

March 28, 2019

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

RE: **Reply Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/C-19-203

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

In the Matter of the Verified Formal Complaint and Petition for Expedited Relief by SunShare LLC Against Northern States Power Company d/b/a Xcel Energy for Violations of its Section 9 and 10 Tariff and Related Solar*Rewards Community Program Rules and Commission Orders.

The Department recommends that the Minnesota Public Utilities Commission (Commission) **dismiss the complaint**. The Department is available to respond to any questions the Commission may have on this matter.

Sincerely,

/s/ SUSAN L. PEIRCE
Public Utility Rate Coordinator

SLP/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E002/C-19-203

I. BACKGROUND INFORMATION AND SUMMARY OF THE COMPLAINT

On March 20, 2019, SunShare LLC submitted a formal complaint against Northern States Power Company d/b/a Xcel Energy (Xcel) under Minn. Stat. §216.127. SunShare's complaint concerned three co-located 1-MW community solar gardens (CSGs) located in Lester Prairie, Minnesota (the Schiller Project). SunShare asserted that Xcel failed to conduct proper engineering studies, and unilaterally terminated the Schiller Project from the interconnection queue resulting in the inability of SunShare to pursue remedies through the independent engineering (IE) process.

Among the findings and actions SunShare seeks are the following:

1. Find that Xcel violated Sections 9 and 10 of its tariff book, CSG program rules and/or Commission Orders and wrongfully removed the Schiller Project from its interconnection queue;
2. Require Xcel to restore the Schiller Project to its prior position in the interconnection queue and to complete required interconnection upgrades before September 30, 2019;
3. Require Xcel to restudy the Schiller Project using the "simplified IEEE 1453 methodology and if interconnection costs are still prohibitively expensive, the current IEEE 1453 methodology recognized by the IE as the appropriate standard and to analyze whether the use of smart inverter functionalities can address certain concerns on the Schiller Project and if so, allow for the use of those functionalities;
4. Prohibit Xcel from charging its overhead, profit, bond costs, other markups, or labor to SunShare to complete the interconnection work, in recognition of the significant delays and damages caused to SunShare

II. DEPARTMENT ANALYSIS

The threshold question the Commission must address is whether Xcel wrongfully removed the Schiller Project from its interconnection queue. Only if the Commission finds that Xcel should not have removed the Project from its queue, do any of the other concerns raised by SunShare need to be addressed.

SunShare submitted its application for the Schiller Project in November 2015. Initially, SunShare was informed that Xcel had insufficient capacity at its Lester Prairie substation to permit the Schiller Project to go forward.

SunShare referred several other CSG Projects to the independent engineer (IE) for dispute resolution concerning the appropriate flicker threshold that Xcel should study, and the use of smart inverters to provide voltage control functionality. Xcel ultimately appealed the findings of the IE to the Commission. Following the Commission's determination on the appeal,¹ SunShare requested and received a restudy of its Schiller Project in mid-2016 using the Commission-determined flicker standard.

In January 2017, Xcel revised its interconnection cost estimate for the Schiller Project resulting in a significant increase in costs. SunShare states that it made several requests to Xcel to restudy the Schiller Project, and also sought clarification on the change of inputs that resulted in the significant increase in cost.

In its March 20, 2019 response to the complaint, Xcel stated that it issued an Interconnection Agreement to SunShare along with its January 2017 updated cost estimate. Under the Company's CSG tariff, parties have 30 days from receipt of the Interconnection Agreement to sign the Agreement and make necessary payments, "or the application will be removed from the Study Queue and the applicant will be required to start a new Community Solar Garden application if it later determines it wants to proceed."

Xcel contacted SunShare on March 23, 2017 notifying the developer that it needed to submit the signed interconnection agreement along with a payment for the interconnection costs by March 30, 2017 or the application would be cancelled (See Department Attachment A). A second email was sent on April 17, 2017 to Mortenson Construction, the identified construction contractor, and to Sunshare reiterating the need to provide a signed Interconnection Agreement and payment, with a deadline of April 21, 2017 to comply (See Department Attachment B). Xcel cancelled the projects on April 26, 2017.

The independent engineering dispute process was established with the intent of resolving technical disputes between a solar developer and Xcel that arise in the interconnection process. Xcel's Tariff provides:²

The applicant shall initiate such a request by submitting via email any such dispute to the Department. The Company must be copied on this email for this request to be effective. The submission of such a dispute to the independent engineer

¹ Xcel Tariff, Section 9, Sheet 68.7, 6 (c) (i)

² Xcel Tariff, Section 9, Sheet 68.11 – 68.12, 9 (b) and (e).

may take place before the applicant is Expedited Ready, after being Expedited Ready but before a signed Interconnection Agreement, or after the Interconnection Agreement is signed but only related to issues occurring prior to initial energization of the Generation System.

A dispute which is submitted after an application is Expedited Ready but before the Interconnection Agreement is signed may impact processing in the Study Queue for the applicant and for those behind the applicant in queue.

In April 2018, SunShare contacted the Department about filing an IE dispute resolution for both its Schiller Project and its Linden Project. The Linden Project was forwarded to an IE, and the IE report is currently under appeal to the Commission. The Department determined that the Schiller Project had been removed from the queue in April 2017 for failure to execute the Interconnection Agreement and make payment. The Department concluded that the independent engineer dispute resolution process was not available for the Schiller Project because it was no longer in the interconnection queue. (See Department Attachment C)

Had SunShare requested an IE dispute resolution for the engineering study concerns in the spring of 2017 prior to Xcel cancelling the application, the Schiller project would not have been cancelled. At this time, there are approximately 5 MWs of operational CSGs, and 4 MWs of CSG applications pending at the Lester Prairie substation according to Xcel's salesforce system. Any interconnection cost estimates provided two years ago for the Schiller Project are no longer valid. While the Department understands SunShare's frustration with Xcel's revision to the interconnection cost estimates for its Schiller Project, SunShare could have stopped the process from moving forward by initiating an IE dispute at the time SunShare received the higher cost estimate.

The Department concludes that SunShare's complaint lacks foundation and recommends that the Commission dismiss SunShare's complaint.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission dismiss SunShare's complaint.

/ja

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E002/C-19-203

Dated this 28th day of March 2019

/s/Sharon Ferguson

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Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_19-203_C-19-203
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