



414 Nicollet Mall
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September 8, 2017

—Via Electronic Filing—

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

RE: REPLY COMMENTS
DRAGONFLY SOLAR, LLC PPA
DOCKET NO. E002/M-17-561

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, submits this Reply to the Department of Commerce's August 31, 2017 Comments on our requested approval of a Power Purchase Agreement (PPA) with Dragonfly Solar, LLC.

We appreciate the Department's review and recommendation for approval of our request contingent upon some modifications to the PPA. We address the specific modifications below.

The Department first suggested we remove the \$35,000 limitation on replacement energy costs and other damages in section 7.4(c) of the PPA. We spoke with Dragonfly and agree to this modification and will remove the limitations provided by section 7.4(c).

Next, the Department recommended the following italicized changes to section 4.4 of the PPA.

4.4 Sale of Assets.

(a) Seller shall not lease, sell, agree to sell, convey or otherwise transfer or dispose of (in one or a series of related transactions) any of its interest or title in any material portion of its Facility assets, now owned or hereafter acquired, except as part of a financing arrangement with a Financier (such as a sale-leaseback or a lease) or a collateral assignment or other security instrument in favor of a Financier, or in the ordinary course of

business as parts need repair or replacement, without NSP's consent, which shall not be unreasonably withheld, *receipt of which will be contingent upon Seller's demonstration to NSP's satisfaction that the proposed changes will not adversely affect the ability of Seller or any successor entity to perform its obligations under this Agreement* [Department proposed addition in italics].

(b) Notwithstanding any provision in this agreement to the contrary, the members of Seller may sell or transfer any of their membership interest in Seller to any Person in accordance with the governing documents of Seller *with NSP's consent, which shall not be unreasonably withheld, receipt of which will be contingent upon Seller's demonstration to NSP's satisfaction that the proposed changes will not adversely affect the ability of Seller or any successor entity to perform its obligations under this Agreement,* unless the sale or transfer constitutes a Change of Control requiring a PFT Notice pursuant to Section 9.2. [Department proposed addition in italics]

Again, we spoke with Dragonfly regarding the Department's proposed modifications to section 4.4 and both parties agree to the changes suggested to section 4.4(a).

In addition, while the parties agree with intent of the Department's suggested edits to section 4.4(b), Dragonfly was concerned about the implications the broad language could have, specifically as it may apply to two situations. First, Dragonfly did not believe the Company should have approval authority with respect to changes of membership interest that do not actually constitute a Change of Control as this would have no impact on the project. For instance, if one existing member who currently held a 50% interest wanted to sell 10% of their interest to another current member, it would still be all the same members and there would be no impact to the project or customers.

Second, Dragonfly also expressed concern about their ability to obtain a tax equity investor and the fact that an investment is likely to be effectuated by a sale of membership interests, although not a Change in Control. The tax investor is passive and will not be operating the project or otherwise affecting the operations or customers. Again, Dragonfly did not believe the Company should have any approval rights in connection with a transaction such as this.

The Company does not disagree with the concerns expressed by Dragonfly but did request notice should either of the two contemplated scenarios occur. Accordingly, we propose the below language which we believe still captures the spirit of the

Department's proposed edits but also addresses Dragonfly's concerns without impacting customers:

4.4 (b) Notwithstanding any provision in this Agreement to the contrary, the members of Seller may sell or transfer any of their membership interests in Seller without NSP's consent if the transaction is (i) solely among existing members in accordance with the governing documents of Seller or (ii) to a tax equity investor which is not assuming any active control or management of the Facility, provided that Seller notifies NSP of the transfer within ten (10) days of closing. The members of Seller may transfer any of their membership interests in Seller to a third party, the effect of which does not otherwise constitute a Change of Control requiring a PFT Notice pursuant to Section 9.2, with the consent of NSP, which shall not be unreasonably withheld, receipt of which shall be contingent upon Seller's demonstration to NSP that the proposed changes will not adversely affect the ability of Seller to perform its obligations under this Agreement.

The Company appreciates the opportunity to provide these reply comments and respectfully requests that the Commission approve the Dragonfly PPA as modified by this reply, find that the PPA is a resource that can be used to satisfy the Solar Energy Standard and authorize cost recovery for the PPA through the fuel clause. Once we have received direction from the Commission as to the PPA modifications that should be made, we will make a compliance filing in this docket reflecting the required modifications.

Pursuant to Minn. Stat. §216.17, subd. 3, we have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on all parties on the attached service list.

Please contact me at bria.e.shea@xcelenergy.com or (612) 330-6064 if you have any questions regarding this filing.

Sincerely,

/s/

BRIA E. SHEA
DIRECTOR, REGULATORY AND STRATEGIC ANALYSIS

Enclosure
c: Service List

CERTIFICATE OF SERVICE

I, Jim Erickson, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States mail at Minneapolis, Minnesota

xx electronic filing

Docket No. E002/M-17-0561

XCEL ENERGY'S MISCELLANEOUS ELECTRIC SERVICE LIST

Dated this 8th day of September 2017

/s/

Jim Erickson

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