

**STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION**

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**In the Matter of the Petition of Northern States Power Company, dba Xcel Energy, for Approval of Its Proposed Community Solar Garden Program**

**MINNESOTA SOLAR ENERGY INDUSTRY ASSOCIATION'S REPLY COMMENTS ON XCEL ENERGY'S FEBRUARY 10, 2015 COMMENTS**

**Docket No. E-002/M-13-867**

**Date: 2/24/2015**

**COMMENTS OF THE MINNESOTA SOLAR ENERGY INDUSTRY ASSOCIATION**

**I. INTRODUCTION**

The Minnesota Solar Energy Industries Association (MnSEIA) respectfully submits these comments, regarding a response to the concerns Xcel Energy (Xcel) raised in their February 10th filing.

**II. BACKGROUND**

On September 17, 2014, the Minnesota Public Utilities Commission (the "Commission") ordered Xcel to include the following paragraph in their Community Solar Garden (CSG) contracts:

"Community Solar Garden Site" is the location of the single point of common coupling located at the production meter for the Community Solar Garden associated with the parcel or parcels of real property on which the PV System will be constructed and located, including any easements, rights of way, and other real-estate interests reasonably necessary to construct, operate, and maintain the garden. Multiple Community Solar Garden Sites may be situated in close proximity to one another in order to share in distribution infrastructure.<sup>1</sup>

Xcel could have protested the determination, but no timely objection was filed.

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<sup>1</sup> See ORDER APPROVING SOLAR-GARDEN PLAN WITH MODIFICATIONS, Public Utilities Commission, Docket No. E-002/M-13-867, Doc. ID. 20149-103144-01 at 20 (9/7/2014) [hereinafter, *September 17th Order*].

On February 10, 2015, Xcel filed comments that argued new information about the size of aggregated 1MW CSGs may necessitate reconsideration of the September 17th order.<sup>2</sup>

On February 13, 2015, the Commission asked for stakeholder commentary regarding Xcel's February 10th filing.<sup>3</sup>

### III. COMMENTS

#### A. Issues Raised By Xcel Energy In Its February 10, 2015 Letter Regarding Its Community Solar Garden Program, Including Operational Considerations, Legislative Intent And Rate Pressure.

We appreciate Xcel's efforts to provide information about CSGs in Minnesota. CSGs will be a strong segment of our state's solar market development. We also respect Xcel's concerns. We understand their desire to implement a successful program, because it is important to ensure gardens are built correctly. But we disagree with Xcel in the areas below.

##### i. Operational Considerations

Xcel has characterized these projects as "utility-scale" solar disguised as CSGs.<sup>4</sup> They stated that "[s]olar developers are planning projects well above the statutory designation of a 1 MW garden."<sup>5</sup> If this was the case, then Xcel could prevent a project from going forward pursuant to the statute. As such, no developer is doing what Xcel claims.

Instead, some developers may be planning to create multiple 1MW gardens that are close to each other. They are taking advantage of the cost savings alluded to in the September 17th order.<sup>6</sup> By building gardens in near proximity, developers will save ratepayers money while installing large amounts of clean energy.

Placing gardens on the same parcel requires fewer real estate transactions, but will result in an equal amount of CSG development. Currently, a developer could lease land from a single

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<sup>2</sup> See COMMENTS, Xcel Energy, Docket No. E-002/M-13-867, Doc. ID. 20152-107208-01 at 7 (2/10/2015) [hereinafter, *Xcel's Comments*].

<sup>3</sup> See NOTICE SEEKING COMMENTS, Public Utilities Commission, Docket No. E-002/M-13-867, Doc. ID. 20152-107343-01 at 1 (2/13/2015).

<sup>4</sup> See *Xcel's Comments*, *supra* note 2 at 1.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *September 17th Order*, *supra* note 1 at 14.

landowner and put all of their projects on that same plot.<sup>7</sup> But if there was a distance requirement between the sites, then each garden would have a unique acquisition cost.

## ii. Legislative Intent

Xcel has segmented its legislative intent argument into two subtopics, but it also addresses other legislative intent arguments under different headers throughout its comments. We will address all of the relevant arguments below.

The first legislative intent argument Xcel makes can be found under the header “Customers Excluded,” the second is under “Developers Have Other Options for Large Scale Development,” the final one that Xcel makes, and we will address, is under the Rate Pressure section.<sup>8</sup> Each will be discussed in turn.

### *a. Customers excluded*

In this section Xcel argues the Legislature intended to paint a picture of CSGs being a group of citizens, joining with their neighbors in an effort to develop a garden than otherwise would not be an option.<sup>9</sup> But this contention overlooks the obvious. Corporations are part of Minnesota’s community too. By having multiple customer classes in their plan, Xcel also acknowledges this point.<sup>10</sup>

Corporations are comprised of Minnesotans. So even if a single corporate entity owns a large portion of the subscriptions in a given garden, then their interest in the garden is also representative of their employees, shareholders and customers who are, at least in part, Minnesotans. Providing corporate accessibility to gardens allows some companies to develop more cost-effective subscription programs for its employees. Subscription matching plans, panel subsidization, and other models allow low-wage earning employees to participate in gardens through their employer. Some CSGs with corporate anchors will provide a more attractive basis for broader inclusivity beyond their customers or employees.

Simply because a corporation is taking up a large percentage of a garden, it does not mean that residential customers are being excluded. Instead, it is more likely that the residential customer is interested in using their employer as their vehicle for green energy subscription.

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<sup>7</sup> *Id.*

<sup>8</sup> *See Xcel’s Comments, supra* note 2 at 4-5.

<sup>9</sup> *See Id.* at 4.

<sup>10</sup> *See Xcel’s Rate Book, § 9, Sheet No. 64*  
[http://www.xcelenergy.com/staticfiles/xcel/Regulatory/Regulatory%20PDFs/rates/MN/Me\\_Section\\_9.pdf](http://www.xcelenergy.com/staticfiles/xcel/Regulatory/Regulatory%20PDFs/rates/MN/Me_Section_9.pdf).

Corporations are valuable members of Minnesota’s community in their own right, and they also represent the interests of multiple state citizens. If the current CSG plan is left intact, then Xcel’s interpretation of the Legislature’s intent will be fulfilled.

*b. Developers have other options for large scale solar*

The first sentence that Xcel uses in this subsection is the following:

We are *concerned with the possibility that some* developers are essentially skirting the PPA process, leveraging the cost attributes of utility-scale development, and securing benefits through a customer bill credit rate intended for small-scale development.<sup>11</sup>

This statement is very telling about how much more information is required before we start making alterations to the CSG program.

On November 24th 2014, we asked for an extension on filing our comments, because we did not have enough information to make large alterations to the CSG program.<sup>12</sup> We asked for that extension so that we would avoid making statements like the one Xcel provided here. The problem Xcel is highlighting, and is seeking action on, is that they are “concerned with the possibility that some” installers are misusing the program. They are unsure if that is the case, and if it is, then only a handful of solar companies are using the program in the manner Xcel views as “skirting the PPA process.”

It has been established that the Legislature clearly wants the program to work.<sup>13</sup> They want CSGs in our state. It seems contrary to the legislative intent, and public policy in general, to potentially freeze the 2015 construction season, because there *may* be a developer out there that is acting in a manner that the Legislature *may* not have considered and *may* not approve of.

*c. Legislative intent pertaining to rate pressure*

The final legislative intent argument Xcel made, and that we will address, pertains to the whether the state Legislature intended the expected impact on ratepayers when it passed the CSG statute. Xcel stated “[w]e raise the question whether this degree of pressure on customer bills was

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<sup>11</sup> See *Xcel’s Comments*, *supra* note 2 at 4 (emphasis added).

<sup>12</sup> See EXTENSION VARIANCE REQUEST EXTENSION OF TIME TO FILE COMMUNITY REPLY COMMENTS, Minnesota Solar Energy Industries Association, Docket no. E-002/M-13-867, Doc. ID. 201411-104904-01 at 1-2 (11/24/2014).

<sup>13</sup> See ORDER REJECTING XCELS SOLAR-GARDEN TARIFF FILING AND REQUIRING THE COMPANY TO FILE A REVISED SOLAR-GARDEN PLAN, Public Utilities Commission, Docket no. E-002/M-13-867, Doc. ID. 20144-98041-01 at 15-19 (04/07/2014) (reiterating “[a]t the same time, the plan must reasonably allow for the creation, financing, and accessibility of community solar gardens.”).

foreseen or intended by the Legislature when it passed the community solar gardens statute.”<sup>14</sup>  
To us, the answer is no and yes.

The “no” exists because Xcel is bolstering the numbers to make them scarier. We would be surprised if the 431 projects all go forward. Once projects start to come online, and system constraints prevent other projects from development, we would expect low application-to-project ratios. Right now, no one knows who will be stuck with the system upgrade costs, and everyone is applying with the hope it will not be them. Many more projects have been applied for than will be constructed.

We also are unsure how Xcel calculated the rate impact of the 431 gardens. We do not fully understand how the utility did its math on these issues, and we would like to see it. The numbers seem highly speculative and unfounded. We would hope that any alterations to the CSG program would necessitate the same degree of scientific rigor that it required to adopt the initial proposal.

But we will assume, for the sake of argument, that their numbers are true. Xcel guesses that customers will see their bills increase by as much as two percent.<sup>15</sup> We believe it is possible that the Legislature did not foresee Xcel’s estimated degree of a rate impact. But, because we would estimate that approximately half of the projects will be built, we also don’t think that rate payers will be impacted that heavily by this program.

We do, however, believe the Legislature foresaw some degree of rate impact. They foresaw a holistically positive ratepayer experience. As evidence, the Legislature has stated the following:

(d) The public utility must purchase from the community solar garden all energy generated by the solar garden. The purchase shall be at the rate calculated under section 216B.164, subdivision 10 [the Value of Solar Rate], or, until that rate for the public utility has been approved by the commission, the applicable retail rate. A solar garden is eligible for any incentive programs offered under either section 116C.7792 or section 216C.415. A subscriber's portion of the purchase shall be provided by a credit on the subscriber's bill.<sup>16</sup>

This section suggests that energy would be purchased at variable prices, including at the Value of Solar (VOS) rate.

The Legislature adopted the VOS, because it is a way for the utility, society and ratepayers to capture the true value of solar. In theory the utility would purchase energy at a higher rate, because the VOS would ensure that ratepayers see benefits, such as an improved environment

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<sup>14</sup> See *Xcel’s Comments*, *supra* note 2 at 5.

<sup>15</sup> *Id.*

<sup>16</sup> Minn. Stat. 216B.1641(d).

and more stable fuel prices, encapsulated in the cost. The Legislature sought a positive, holistic ratepayer impact, and they likely foresaw higher early CSG rates prior to the benefits accruing.

Furthermore, part of the fiscal ratepayer disparity stems from Xcel not using the VOS for its utility-scale programs like the Legislature had hoped they would. Currently the Commission is using the ARR plus a REC adder for CSGs, and that is similar to where we would expect the VOS plus a CSG adder to end up. Both rates better encapsulate ratepayer value than what Xcel now pays for utility-scale solar. But if Xcel was purchasing solar at a rate that incorporated ratepayer value for their utility-scale projects, then the disparity would not exist. We may be seeing a ratepayer impact that Xcel believes the Legislature didn't intend, but only because Xcel is not using the rate the Legislature had hoped it would adopt.

### **iii. Rate Pressure**

In the third section Xcel reiterates their qualms by expressing the impact on non-CSG subscribing customers. Xcel is concerned that the percentage bill increase that their customers might experience will subsidize corporate entities and is more expensive than other utility-scale developments.

#### *a. Subsidize corporate entities*

CSGs are ways for all members of Minnesota's diverse communities to get involved in safe, clean and cost effective energy. Gardens are not only ways to improve the environment, but also allow subscribers to hedge against rising energy costs. Xcel is arguing that because corporations are subscribing to CSGs, they are being subsidized through their bill credit.<sup>17</sup>

At some point in the 25 year CSG subscription period the subscriber will receive a payback and any generation from that point on is a return. Further, subscription helps curb fuel cost uncertainty. The issue Xcel is highlighting here is actually two of the well acknowledged subscriber benefits, and they are available to all classes. The benefits, however, aid residential customers the most, because they have a greater percentage impact on lower bills. Xcel should be arguing for more CSG development to increase the total number of residential and small business subscribers.

#### *b. Is more expensive than other utility-scale options*

CSGs are not utility-scale solar development. They are capped at 1MW installations. Xcel can purchase cheaper energy at a utility-scale project than they can from a solar garden. We analogize this situation with purchasing fruit from a co-op or a Costco. We all know that you can get apples cheaper at Costco than from a local co-op. Co-ops will have more expensive products, because their customers are buying more environmentally and community beneficial products. Very similar reasoning applies to the difference between purchasing energy from CSGs or utility-scale developments.

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<sup>17</sup> See Xcel's Comments, *supra* note 2 at 5-6.

CSGs bring a lot of additional benefits to Minnesota's ratepayers, and the utility, outside of cheap energy. They are ways for members of our state to be a part of the clean energy movement, they provide a market place for people whose rooftops won't hold a panel, they are ways for corporations to show society how green they can be, they have built in consumer protections, and they bring many other additional benefits.

As mentioned before, the VOS is an attempt to capture some of solar's value to the utility. The current ARR plus REC adder and the potentially future VOS plus CSG incentive are similar, because they better encapsulate CSGs' benefits to Minnesotans. Xcel can pay less for utility-scale than it can for CSG generated energy, because when Xcel buys energy from a CSG it is also purchasing the ratepayer benefits associated with garden development.

Xcel seems to be arguing that because gardens are close to each other, they have suddenly become the equivalent of utility-scale solar. But just like how if you put a lot of co-ops next to each other they haven't become a Costco, putting gardens next to each other doesn't make them into utility-scale solar. Each garden will bring its value to Minnesotans regardless of their location.

Further, Xcel should be embracing CSG development as a way to reduce utility-scale costs. As more gardens enter the state, the market should drive development prices downward. Ultimately, gardens may make utility-scale energy procurement an even better bargain than it is today.

#### **iv. Aligning with the Public Interest**

Xcel never makes an argument for the public interest under this heading. Instead, it contends that because applicants want to interconnect their gardens in the aggregate, as opposed to individual 1MW interconnects, then it follows that developers implicitly agree that they are making utility-scale solar.<sup>18</sup>

Xcel reasons that "[u]nder our current process, applicants must affirmatively request that the Company treat all of their garden sites as one for the purpose of reviewing their interconnection requests jointly. This suggests that the applicants, too, prefer to have their separate gardens treated as one."<sup>19</sup> But because developers want to cut costs, it does not follow that they believe they are installing utility-scale projects.

Further, having one interconnection for multiple gardens does not mean that the group of gardens become a single one, or that developers believe they are creating a unified garden. It is merely that one attribute of the gardens now looks similar to utility-scale solar. But all the other attributes of individual gardens would be retained.

For instance, if we accept that the interconnection of ten 1MW gardens creates a 10MW garden, then a subscriber should be able to buy all of the subscriptions of four of those gardens before

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<sup>18</sup> See *Xcel's Comments*, *supra* note 2 at 6-7.

<sup>19</sup> *Id.* at 7.

hitting the 40% rule. Because that still wouldn't be allowed - the subscriber would need to sign on to ten different gardens - it is unfair to treat interconnected gardens as a large individual CSG in one instance but to treat them as 10 individual gardens in another.

We contend that even if large, aggregate interconnections are occurring, the bulk of the gardens' attributes are still intact, and they should not be treated as utility-scale projects.

**B. Specific Proposals On How Best To Address The Issue Raised By Xcel Regarding Utility-Scale CSG Projects, Including Limiting Potential Harm To Developers.**

**i. The Public Utilities Commission Should Employ a “Wait and See” Approach and Provide Simple System Interconnection Information.**

*a. Wait and see approach*

We do not believe the ARR or the CSG program require any changes. The data must reflect the complexities and true character of the CSG market segment. But at this point, Xcel's concerns are entirely speculative. We've advocated, and in our March 2nd comments we will continue to advocate, for a longer process to ensure that the CSG adder will be properly calculated.<sup>20</sup> Xcel has raised some concerns, but that only furthers our position. The best option is to wait until more data is available, and then to make well informed decisions at that time.

If we make changes preemptively, it could prevent community solar from being built in our state. A lot of new solar gardens will be created here, which is clearly the primary intention of the law. It seems better to err on the side of solar development, than uncertainty that stalls Minnesota's nascent solar industry. The Commission should adopt a “wait and see” approach to regulating the CSG program.

*b. Provide simple system interconnection information*

Xcel claims that the system cannot support the expected solar growth.<sup>21</sup> The most feasible solution is to provide basic queue information. Overdeveloping solar on a handful of feeders is not advantageous for Xcel or solar developers.

Developers want to install solar in the places that are the most cost-effective. These locations are often “congested areas,” or problem spots along the grid. But overexpansion may occur in congested areas when multiple developers target the same feeder for their gardens. This creates competition and can result in one developer getting stuck with the upgrade bill.

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<sup>20</sup> See EXTENSION VARIANCE REQUEST EXTENSION OF TIME TO FILE COMMUNITY REPLY COMMENTS, Minnesota Solar Energy Industries Association, Docket No. E-002/M-13-867, Doc. ID. 201411-104904-01 at 1-2 (11/24/2014).

<sup>21</sup> See *Xcel's Comments*, *supra* note 2 at 4.



If all of the parties had access to simple queue order information, then the developers would not place their gardens in overly congested spots. This would alleviate Xcel's concerns, because it would result in a more stable system with a smoother integration of electricity generation. For instance, if developers could ask about whether their targeted area would require an upgrade, and they could receive a simple "yes" or "no" answer, then it would prevent over competition for the same feeder. The developers would move to a feeder location that does not require an upgrade.

In short, if Xcel would provide information on where CSG installation would be most beneficial for them, then solar developers will install gardens where it will stabilize the grid. But without that information, it creates sub-station guesswork rather than efficient CSG targets for our developers. Unfortunately, developers occasionally have the same guess as their competitors. If Xcel would provide that information, then a lot of the grid congestion and over competition for grid space would cease.

**ii. If the Commission Prefers Xcel's Approaches, then the Xcel Working Group Should Determine the Issues.**

Xcel put forward two potential resolutions to their concerns. They would prefer that either the Commission alter their September 17th Order, or the issue be determined by the Xcel working group.<sup>22</sup> While we are not convinced that Xcel's concerns are currently valid, if the Commission determines that they are, and it would prefer to use one of Xcel's suggested solutions, then we would rather have the working group determine the outcome.

The CSG working group is a collective of interested stakeholders. Having stakeholder involvement is the most democratic solution to the problem. It provides a forum for unique ideas and valuable insight that may not emerge through a single round of reply comments.

**C. Xcel's Interpretation Of The Company's Section 10 Interconnection Tariff, Which States That Interconnection Requests May Not Exceed 10 MW, Based On The Aggregate Of The Total Generation Nameplate Capacity; Those Interconnection Requests That Exceed 10 MW Will Be Referred To MISO.**

Our understanding of the application process is that our developers send in individual 1MW garden interconnection requests, and Xcel has control over how many projects receive approval. If there is a grid upgrade required, or if the interconnection will transfer a given area over to MISO, then Xcel has the purview to prevent that garden from coming online.

Our developers are listing 1MW projects near each other, because they would rather maximize the amount of energy they can add to a given feeder before Xcel determines it is superfluous. Then, at that point, the developer will decide if they want to move the remaining garden installations to another location.

By filing their gardens this way, they avoid having to make a large amount of real estate transactions. The primary reason that these gardens are close to each other is to reduce land

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<sup>22</sup> *Id.* at 6-7.

acquisition, maintenance and customer care costs.<sup>23</sup> But if the Commission requires the gardens to be further apart, then, assuming the gardens will be built, these increased costs may be passed onto the ratepayer. But there would still be a similar impact on the grid, because the same amount of solar would come online near the same feeder location.

Xcel's primary contention is that because the aggregation of CSGs projects looks and acts like utility-scale solar, it is utility-scale solar and should be deferred to MISO.<sup>24</sup> But in reality, if an aggregation of gardens were installed, they would not really look, or act, like utility-scale solar. Each 1MW project will have its own interconnection, its own separate meters, its own documentation, its own individualized subscriptions, etc. The only commonality between the two installation styles is the proximity of panels.

Xcel has also contended that developers are taking advantage of their offer to do aggregate studies on projects that are in close proximity. It argues that if these aggregations come online it would make the interconnections larger than one interconnect per 1MW installation. But Xcel's assertion fails, because it offered to provide this service at the behest of the Commission.

If any developer takes advantage of Xcel's willingness to study multiple 1MW interconnection requests jointly, then that should not be used as evidence of misfeasance. It is a bit disingenuous to offer joint studies and then to claim that developers are acting improperly by taking advantage of the offer. Furthermore, this is a self-regulatory process. As feeders become filled, developers will move onto other locations or face steep upgrade costs. As such, we don't believe any action should be taken on this issue at this time and we don't believe the MISO argument is currently a problem requiring a fix.

#### **D. Xcel's Obligation To Assist CSG Applicants Whose Projects Are Referred To MISO.**

Xcel has no duty to assist CSG applicants who are referred to MISO, because the utility has control over individual garden approval, and there should be no MISO referrals.

Sincerely,

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<sup>23</sup> See *September 17th Order*, *supra* note 1 at 14 (noting "[t]his clarification will allow solar gardens to be built more cost-effectively and is consistent with the statutory mandate that the program reasonably allow for the creation, financing, and accessibility of solar gardens.").

<sup>24</sup> See *Xcel's Comments*, *supra* note 2 at 6-7.