate capacity" with its creation of Minn. Stat. § 116C.7792 and with its creation of Minn. Stat. §216C.415.13 Additionally, measuring DC capacity would maintain consistency with the current Solar\*Rewards net metering program in our Rate Book.

However, the new law is not consistent. For example, the new law applies size limits of 120 percent of production for the net metered facilities at issue based on alternating current. It is for this reason that the proposed tariff for net metered facilities was drafted using the AC methodology. To help create clarity, paragraph 11 of the proposed net metered facilities contract shows how the AC methodology is to be used when addressing the standby charges, and states as follows:

*“Standby charge” means a charge imposed by an electric utility upon a distributed generation facility for the recovery of costs for the provision of standby services, as provided for in a utility’s tariffs approved by the commission, necessary to make electricity service available to the distributed generation facility. Standby charges apply if the Net-Metered Facility System has an AC nameplate capacity of more than 100 kW. No standby charges apply if the Net-Metered Facility System has an AC nameplate capacity of 100 kW or less.*

As to the Department’s other recommendations, Xcel replied that it is not opposed to a generic proceeding on standby charges. However, Xcel disagreed with the Department’s interpretation of the statute that it cannot charge standby charges on facilities over 100 kW until a future Commission Order is issued. The Commission’s September 2004 Order in 01-1023 established the allowable costs to be recovered through standby charges. In addition, the Company has a Standby Service Rider in its rate book and the rates for this service have been updated during its recent rate cases.

Finally, as to DRA’s request that Xcel clarify what it mean by the phrase “AC nameplate capacity” since solar panel capacity is expressed in DC, Xcel agreed the wording can create confusion and suggest the proposed tariff provision be rephrased to state “AC capacity” in the paragraph.

#### Staff comment

It appears Xcel has agreed to the Department’s clarifying language being added to the tariff so this aspect of the tariff is not in dispute.

As to the Department’s recommendation that Xcel and the other utilities not be allowed to charge a standby rate, Staff reads the statute simply to be clarifying that a standby rate can only be charged on facilities over 100 kW if the rate is filed in a tariff and has been approved by the Commission. As the four electric utilities have a Commission-approved tariff with a standby rate in it, staff presumes they could charge facilities over 100 kW that rate.

If the legislation was the only reason the Department recommended a generic proceeding on standby charges, then staff suggests that no generic proceeding be initiated at this time.<sup>8</sup> However, there may be other policy reasons to open a generic proceeding. As the ALJ stated in her report in the previous Xcel rate case:

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<sup>8</sup> Typically, legislation requiring the Commission to undertake a generic proceeding is worded differently than this legislation. For example, the legislation requiring a DG proceeding stated, “The commission shall initiate a proceeding within 30 days of July 1, 2001, to establish, by order, generic standards for utility tariffs for the interconnection and parallel operation of distributed generation....” See 216B.1611, subd. 2.



810. MCC recommended changing how standby hours are measured under the Company's Standby Service Tariff. Under the Company's current tariff, standby service is taken whenever the generator meter shows the unit to be producing at less than its standby capacity rating. MCC maintains that when customer generation is operating at less than rated capacity and when plant demand is less than peak demand, then no standby capacity should be determined to be taken. This is not the case under the existing tariff. MCC proposed to exempt hours from the annual limit by the degree that the total load of a facility, at any hour during the month, is less than the month peak load of the facility.

811. The Company opposed the MCC proposal. The Company maintained that the current measurement recognizes all hours that standby service is used by the customer. The Company also asserted that MCC's proposal would result in a substantial change to the fundamental design of standby service. According to the Company, the standby service tariff is designed to move customer billing from lower standby reservation rates to higher firm service rates in relation to the degree the Company provides backup capacity for customer generation. The Company claimed that MCC's proposal would diminish important price incentives for the operation of customer owned generation.

812. The Administrative Law Judge agrees that MCC has raised a serious question regarding the fairness of the existing standby service tariff, but concludes that the issue would be better addressed in a separate docket where the parties and Commission can analyze the issue in more detail. Accordingly, the Administrative Law Judge does not recommend a change to the Standby Service Tariff at this time.

However, Otter Tail points out that many of these standby issues were explored in the Commission's previous generic proceeding, in Docket 01-1023. Another option, instead of deciding now whether there should be a generic proceeding on standby rates, is to direct the utilities to have a dialogue with the Department on the need for a standby proceeding and the potential scope, and return to the Commission with a more clear plan. As it stands right now, staff would not have enough information to issue a Notice of Comments in a generic standby proceeding.

As to Walmart's request that the exemption for standby charges be extended to units over 1000 kW, staff notes the purpose of this filing was to make changes to tariffs to comply with new legislation; extending the exemption to units beyond those in the statute is a policy decision and is better addressed in a different proceeding. In addition, Walmart did not file this recommendation in OTP's, MP's, nor IPL's tariff, which would result in inconsistent treatment for customers depending on the service area they are located in.

## B. Net Energy Billing Service (NEBS) (Section 10, Sheets 163-168)

Department (pp. 2-3)

The Department points out that Net Energy Billing Service applies to small qualifying facilities of less than 40 kW capacity. Minn. Stat. §216B.164, subd. 4a also includes deadlines for utilities to aggregate meters at a customer request (90 days to aggregate additional meters) and timelines for customers to amend the rank order of the aggregated meters (60 days). The Department recommends that Xcel include language memorializing these statutory requirements; although Xcel has this language in its Contract for Net-Metered Facilities, the contract only applies to facilities rated between 40 kW and 1000 kW.

Xcel Reply Comments (pp. 5-6)

In reply comments, Xcel states it believes this revision is reasonable, but a variance may be required to change the contract because any contract tariff changes to implement 216B.164 would need to be implemented through a generic proceeding and uniform statewide contract applicable to all utilities based on the language in 216B.164, subd. 6. Xcel concludes this is a topic better addressed in the rulemaking (E999/CI-13-729).

Staff comment: NEBS

Because this statute applies to not only Xcel, but OTP, IPL, and MP, staff suggests this issue be addressed on some type of uniform basis. Minnesota Statutes §216B.164 subd. 6 states in part:

The commission shall also establish a uniform statewide form of contract for use between utilities and a net metered or qualifying facility having less than 1,000-kilowatt capacity if interconnected to a public utility or less than 40-kilowatt capacity if interconnected to a cooperative electric association or municipal utility.

Staff believes the Commission has broad general authority to require the terms and conditions of service in tariffs, and it is normal practice to revise tariff language when statutes are amended. However, in this case, it does appear that the legislature preferred the Commission to establish those terms and conditions on a uniform basis that would apply to all of the public utilities at once. Since OTP's, MP's, and IPL's tariff do not contain this language, it may be better to defer this issue and address it on some type of overall basis, to avoid confusion. Staff believes that as a practical matter, since the aggregated metering requirement is in statute, the absence of this language in the tariffs at this time does not have any impact on net metering customers and that all four utilities are still obligated to comply with the statute. Staff requests that the four utilities confirm they will comply without the language in their tariff. Whether issues related to the standard contract should be dealt with in the pending rulemaking (Docket No. E-999/R-13-729) or in some other proceeding does not need to be decided at this time. As the scope of the

rulemaking is developed, the issue can either be included in the rulemaking or, staff, the Department, and utilities can work on some alternative manner of resolving this issue.

### C. Distributed Generation Standard Interconnection and Power Purchase Tariff (Xcel Sheets 10-73 through 10-74)

Department

#### Meter Aggregation

The Department and Xcel make the same arguments as listed above regarding whether the timelines for customer requests related to meter aggregation be incorporated into tariffs. Staff has the same comment as above and will not repeat here.

#### System Limits (Section 10, Sheet 73.2)

Department (p. 4)

The Department notes that under Minn. Stat. §216B.164, subd. 4c(a), a public utility may limit the total generation capacity of individual distributed generation systems by either:

- (1) for wind generation systems, limiting the total generation system capacity kilowatt alternating current to 120 percent of the customer's on-site maximum electric demand; or
- (2) for solar photovoltaic and other distributed generation, limiting the total generation system annual energy production kilowatt hours alternating current to 120 percent of the customer's on-site annual electric energy consumption.

The Department states that Xcel's proposed tariff language largely mirrors that of the statute, but the phrase "a reasonable estimate of the average monthly maximum demand or average annual consumption" is vague, and should be more clearly defined in the tariff. The Department issued Information Request #5 on this topic, Xcel responded, and the Department recommends that the issue of addressing how to estimate consumption data where existing information is not available be part of the rulemaking.

Xcel Reply Comments (p. 7)

In reply comments, Xcel agrees that this issue could be addressed in the rulemaking.

Staff Comment

If the Commission agrees that this should be more clearly defined, then it would be appropriate to require clarification in a docket that also applies to MP, OTP, and IPL. Staff notes that this language does not appear in the proposed MP, OTP, or IPL tariff revisions and therefore the Department did not raise this in their comments in those three dockets. Whether issues related to

the standard contract should be dealt with in the pending rulemaking (Docket No. E-999/R-13-729) or in some other proceeding does not need to be decided at this time.

### Renewable Energy Credits/Certificates (RECs) (Section 10, Sheet 73.2)

Department (p. 5)

The Department states that under Xcel's proposed tariff, all RECs would be assigned to the Company. The Value of Solar statute grants all RECs to the utility, but the relevant statute for net metered facilities does not. In response to Department IR #6, Xcel stated that the statutory treatment for solar RECs should guide the treatment for the RECs at issue in this tariff. The Department generally favors granting RECs to the utility for the benefit of ratepayers, but given the statutory silence on this topic, the Department recommends this topic be addressed in the rulemaking.

DRA (p. 3)

DRA stated that the Commission should reject Xcel's proposed change to net-metering REC ownership because the change is not required by the 2013 legislation or Commission Order and is ignoring the best practice set in most states. DRA reads Xcel's filing to inherently acknowledge that the initial ownership of RECs vests with the owner of the generation equipment that generated said RECs.

The concept underlying the best practice is that RECs should transfer to the utility only when it compensates the initial REC owner either through an incentive or specific compensation for the REC in a contract. Accordingly, a utility should not be allowed to transfer this value absent compensation. Net metering alone is not an incentive. The Value of Solar process will not only inform a decision on this issue, but could be unnecessarily constrained by a decision limiting the value of RECs to customers and small generators in this proceeding.

Xcel Reply Comments (pp. 3-5)

Xcel states it included REC ownership in the tariff as a means of helping to demonstrate compliance with the solar energy standard. Xcel is agreeable to either addressing this in the rulemaking or in the Commission's recently opened generic docket, E999/CI-13-720, which is intended to address REC ownership.

Xcel also provides Attachment A to its reply comments to explain why it believes RECs should be assigned to the Company. It has interpreted prior Commission precedent as establishing that if the Company pays more than avoided cost for renewable energy it should be entitled to the RECs associated with that energy. This issue was addressed in Docket E002/M-08-440 (the "Silent REC" docket). In that docket the Commission decided that RECs generated as result of the Wind and Biomass Mandates, where Xcel was paying more than avoided cost, were owned by Xcel unless a generator could demonstrate that the contract was not silent on REC ownership.

The Commission agreed with the Department that if the Company paid more than avoided cost to purchase the power, it would appear the Company purchased, and ratepayers paid for, more than energy. See Xcel's reply comments at page 4 for more detail on its reasoning.

#### OTP Reply Comments

Otter Tail stated it does not support a separate generic proceeding for determination of REC ownership, instead prefers and supports the Department's recommendation to determine REC ownership in the Commission's rulemaking docket, Docket No. E999/R-13-729.

#### Staff Comment

Xcel's tariff provision is not required by law and is best addressed in the Commission's generic proceeding on REC ownership, E-999/CI-13-720. Staff had intended to issue a notice for comments in November on REC Ownership issues but has waited due to the comments filed in this docket. It is precisely these types of arguments—past Commission decisions on REC ownership, other states' decisions—that staff would like to tee up in the docket. The record in this docket is not developed enough to decide the topic. Staff recommends the Commission defer a decision and allow a Notice Seeking Comments to be issued in that docket. Staff does not support referring REC ownership to the rulemaking docket, as that docket is focused on incorporating changes from the 2013 legislation into rules, and the REC ownership docket is a policy issue that exists separate from the passage of the 2013 legislation triggering the rulemaking.

#### Contract for Net Metered Facilities (Tariff Sheet Nos. 10-163-10-168)

##### Department (p. 5)

In its Contract for Net Metered Facilities (Section 10, Sheet 164, Part 2.B), Xcel proposed to require that a customer have two Company-owned meters installed at each service location. According to the language, "one meter is located at the main service and is a bi-directional meter that will record energy delivered to the Customer from the Company, and energy received by the Company from the Customer... The second (Production) meter will record energy generated by the net-metered system only."

The Department believes that the need for the second meter only exists if RECs are awarded to the Company. Since the statute is silent on REC ownership for facilities other than those receiving service under a Value of Solar tariff, the Department recommends that the Commission order Xcel to remove the requirement for two meters.

##### Xcel Reply Comments (p. 5)

In replies, Xcel affirmed the need for both meters. According to Sheet No. 10-149, 5.Aiv for Xcel's rate book, for generation systems that sell power and are greater than 40 kW in size,

separate metering of the generation and load is required. Xcel Energy is required to report to the regional reliability council the total peak load requirements and is also required to own or have contracted for accredited generation capacity of 115 percent of the experienced peak load level for each month of the year. Failure to meet this requirement results in a large monetary penalty for Xcel Energy.

Metering issues, including the use of production meters, were discussed and addressed by the participating parties when the Commission established generic standards for utility tariffs for interconnection and operation of distributed generation facilities. The September 2004 Order established the uniform framework for use by Minnesota utilities in their DG tariffs today. The Company believes the current Generation Metering, Monitoring and Control on Sheet Nos. 10-147 – 10-149 of its Rate Book is in compliance with the Order and no further change on the production meter is necessary.

#### Staff comment

Staff believes this issue is no longer in dispute between the parties and the Department does not have an objection to Xcel's proposed language. If the requirement for both production meters is necessary for reporting requirements, then it is appropriate to retain language requiring both meters. Both meters may also be necessary to determine consumption and demand to monitor compliance with the 120% limits listed in the legislation.

#### Meter Charge

##### DRA (pp. 6-7)

DRA argues that Xcel proposes to increase its meter charges for net metered systems in the 40-1000 kW range from \$3.15 (single phase) and \$6.40 (three phase) to \$5.50 and \$8.00, respectively. DRA asks the Commission to reject this increase because there is no direction in the Omnibus Energy Bill to increase these charges. In addition the increases are discriminatory, which is contrary to Minnesota law, FERC regulations, and recognized best practices. Increases to these rates should be explored in a rate case. DRA provides additional detail on state law and FERC regulations to support its position.

##### Xcel Reply Comments

At page 5 of its reply comments, Xcel states that the proposed monthly metering charge is consistent with the A51 tariff on Sheet No. 9-3 of its Rate Book, and therefore not a proposed increase in the rate. (*Staff note:* staff has included this tariff sheet as Attachment 1 to these briefing papers.) The Company agrees that future adjustments to the metering rate may be needed to account for the increased size of net metered facilities. Xcel will employ the process outlined in Minnesota Rules to receive approval of any future change in the metering charge.

##### Staff Comment

Because the intent of the tariff changes was simply to make mechanical changes to strictly comply with the statute and not address broad policy issues, DRA may choose to intervene in Xcel's current rate case and explore how these rates operate in light of Xcel's total package of services. The Commission could also choose to ask Xcel to clarify this issue or exclude it from the list of approved tariff pages until more information has been provided.

### Net Excess Generation Payment

DRA (p. 6)

DRA states that Xcel's rate includes an updated rate for its "Energy Payment" that will be paid to net metering customers for year-end "remaining kilowatt hour credits". DRA is concerned that the rate seems low. The VOS process will address avoided costs of distributed solar to Xcel's system. DRA requests that the Commission require Xcel to update this rate once VOS is completed.

Xcel Reply Comments (p. 7)

Xcel states that the rate is the average retail utility energy rate filed under Minn. Rules part 7835.0100, subpart 2a. It is found at Sheet 9-3 of Xcel's rate book.

Staff Comment

The VOS methodology has neither been filed nor reviewed by the Commission at this time, so it would be premature to mandate that Xcel update its net metering tariff with a rate later set in the VOS docket. The Commission can consider this request at a later time and a different docket. In addition, the Commission would need to decide whether updating a rate tied to net metering with a solar component is the right fit given that net metering can apply to more than solar generation. For context, staff notes that the rate proposed in Xcel's tariff for next excess generation is the same that is proposed in its Community Solar Garden Tariff as a bill credit compensation until such time that a VOS tariff rate is established pending in Docket E002/M-13-867.

### Third Party Ownership

DRA (pp. 7-9)

DRA raises the concern that third parties who are not customers should be able to enter into Xcel's Net Metering Facilities Contract. DRA's full argument is at pages 7-9 of its comments. DRA also raises the issue of third parties being allowed to have an ownership interest in these facilities.

Xcel Reply Comments (pp. 7-8)

Xcel states that Minn. Stat. §216B.164, subd. 3a compensates the customer in the form of a bill credit; therefore, only customers may enter into the contract. However, Xcel also notes that in

the Commission's September 2004 Order at page 7, the Commission has already clarified that third party ownership is permissible.

#### Staff Comment

Staff notes, like Xcel, that the relevant statute refers to a "customer" being billed and compensated in the net metering arrangement. Minn. Stat. §216B.164, subd. 2a(f) states:

"Customer" means the person who is named on the utility electric bill for the premises.

Since the intent of these tariff filings is simply to memorialize existing practices under the new statute, not set new practices not required by legislation, it may be helpful for Xcel to clarify at the agenda meeting what its intent is with this tariff language. Staff reads the proposed tariff language as maintaining the status quo. If there is still further dispute on the subject the matter can be explored in another proceeding. Staff agrees with Xcel that the Commission's September 2004 Order clarified that third party ownership is permissible.

#### Clarification of Relationship between Net Energy Metering and Value Of Solar

##### DRA (p. 11)

DRA requests that the Commission provide clarification on an issue. The 2013 legislation provides that if Xcel offers a Commission-approved Value of Solar tariff, it no longer is required to offer the NEM tariff to solar customers. However, the statute leaves the issue of what happens to existing NEM customers once a VOS tariff is offered as somewhat ambiguous. The most natural read, in DRA's view, is that existing NEM customers will be allowed to continue with the NEM contract but will have the option of switching to VOS. However, Xcel's proposed tariff is similarly vague on the status of existing NEM contracts. While this issue does not need to be resolved immediately, DRA wants to flag the issue for the Commission.

##### Xcel Reply Comments (p. 8)

Xcel states that the net metering tariff and VOS are not related. Also, Xcel states that DRA does not cite to any statutory support for its position that net metering would still be an option if and when Value of Solar tariffs are proposed and approved by the Commission.

#### Staff Comment

Staff agrees with DRA that this issue does not need to be resolved immediately. Staff is aware of a number of ambiguities that will need to be resolved if and when Xcel proposes a VOS tariff. At this time, since the Department has not even filed its VOS methodology yet, which is the first step before a utility would decide to propose a VOS tariff, there is no need to act. Staff appreciates DRA flagging this issue and is open to receiving other feedback on clarifications that will have to be made. Staff has included a decision option directing Xcel to serve a copy of its



VOS tariff, should it choose to file one, on the DRA so they can raise this and any related issues with the Commission at that time.

### **Overall Staff Comment**

These tariffs were originally filed at staff's request so that utilities' stand-by tariffs would be consistent with new legislation passed earlier this year. Staff recommends that only the revisions necessary to incorporate new statutory changes related to stand-by charges, or other non-substantive, undisputed language be approved here. The parties have raised some helpful discussions on other changes or decisions that will have to flow out of these statutory changes. Staff recommends those issues be referred to other dockets where they can benefit from a fuller discussion before the Commission issues a decision. There may be also some issues that do not have to be referred to a specific docket at this time but can be raised by a party or staff in a relevant proceeding. Stakeholders can also discuss outstanding issues among themselves and bring to the Commission at the appropriate time, after disputes have been narrowed and focused.

### **Decision Options**

*Tariff changes to implement the 100 kW floor for requiring stand-by service:*

1. Approve Otter Tail Power Company's proposed changes to pages 1 and 7 of its Standby Service tariff. (Docket E-017/M-13-609). AND
2. Approve Interstate Power and Light's proposed changes to pages 30 and 30.2 of Volume 8 of its tariff and removal of the reference "and Supplementary Power" on pages 30.2, 30.3, 30.4, and 30.5. (Docket E-001/M-13-667) AND
3. Approve Minnesota Power's proposed changes to Section V, pages 61 of its tariff. (Docket E-015/M-13-770.) AND
4. Approve the portions of Xcel's proposed tariff modifications which change the stand-by service floor from 60 to 100 kW (Section 5, Sheets 101 and 106; Section 10, Sheet 74). (Docket E-002/M-13-642) OR
5. Require additional modifications to one or more of the tariffs in 1 through 4 above.

*Ability to charge stand-by rates:*

6. Find that OTP, MP, IPL, and Xcel are prohibited from requiring stand-by rates for any facilities until and unless the Commission issues a subsequent order establishing allowable costs to be recovered through stand-by charges. Require the utilities to amend their tariffs accordingly. OR;
7. Find that the Commission's September 28, 2004 Order established allowable costs to be recovered through stand-by charges and utilities may operate under this Order until such time that the Commission orders otherwise.

8. Prohibit Xcel from charging stand-by charges for any facilities under 1000 kW.  
(Walmart recommendation)

*Generic Proceeding on Stand-by Rates:*

9. Initiate a generic proceeding to address the methodology for determining stand-by rates, the appropriateness of existing stand-by rates, when stand-by rates should be applied, whether they should be structured differently depending on the type of customer, and the terms and conditions for applying such rates. OR;
10. Do not initiate a generic proceeding at this time. Direct the utilities to engage in discussions with the Department on the need for a generic proceeding and the potential scope for such a proceeding (using the criteria listed above in #9 as a guide). The parties shall contact the Commission once discussions have concluded.

*Meter Aggregation Language*

11. Approve Xcel's proposed tariff revisions at Section 10, Sheets 163-168 (Net Energy Billing Services) and Sheets 10-73 through 10-74 of its Distributed Generation Standard Interconnection Power Purchase Tariff as originally submitted by Xcel. Refer the Department's issue of filing clarifying language on utilities' obligation to comply with a customer request to aggregate meters or change the rank order of meters to the Commission's rulemaking docket, E999/R-13-729.
12. Do not take action on this issue in this docket and address contract language for all four electric utilities on a uniform basis in another docket to be opened by staff.
13. Do not require this language in tariffs at this time. Direct all four utilities to engage in discussions with the Department and Commission staff on the appropriate procedure to incorporate these statutory changes in tariffs.

*Distributed Generation Standard Interconnection and Power Purchase Tariff (Section 10, Sheet 73.2)*

14. Refer the issue of clarifying the phrase "a reasonable estimate of the average monthly maximum demand or average annual consumption" to the Commission's rulemaking docket; OR
15. Do not refer the issue to the rulemaking at this time. (*Staff note:* this option still allows any interested party to suggest this matter be addressed in the rulemaking.) Direct the utilities to engage in discussions with the Department on the appropriate procedure for clarifying this legislative language.

*REC Ownership*

16. Approve Xcel's proposed tariff language on REC ownership. OR
17. Refer the issue of REC ownership to the Commission's generic docket, E999/CI-13-720.

18. Refer the issue of REC ownership to the Commission's rulemaking docket, Docket E999/R-13-729.

#### *Production Meters*

19. Approve Xcel's proposed tariff language at Tariff Sheet Nos. 10-163 through 10-168, including the requirement for two production meters. OR;
20. Approve Xcel's proposed tariff language under the condition that Xcel remove the language requiring two meters.

#### *Third Party Ownership*

21. Clarify that third parties who are not customers may enter into Xcel's Net Metering Contract. OR;
22. Do not make any clarification at this time. Direct Xcel to serve the commenters in this docket with any future filing related to third party ownership.

#### *Value of Solar*

23. Direct Xcel to serve a copy of any Value of Solar tariff it files with the Commission on the Distributed Renewables Advocates.

#### **Staff Recommendations**

If the Commission is interested in approving only those provisions that all four utilities have submitted, then the Commission may wish to adopt Decision Options 1-4, 7, 10, 13, 17, 19, 22, and 23.

If the Commission is comfortable with approving tariff provisions for Xcel that do not appear in the other utilities' tariffs, then other Decision Options, such as 11 and 19 are reasonable.

Northern States Power Company, a Minnesota corporation  
Minneapolis, Minnesota 55401

**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

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**PURCHASE AND SALE BILLING SERVICE**  
**RATE CODE A51**

Section No. 9  
17th Revised Sheet No. 3

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**AVAILABILITY**

Available to any small qualifying facility (SQF) of less than 40 kW capacity who receives non-time of day retail electric service.

**RATE**

Metering Charge per Month

|              |        |
|--------------|--------|
| Single Phase | \$5.50 |
| Three Phase  | \$8.00 |

Payment Schedule for Energy Delivered to Company

|   | <u>Oct-May</u> | <u>Jun-Sep</u> |   |
|---|----------------|----------------|---|
| Energy Payment per kWh                  | \$0.02623      | \$0.02611      | R |
| Capacity Payment for Firm Power per kWh | \$0.00310      | \$0.01722      | R |

**DETERMINATION OF FIRM POWER**

The SQF will have supplied firm power if during the billing period an on peak capacity factor of at least 65% was achieved. The calculation of the on peak capacity factor will be as follows: the average on peak period metered capacity delivered to the Company for the on peak period of the billing period divided by the greatest 15 minute metered capacity delivered for the on peak period of the same billing period expressed in percent and rounded to the nearest whole percent. If the percent calculated is 65 or greater, capacity payment will be made. If the percent calculated is less than 65, capacity payment will not be made.

**TERMS AND CONDITIONS OF SERVICE**

1. Interconnection charges will be assessed by the Company on an individual basis for all costs associated with addition to or modification of Company facilities to accommodate the SQF. The net interconnection charge is the responsibility of the SQF.
2. The voltage and phase of customer's generator must be consistent with existing service and approved by the Company.
3. The customer must maintain a power factor of the generator as close to unity as is consistent with Company operating standards.

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Date Filed: 01-02-13 By: Judy M. Pofert Effective Date: 03-01-13  
President and CEO of Northern States Power Company, a Minnesota corporation  
Docket No. E999/PR-13-9 Order Date: Not Applicable