

The Commission met on **Thursday, February 20, 2014**, with Chair Heydinger and Commissioners Boyd, Lange, and Lipschultz present.

The following matters were taken up by the Commission:

### **TELECOMMUNICATIONS AGENDA**

**P-6441, 5971, 6258, 5732, 6478, 6237, 5096/PA-13-1167**

**In the Matter of the Joint Application of Qwest Communications Company, LLC dba CenturyLink QCC and Its Affiliates for Approval of an Internal Corporate Restructuring of Interexchange Carrier and Competitive Local Exchange Carrier Affiliates**

Commissioner Lange moved to approve the reorganization of the Joint Applicants into CenturyLink Communications, LLC and the name change of Qwest Communications Company, LLC d/b/a CenturyLink QCC to CenturyLink Communications, LLC with the following conditions:

1. A tariff reflecting the name change must be submitted within six months from the closing of the reorganization.
2. CenturyLink Communications, LLC must be registered with the Minnesota Secretary of State.
3. CenturyLink Communications, LLC shall honor the tariffs of the merging companies until conforming tariffs are filed within six months of the closing of the reorganization.
4. With Commission approval prior to the closing of the transaction, no slamming occurs and the CenturyLink Communications, LLC is in compliance with the provisions in Minn. Stat. §§ 237.661 and .662.
5. Customer notification concerns are satisfied by a notice in customer bills, as proposed by CenturyLink Communications, LLC.
6. The Joint Applicants shall file a closing statement within 20 days of the closing of the transaction.
7. CenturyLink Communications, LLC shall file its registration with the Minnesota Secretary of State within 30 days of the order in this matter.

The motion passed 4-0.

**P-5615/C-11-213**

**In the Matter of the Complaint of Charter FiberlinkCC VIII, LLC Against Capitol Infrastructure, LLC d/b/a Connexion Technologies; Broadstar, LLC d/b/a Primecast; Mobile Estates, LLC; and Riverstone Communities**

Commissioner Boyd moved to terminate the proceedings and close the docket.

The motion passed 4-0.

## ENERGY AGENDA

### **E-111/M-14-34**

#### **In the Matter of the Filing by Dakota Electric Association Regarding the Monthly Rate for the Optional Renewable Energy Rider**

Commissioner Boyd moved to approve the Dakota Electric Association's petition as filed.

The motion passed 4-0.

### **E-002/M-13-1002**

#### **In the Matter of the Petition for Approval of the Third Amendment to a Power Purchase Agreement with Big Blue Wind Farm**

Commissioner Boyd moved to take the following actions:

1. Approve the amended power purchase agreement; and
2. Allow Xcel to recover the cost of the amended power purchase agreement, net of all revenues from any penalties that may be incurred by Big Blue, via the fuel clause rider pursuant to Minn. Stat. § 216B.1645.

The motion passed 4-0.

### **E-002/M-13-867**

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

The Commission took preliminary votes on the following motions:

Commissioner Lipschultz moved to require Xcel, within 30 days of the Commission order approving a value-of-solar methodology, to either

1. File a value-of-solar tariff with the Commission for the purposes of the solar-garden program subject to Commission review and approval; or
2. Make a filing with the Commission that includes a calculation of the value-of-solar rate, and shows cause why the rate should not be implemented.

The motion passed 4-0.

Commissioner Lipschultz moved to take the following actions with respect to solar-garden subscriber bill credits:

1. In the absence of an approved value-of-solar rate, require Xcel to credit each subscriber's portion of the solar garden production at the applicable retail rate, which shall be the full retail rate, including the energy charge, demand charge, customer charge and applicable riders, for the customer class applicable to the subscriber receiving the credit.
2. Allow the solar-garden operator or developer to transfer the solar RECs to Xcel at a compensation rate of \$0.02 per kWh for solar-garden facilities with capacity greater than 250 kW and \$0.03 for solar-garden facilities with capacity of 250 kW or less.
3. Require that the rate and solar REC value be reviewed annually and adjusted if necessary and expire upon Commission approval of a value-of-solar rate for solar-garden projects.

The motion passed 4-0.

Commissioner Lipschultz moved to take the following actions with respect to sizing solar-garden subscriptions:

1. Approve Xcel's proposal for sizing subscription data based on the subscribers average annual consumption of electricity over the prior 24 months to which the subscription is attributed (based on the annual estimated generation of the PV system as determined by PVWATTS).
2. Require Xcel to use the subscriber's annual use based on a monthly annual average in the first year of the subscription to determine whether there is any positive bill credit remaining at the end of the 12-month period ending in February.

The motion passed 4-0.

Chair Heydinger moved to take the following actions with respect to the bill-credit process and unsubscribed energy:

1. Require that all bill credits be carried forward for at least a 12-month cycle.
2. Require Xcel to purchase all bill credits at the same rate set for unsubscribed energy on the last day of February and restart the credit cycle on the following period beginning on March 1 with a zero balance.
3. Require Xcel to purchase unsubscribed energy from the solar-garden operator at 1) Xcel's avoided cost rate for solar gardens larger than 40 kW capacity, or 2) at Xcel's average retail energy rate for gardens smaller than 40 kW.

The motion passed 4-0.

Commissioner Lipschultz moved to reject Xcel's tariff filing and require Xcel to, within 30 days of the order in this case, re-file its tariff with all the necessary rates, terms, and conditions as ordered by the Commission and a standard contract template for approval by the Commission.

The motion passed 4-0.

Chair Heydinger moved to adopt Xcel's tariff filing as proposed in its reply comments with the following amendments:

1. Require Xcel to amend the Recitals section of the proposed contract by deleting the definition of the operator of a solar garden as the "Customer" and replacing all subsequent references to Customer in the proposed contract with "Community Solar Garden Operator."
2. Require Xcel to amend Section 1(E) of the proposed contract by adding ", unless such inaccuracies are caused by the Company" at the end of the sentence.
3. Require Xcel to amend Section 6(G) of the proposed contract as follows:

~~The Company reserves the right, upon thirty (30) days written notice, to audit the Community Solar Garden Operator's Subscriber and Subscription records and to inspect the PV System as necessary to assure the safety and reliability of the system at any time during the Term of this Contract, and for an additional period of one year thereafter.~~

4. Require Xcel to amend Section 6(L) of the proposed contract as follows:

~~The Community Solar Garden Operator shall maintain the PV System and the individual components of the PV System in good working order at all times during the term of this Contract. If during the term of agreement the PV System or any of the individual components of the system should be damaged or destroyed, or taken out of service for maintenance, the Community Solar Garden Operator shall provide the Company written notice within 30 calendar days of the event and promptly repair or replace the damaged or destroyed equipment to its original specifications, tilt and orientation at the Community Solar Garden Operator's sole expense. If the time period for repair or replacement is reasonably anticipated to exceed one hundred and eighty (180) days, the Company shall have the right, ~~exercisable at its sole option,~~ to request to terminate this Contract upon not less than thirty (30) days by written notice, ~~with no further obligation of the Parties to perform here under following the effective date of such termination. In all other situations, if the PV System is out of operation for more than ninety (90) consecutive days during the Term of this Contract, the Company shall have the right to terminate this Contract by providing written notice to Community Solar Garden Operator anytime during the period following the expiration of such ninety (90) days and before the PV System has been made fully operational again.~~~~

5. Require Xcel to amend Section 6(S) of the proposed contract as follows:

Prior to the time when any person or entity becomes a Subscriber, the Community Solar Garden Operator will fairly disclose the future costs and benefits of the Subscription, and provide to the potential Subscriber a copy of this Contract. The Community Solar Garden Operator will also provide each potential Subscriber a warranty of production over the life of the Subscription, a description of compensation to be paid for any under-performance, proof of insurance, and proof of a long-term maintenance plan. The Company recognizes that not all production risk factors, such as grid-failure events or atypically cloudy weather, are within the Community Solar Garden Operator's control.

6. Require Xcel to amend Section 7(C) as follows:

Subscriptions may be transferred or sold to any person or entity who qualifies to be a Subscriber under this Contract or to the Community Solar Garden Operator for resale by the Operator to other Subscribers. A Subscriber may change the premise or account number that the Community Solar Garden energy is attributed to, as long as the Subscriber continues to qualify under these rules. Any transfer of Subscriptions needs to be coordinated through the Community Solar Garden Operator, who in turn needs to provide the required updated information in the CSG Application System within 30 days of the transfer.

7. Require Xcel to refile as part of its plan provisions to address breach and termination of the contract, including provisions for giving notice and to address an emergency.
8. Require Xcel to amend Section 12 of the proposed contract to delete the phrase “the MPUC does not have any role under this Contract to resolve any dispute between any Subscriber and the Community Solar Garden Operator.”
9. Allow solar-garden developers and Xcel to negotiate contracts individually that vary from the standard contract and require that each such contract be filed with the Commission to determine whether the terms that vary from the standard contract are consistent with the public interest. The contract will go into effect 30 days after filing unless an objection is filed with the Commission within that 30-day period.

The motion passed 4-0.

Chair Heydinger moved to adopt a 25-year term for the contract between Xcel and the solar-garden operator.

The motion passed 4-0.

Commissioner Boyd moved to take the following actions with respect to the garden-operator application process:

1. Adopt the Department's proposal to allow applicants to submit applications as they are ready and to process those applications on a first-ready, first-served basis;
2. Require Xcel to make information on the total number of applications and their size available on its website; and
3. Require applications to be deemed "ready" if (i) they meet the definition of completeness in Xcel's solar-garden tariff; (ii) the project has obtained or arranged appropriate insurance or has entered into an insurance broker agreement; (iii) there is evidence of site control and point of interconnection (iv) there is evidence of projected subscription at the time of construction; (v) the project proposal complies with all applicable material terms of the tariff and standard contract; and (vi) any additional considerations that may be developed by the workgroup and incorporated by Xcel in its plan.

The motion passed 4-0.

Commissioner Lipschultz moved to deny Xcel's proposals to limit application processing to 2.5 MW per quarter and to close the application process upon receipt of 2.5 MW of applications.

The motion passed 4-0.

Commissioner Lipschultz moved to require Xcel to determine whether an application is complete within 30 days of submission and to approve or reject a solar-garden application within 60 days of finding it complete unless the solar-garden operator has agreed to an extension.

The motion passed 4-0.

Chair Heydinger moved to take the following actions with respect to solar-garden capacity and interconnection:

1. Require Xcel to define solar-garden capacity as no more than 1 MW alternating current (AC).
2. Take no action on parties' requests to require Xcel to provide more information on solar-garden interconnection procedures.
3. Take no action on parties' requests to require Xcel to provide solar-garden developers with distribution-system information.
4. Take no action on parties' requests to provide more information about interconnection costs.
5. Require Xcel to complete engineering studies and interconnection cost estimates for solar-garden applicants within the timeframes set forth in the Commission's September 28, 2004 order in Docket No. E999/CI-01-1023. Failure to meet these timeframes will extend the deadline for achieving commercial operation on a day-for-day basis for the purpose of determining deposit refund.

Generation System Size	Engineering Study Completion
<20 kW	20 working days
20 kW – 250 kW	30 working days
250 kW – 1 MW	40 working days

6. Require Xcel to revise the language in its tariff to expand the definition of a solar-garden site to be based on a point of interconnection and not just a parcel of land.
7. Require Xcel to report back to the Commission by September 1, 2015, on the certification of smart inverters and other relevant barriers to the broader installation and use of smart inverters for solar gardens.

The motion passed 4-0.

Chair Heydinger moved to take the following actions regarding solar-garden operator deposits and fees:

1. Adopt Xcel’s proposal to set the application at \$1,200.
2. Adopt Xcel’s proposal to set an annual participation fee of \$300.
3. Adopt Xcel’s proposal to set the monthly metering fee at \$5.50 for single phase and \$8.00 for three phase.
4. Approve Xcel’s proposal for a one-time refundable \$100/kW deposit and its proposal to issue interest on the customer’s deposit amount in accordance with Minn. Stat § 325E.02 and its agreement in reply comments to remove the requirement for a one-time refundable \$100/kW escrow.
5. Require that the deposit be refunded within 30 days of completion of the solar garden or within 30 days of when the solar-garden operator informs Xcel that it will no longer pursue completion of the solar-garden project.
6. Take no action on allowing Xcel to develop a preapplication fee to recover the costs of providing distribution-system information.

The motion passed 4-0.

Chair Heydinger moved that any tariff or contract approved by the Commission include the following:

1. A requirement that the solar-garden operator has provided a section on tax implications stating that Xcel makes no representations concerning the taxable consequences to the subscriber of bill credits or other tax issues related to participating in the solar garden as proposed by Xcel.
2. A requirement that the solar-garden operator demonstrate that it has funds dedicated for its operation and maintenance expenses.

3. A requirement that the solar-garden operator obtains opinion letters from attorneys and tax professional providing assurance that the operator is not misleading a subscriber on any legal or tax benefits to the participation.
4. A section on fair disclosure that requires the solar-garden operator to provide the subscriber with the following information:
  - a. Future costs and benefits of the subscription, which shall include the following information:
    - i. All nonrecurring (i.e. one-time) charges;
    - ii. All recurring charges;
    - iii. Terms and conditions of service;
    - iv. Whether any charges may increase during the course of service, and if so, how much advance notice is provided to the subscriber;
    - v. Whether the Subscriber may be required to sign a term contract;
    - vi. Terms and conditions for early termination;
    - vii. Any penalties that the solar garden may charge to a subscriber;
    - viii. The process for unsubscribing and any associated costs;
    - ix. An explanation of the customer data the solar-garden operator will share with Xcel and that Xcel will share with the solar-garden operator;
    - x. Xcel's data privacy policy and that of the solar garden;
    - xi. Notice to subscribers when the solar garden is out of service, including the estimated length and loss of production;
    - xii. Assurance that all installations, upgrades, and repairs will be under the direct supervision of a NABCEP-certified solar professional and that maintenance will be performed according to industry standards, including the recommendations of the manufacturers of solar panels and other operational components;
    - xiii. Allocation of unsubscribed production; and
    - xiv. A statement that the solar-garden operator is solely responsible for resolving any disputes with Xcel or the subscriber about the accuracy of the solar-garden production and Xcel is solely responsible for resolving any disputes with the subscriber about the applicable rate used to determine the amount of the bill credit;
  - b. A copy of the contract between the solar-garden operator and Xcel;



- c. A copy of the solar panel warranty;
  - d. Proof of insurance;
  - e. Proof of a long-term maintenance plan; and
  - f. A description of the methodology employed by the solar garden in developing its production projections and its projections.
5. A requirement that Xcel include a bill message to solar-garden subscribers clarifying that questions or concerns related to their solar garden should be directed to the solar-garden operator, including a statement that the solar-garden operator is solely responsible for resolving any disputes with Xcel or the subscriber about the accuracy of the solar-garden production and Xcel is solely responsible for resolving any disputes with the Subscriber about the applicable rate used to determine the amount of the bill credit. The Commission delegates the authority to the Executive Secretary to approve the specific language on the notice.

The motion passed 5-0.

Chair Heydinger moved to take the following actions regarding subscriber data privacy:

1. Approve Attachment A to Xcel's contract, Sections 4(a)-(f), with the following modifications:
  - a. Xcel shall clarify in its tariffs and/or contracts that the solar-garden operator shall not disclose subscriber information in annual reports or other public documents absent explicit, informed consent from the subscriber as recommended by OAG;
  - b. Xcel shall clarify in its tariffs and/or contracts that the solar-garden operator shall not release any customer data to third parties except to fulfill regulated purposes of the solar garden program, to comply with a legal or regulatory requirement, or upon explicit, informed consent from a subscriber as recommended by OAG;
  - c. Xcel shall clearly define "Subscriber's Account Information" and "Subscriber Energy Usage Data" in its tariffs and/or contracts, and shall limit the types of customer information it may disclose as recommended by OAG;
  - d. Xcel shall clearly define "Aggregated Information" in its tariffs and/or contracts, and clearly explain to customers the risks with disclosure of aggregated information as recommended by OAG; and
  - e. Xcel shall remain liable for its inappropriate release of subscribers' sensitive data.
2. Require that these protections remain in place until and unless other requirements are adopted by the Commission in its generic privacy proceeding, Docket No. E,G-999/CI-12-1344. Xcel shall file these revisions to its tariffs and/or contracts within 30 days of the Commission's order in this matter.

The motion passed 4-0.

Chair Heydinger moved to accept Xcel's agreement to submit a filing for Commission approval of any proposal to offer Xcel-owned solar gardens. The filing should include detailed explanation of all process and procedures to ensure that solar garden operators are treated on a nondiscriminatory basis with Xcel-owned solar gardens.

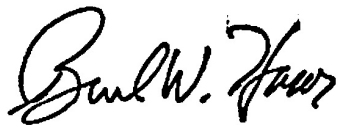
The motion passed 4-0.

Chair Heydinger moved to take no action regarding Xcel-sponsored financing for solar gardens.

The motion passed 4-0.

There being no further business, the meeting was adjourned.

**APPROVED BY THE COMMISSION: April 23, 2014**

A handwritten signature in black ink that reads "Burl W. Haar". The signature is written in a cursive, flowing style.

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**Burl W. Haar, Executive Secretary**