

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Hwikwon Ham	Commissioner
Valerie Means	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of Its Proposed Community Solar Garden Program

ISSUE DATE: August 16, 2024

DOCKET NO. E-002/M-13-867

ORDER DENYING REQUESTS FOR RECONSIDERATION OF MAY 30, 2024 ORDER

**PROCEDURAL HISTORY**

On May 30, 2024, the Commission issued its Order Approving Community Solar Garden Program Rate-Transition Proposal with Modifications (May 30 Order).

By June 20, 2024, Minneapolis, John Howard, Joint Solar Associations,<sup>1</sup> Standard Solar, Inc., United States Solar Corporation, Winona, and La Crescent filed petitions requesting reconsideration of the May 30 Order.

By July 1, 2024, the Office of the Minnesota Attorney General—Residential Utilities Division, Fresh Energy, and Northern States Power Company d/b/a Xcel Energy filed answers to the reconsideration petitions.

On August 1, 2024, the Commission met to consider this matter.

**FINDINGS AND CONCLUSIONS**

The Commission has reviewed the entire record and the arguments of the parties. Based upon this review, the Commission finds that the petitions do not raise new issues, do not point to new and relevant evidence, and do not expose errors in the Commission’s decisions.

The Commission will, however, clarify that to the extent the May 30 Order may be a departure from the 2014 and 2016 orders, the Commission has authority under § 216B.25 and relevant case law to depart from its past decisions and finds that it was in the public interest to do so based on

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<sup>1</sup> The Joint Solar Associations are comprised of the Coalition for Community Solar Access; the Minnesota Solar Energy Industries Association; Cooperative Energy Futures; PureSky Community Solar Inc.; SunShare, LLC; BHE Renewables; and Cypress Creek Renewables, LLC.

how Xcel's CSG program has evolved and the nearly decade's worth of data related to the CSG program's operation. The May 30 order details the changed circumstances informing the Commission's consideration of Xcel's CSG program, particularly the significant and escalating costs of the ARR-gardens to non-subscribing ratepayers and the successful operation of CSGs under the VOS. As explained in the order, transitioning to the VOS is consistent with the Commission's fundamental and overarching duty to establish just and reasonable rates.

The petitions filed by Standard Solar and Joint Solar Associations requested that the Commission reconsider the effective date of the May 30 Order and instead, stay the order's effectiveness during any subsequent appeal to the Minnesota Court of Appeals. The Public Utilities Act and the Administrative Procedure Act give the Commission the discretion to stay orders pending action by appellate courts.<sup>2</sup> And under the Commission's statutes and rules, the Commission has broad discretion to grant or deny petitions for reconsideration or requests for a stay.<sup>3</sup> The Commission may, for example, grant a stay when it appears that a stay would provide the most equitable means of balancing the interests of the parties.

In balancing these interests, the Commission weighs factors such as the likelihood that denying the stay would cause irreparable harm, the likelihood that denying the stay would render the appeal meaningless, what effect granting a stay would have on the public interest, the gravity of any harm the stay would cause non-moving parties, the likelihood of reversal on appeal, and whether granting the stay would frustrate public policy.

The May 30 Order explains why the decisions are consistent with the Commission's regulatory responsibilities and in the public interest. After considering the requests for a stay, the Commission is unpersuaded that a delay of the transition required on April 1, 2025, would further the public interest or better balance the interests that the Commission fully considered in the May 30 Order. First, the May 30 Order has a delayed implementation date of April 2025, providing subscribers and developers time to address any reduced revenue or savings that result from the transition to the VOS rate. Second, most of the alleged harm cited by developers and subscribers is reduced monetary *savings*. In other words, subscribing gardens will save less in energy rates under the VOS rate than the ARR. The Commission finds this is not irreparable harm that would justify a stay. Third, granting a stay is not in the public interest, as the harm to non-subscribing ratepayers identified in the May 30 Order will continue so long as CSGs remain on the ARR-rate. Fourth, the moving parties have not cited any risk of the appeal becoming moot or the Court of Appeals losing jurisdiction in absence of a stay. Finally, the Commission's Order is well reasoned, supported by the law, and is likely to be upheld on appeal.

The Commission concludes that its decisions are consistent with the facts, the law, and the public interest, and will therefore deny the petitions for reconsideration, including requests to stay the May 30 Order.

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<sup>2</sup> Minn. Stat. §§ 216B.53, 14.65.

<sup>3</sup> See Minn. Stat. § 216B.53, Minn. R. 7829.3000.

## ORDER

1. The Commission denies the petitions requesting reconsideration of the May 30, 2024 order including the requests to stay the order's effective date.
2. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert  
Executive Secretary



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## **CERTIFICATE OF SERVICE**

I, Robin Benson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

### **ORDER DENYING REQUESTS FOR RECONSIDERATION OF MAY 30, 2024 ORDER**

Docket Numbers: **E-002/M-13-867**

Dated this **16th** day of **August, 2024**

/s/ Robin Benson

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