

Staff Briefing Papers

Meeting Date January 21, 2021

Agenda Item **6

Company Xcel Energy

Docket No. **E,G002/CI-02-2034 and E,G002/M-12-383**

In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of Amendments to its Natural Gas and Electric Service Quality Tariffs Originally Established in Docket No. E,G-02/CI-02-2034 and Investigation and Audit of Service Quality Reporting-Fraudwise Report.

Issues

1. Should the Commission find that 129 complaints submitted to the Commission's Consumer Affairs Office be counted in the customer complaints metric in Xcel Energy's Quality of Service Plan tariff?
2. Should the issue of complaints about Xcel's compliance with the MN DIP be filed and addressed in another docket?

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Relevant Documents

Date

Xcel Energy 2019 Annual Service Quality Report and Request for Commission Finding Regarding the Customer Complaint Performance

May 1, 2020¹

¹ EFiled on May 4, 2020.

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

 **Relevant Documents**

	Date
Notice of Comment Period	May 6, 2020
All Energy Solar Initial Comments	July 1, 2020
Minnesota Solar Energy Association Initial Comments and Attachment 1	July 1, 2020
Novel Energy Solutions Initial Comments	July 1, 2020
IREC et al. Initial Comments	July 1, 2020
Minnesota Department of Commerce – Division of Energy Resources Initial Comments	July 2, 2020
City of Minneapolis Initial Comments	July 2, 2020
Notice Including Additional Topic in Reply Comment Period	July 15, 2020
Citizens Utility Board Letter	August 7, 2020
Sundial Energy Solar Letter	August 7, 2020
City of Minneapolis and City of St. Paul Reply Comments	August 10, 2020
All Energy Solar Reply Comments	August 10, 2020
Xcel Energy Reply Comments	August 10, 2020
IREC et al. Reply Comments	August 10, 2020
Department of Commerce – Division of Energy Resources Reply Comments	August 10, 2020
Minnesota Solar Industries Association Reply Comments	August 10, 2020
All Energy Solar Reply Comments	August 10, 2020
Public Comment (Christina Clarke)	August 10, 2020 ²
Public Comment (Paul Kridermacher/MinnSolar Inc.)	September 25, 2020 ³
Public Comment (Joanne Chabot)	October 14, 2020 ⁴
Public Comment (Damon Sonnek)	November 18, 2020 ⁵
Public Comment (Howard White)	November 13, 2020 ⁶
Public Comment (Dale Lindquist)	December 1, 2020 ⁷

² EFiled by CAO on August 12, 2020.

³ EFiled by CAO on October 20, 2020.

⁴ EFiled by CAO on October 20, 2020.

⁵ EFiled by CAO on November 19, 2020.

⁶ EFiled by CAO on December 1, 2020.

⁷ EFiled by CAO on December 14, 2020.

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I. Statement of the Issues

1. Should the Commission find that 129 complaints submitted to the Commission's Consumer Affairs Office be counted in the customer complaints metric in Xcel Energy's Quality of Service Plan tariff?
2. Should the issue of complaints about Xcel's compliance with the MN DIP be filed and addressed in another docket?

II. Docket Overview

The primary issue before the Commission is whether 129 complaints submitted by two solar developers in 2019 on the interconnection process and timeframe issues should count toward the Customer Complaints metric in Xcel Energy's Quality of Service Plan ("QSP"). If these complaints are included, Xcel Energy exceeded the QSP Customer Complaint metric for 2019 and is subject to a \$1 million penalty.

Xcel Energy and the Department of Commerce agree that the complaints should not count toward the QSP tariff's Customer Complaint metric. Xcel Energy argues that the historical intent of the QSP tariff does not support inclusion of complaints about the interconnection process, especially when submitted by an installer, not the customer. The Department further suggests that financial harm to the customer, not the installer, is a consideration and concludes such harm has not been demonstrated sufficiently in the record. Going forward, Xcel Energy and the Department suggest interconnection complaints should be addressed in the statewide MN DIP docket with the Distributed Generation Workgroup⁸ or, alternatively, in Xcel Energy's MN DIP tariff docket.⁹

All other commenters in the record support the 129 complaints counting toward the QSP tariff's Customer Complaint metric. Commenters include MNSEIA; three solar installers (i.e. All Energy Solar, Novel Energy Solutions, and Sundial Solar Energy); the Cities of Minneapolis and Saint Paul; and IREC et al. (i.e. IREC, ELPC, Fresh Energy, and Vote Solar). Several commenters argue the complaints should count because solar installers are representatives of interconnection customers, and interconnection is a service provided by Xcel Energy. Several commenters challenge the inclusion of financial harm as a consideration for inclusion in the Customer Complaint metric; others highlight financial harms to the customers (e.g. lost production and tax credits). Many commenters argue Xcel Energy continues to unnecessarily delay the interconnection process and is not being held accountable for the timeframes established in the MN DIP. Six public comments and two letters from Citizens Utility Board and Sundial Solar also support this position.

In addition to this primary issue, commenters raise several additional issues for the Commission to consider. The Commission may choose whether to address these issues at this time and in this docket:

⁸ Docket No. E999/CI-16-521.

⁹ Docket No. E002/M-18-714.

- How to hold Xcel Energy accountable for using or exceeding the maximum allowable interconnection timeframes;
- Whether to report and address interconnection customer complaints in a separate docket other than the annual QSP report dockets;
- Whether to modify the threshold for the QSP tariff's Customer Complaints metric if interconnection complaints are included; and
- Whether to require Xcel Energy to make further improvements to their interconnection process.

III. Background

On December 17, 2019, Xcel Energy (Xcel) began to receive 129 individual interconnection application complaints through the Commission's Consumer Affairs Office (CAO) that were initiated by two solar installers. These complaints, if counted, would put Xcel above the customer complaint performance threshold for 2019.

On May 1, 2020, Xcel Energy filed the Company's 2019 Quality of Service Plan annual report with a request for the Commission to find that the 129 complaints from solar installers did not count toward the Customer Complaint metric in the QSP tariff (Xcel's request).

By July 2, 2020, the Department of Commerce – Division of Energy Resources (Department); City of Minneapolis; Minnesota Solar Energy Industry Association (MnSEIA); All Energy Solar (AES); Interstate Renewable Energy Council LLC, Environmental Law and Policy Center, Fresh Energy, and Vote Solar (jointly IREC et al.); and Novel Energy Solutions filed Initial Comments.

On August 7, 2020, Citizens Utility Board of Minnesota (CUB) and Sundial Solar Energy (Sundial) submitted letters in the docket.

On August 10, 2020, the Department, MnSEIA, AES, IREC et al., City of Minneapolis joined by City of St. Paul, and Xcel Energy filed Reply Comments.

Between September 25, 2020 and December 1, 2020, the Commission also received public comments from five Xcel Energy interconnection customers and one solar installer (MinnSolar) that were filed by staff in the docket after the comment period.

A. Relevant Dockets Overview

Xcel Energy's request was filed in two Commission dockets: 02-2034 and 12-383.

1. 02-2034 Investigation & Audit of Service Quality Reporting-Fraudwise Report

For historical background, in October 2002, the Commission Order requested the Department of Commerce open a separate docket (02-2034) to focus on whether Xcel Energy had accurately reported service outages on service quality reports.¹⁰ The Commission requested that the Department and the Office of the Attorney General (OAG) direct a third-party audit of Xcel's

¹⁰ Docket 02-1346, Order Issued October 22, 2002.

service quality reports by Eide Bailly's Fraudwise Division.¹¹ The March 10, 2004 Order allowed Xcel to submit new QSP tariffs and required a settlement wherein Xcel paid customers that had suffered outages. The new QSP standards, which strengthened standards and increased penalties, were accepted in the September 17, 2004 Order. Since then, Docket 02-2034 docket has become a repository for Xcel Energy's service quality reports filed annually on May 1st.

2. 12-383 In the Matter of the Petition of Xcel Energy for Approval of Amendments to its Natural Gas and Electric Service Quality Tariffs Originally Established in Docket 02-2034

On April 16, 2012, Xcel filed a petition for Commission approval of new amendments to their QSP tariff. The Commission's August 12, 2013 Order approved Xcel Energy's current QSP tariff, including Customer Complaint definitions and the performance threshold of ≤ 0.2059 complaints per 1,000 customers or 1.5 standard deviations from Xcel's seven-year average. The QSP tariff compels a \$1.0 million penalty for underperformance for each benchmark. Underperformance payment is disbursed with 50% applied to customer bills, and 50% added to the amount budgeted for maintenance and repair of the Company's distribution system. Underperformance payments incurred by Xcel Energy pursuant to this portion of the QSP Tariff are not be eligible for cost recovery in any future rate proceeding.¹² The QSP tariff allows the Company to request exclusion of Customer Complaints that the Company can demonstrate are the result of an event beyond the Company's control, which the Company took reasonable steps to address.¹³

B. MN DIP Connection (Dockets 16-521 & 18-714)

The Commission Investigation to update statewide interconnection standards (Docket 16-521) resulted in the Minnesota Distribution Energy Resource (DER) Interconnection Process and Agreement (MN DIP/DIA) and accompanying Technical Interconnection and Interoperability Requirements (TIIR). Rate-regulated utilities, including Xcel Energy, filed tariff language to implement the MN DIP/DIA. Xcel Energy's MN DIP tariff was approved in Docket 18-714.

On June 17, 2019, the statewide MN DIP went into effect, including a provision that allows an Interconnection Customer to designate an Application Agent (MN DIP 1.3.2). The Application Agent serves as the single point of contact to coordinate with the Company's DER Interconnection Coordinator on the customer's behalf. Designation of an Application Agent does not absolve the Interconnection Customer from the responsibilities outlined in the MN DIP. Further, MN DIP 5.3 outlines dispute resolution between Parties. Parties are defined in the MN DIP Glossary of Terms as the utility (Area EPS Operator) and the Interconnection Customer.

¹¹ 02-2034 Xcel Energy Service Quality Investigation Report, p. 1.

¹² ORDER APPROVING AMENDMENTS TO SERVICE-QUALITY TARIFF (August 12, 2013), Docket Nos. E,G002/M-12-383 and E,G002/CI-02-2034. See Xcel Energy Rate Book, Sec. 6; Sheet No. 7.5-7.6. Available online: https://www.xcelenergy.com/staticfiles/xe/PDF/Regulatory/Me_Section_6.pdf.

¹³ Northern States Power Company Minnesota Electric Rate Book, General Rules and Regulation, Section No. 6, 3rd Revised Sheet No. 7.7, 1.9 Service Quality (Continued), E. Under Performance Measures.

Solar installers or developers are often designated on the Interconnection Application as the customers' Application Agent.

The 129 complaints in question relate to Xcel Energy failing to meet timeframes established in the MN DIP for interconnection review and processing through permission to operate in 2019. MN DIP 5.2.2 addresses a utility's timeframes.¹⁴

The Commission directed the DGWG to review implementation and technical issues that arise with implementation of the MN DIP/DIA, TIIR, or emerging DER technology with updates to the statewide standards accomplished by petition to the Commission.¹⁵ The Commission hosts at least an annual review of the statewide MN DIP/DIA with the Distributed Generation Workgroup (DGWG). The inaugural review began in September 2020 and topics included some of the ongoing implementation issues raised by commenters in this docket, such as utility compliance with MN DIP interconnection timeframes. In the two full DGWG MN DIP Review meetings, the ongoing work identified for subgroups is: discussion related to interconnection timeframes, on hold status for applications in queue behind other interconnection applications, cluster study scope and methodology, and what type of detail is provided to the customer with study results. Other issues including emerging technology, interconnection application, and dispute resolution were also identified but have not been discussed as of the publishing of these briefing papers.

C. CAO DER Complaint Process & the Complaints in Question

The Consumer Affairs Office helps resolve disputes between customers and utility companies. In the last few years, CAO has been resolving more and more DER disputes; specifically, solar customer complaints. A complaint begins with the complainant submitting a complaint in writing. CAO will ask whether the customer has attempted to resolve the issue with the utility directly. If the customer has not been able to resolve the complaint themselves, CAO with the Economic Analysis Unit (Econ Unit) will examine all documents submitted, speak with the complainant, and request more materials, if necessary. Then CAO will contact the utility asking specific questions about the complaint. The utility has ten business days to make their initial response. Finally, CAO and the Econ Unit will engage with the utility and complainant until all questions are answered, and the complaint is resolved as completely as possible.

Xcel Energy has filed this request largely because of 128 complaints from All Energy Solar.¹⁶ The most common complaints were about:

¹⁴ MN DIP 5.2.2 The Area EPS Operator shall make Reasonable Efforts to meet all time frames provided in these procedures. If the Area EPS Operator cannot meet a deadline provided herein, it must notify the Interconnection Customer in writing within three (3) Business Days after the deadline to explain the reason for the failure to meet the deadline, and provide an estimated time by which it will complete the applicable interconnection procedure in the process.

¹⁵ ORDER ESTABLISHING UPDATED TECHNICAL INTERCONNECTION AND INTEROPERABILITY REQUIREMENTS (January 22, 2020), Docket No. E002/CI-16-521, Ordering Paragraph 13, p. 12.

¹⁶ Xcel also included one other complaint from an installer that was made on behalf of their client. After examining CAO's case file database, one more solar complaint was sent to Xcel Energy on behalf of an

- 120% rule block
Online platform had an automatic calculation for the 120% limit for DER capacity based on the customer's annual energy consumption that was blocking valid applications for moving forward without an Xcel Energy override.
- Engineering Review Past Due
Initial Review and/or Supplemental Review of an interconnection application was past due based on MN DIP timeframes outlined in MN DIP 3.2 and 3.4 respectively.
- Meter order delay/witness test
Online platform was not forwarding meter orders, and/or meter order and witness testing scheduling was taking longer than timeframe outlined in MN DIP 2.3 and/or 5.7.
- Past due/Project not moved to complete
Online platform was not advancing applications to the Completed stage despite the Company granting Permission to Operate after Witness Testing was completed. This resulted in an automated email to the Application Agent/Customer that a deadline was approaching and failure to act could result in the project being withdrawn or cancelled.

All the 128 All Energy Solar complaints¹⁷ were filed with CAO in late December.¹⁸ PUC and CAO staff held two sit-down, in-person meetings each with both AES and Xcel before Xcel filed their request. Xcel asked whether the solar customers gave CAO consent to file the complaints. So, at the next meeting with AES, staff brought this up and asked them to acquire consent from all their clients that had not yet done so. At this point, there were fewer outstanding issues. At staff's second meeting with Xcel, Xcel informed staff that they would be making this filing. Some complaints were resolved before staff could obtain consent from the end customer, so staff did not retroactively get consent for closed cases.

Xcel Energy interconnected 1,257 solar facilities in 2019. (At that time, Xcel had a cumulative total of 6,055 currently connected facilities.) Therefore, the complaints in this docket that were referred to CAO were the equivalent of about 10% of Xcel's 2019 interconnections.

IV. Parties' Comments

Eight parties commented in this docket.¹⁹ Below staff summarizes party comments by topic. Sections A-B address how to handle the 129 complaints Xcel Energy requests to be omitted

installer. The complainant identified themselves as an installer but did not identify their company name.

¹⁷ As of December 16, 2020, 33 additional complaints from All Energy Solar with customer consents were filed in 2020.

¹⁸ The number and timing of these complaints is significant for two reasons: first, to put in perspective, CAO is typically only handling one to three solar complaints at a time. At any given time, CAO is handling less than 100 complaints total. This effectively doubled the workload of the entire CAO unit. Second, the timing is significant because in late December, both the Commission and the organizations it would be working with on the complaints may have staff taking time off for the holidays. As described above, CAO staff worked with regulatory staff, Xcel, and the developer to determine how to manage these complaints.

¹⁹ Sundial Solar Energy filed comments that were also closely related to Docket 20-492. These comments

from the QSP “customer complaint” metric for 2019. Sections C-D address how to handle interconnection customer complaints going forward.

A. Should the Commission grant Xcel Energy’s request?

1. Department of Commerce

In its initial comments, the Department of Commerce recommends that the Commission accept Xcel’s QSP compliance filing and that the 129 customer complaints be excluded from the calculation.

The Department’s IR No. 8 asked whether the installer submitted the CAO complaint after the interconnection request had been resolved. Xcel said that 10 of the complaints were resolved before or the day the complaint was submitted; 40 were submitted before Xcel received the initial email; 51 were submitted the same day Xcel received the initial email. The Department says that “those results suggest that the Solar Installer might have been somewhat over-zealous in filing complaints regarding the MN DIP issues.”²⁰

In their reply comments, “[t]he Department continues to recommend that the Commission not allow the 129 complaints filed by the two solar developers in December 2019 to be included in the calculation of customer complaints under Xcel Energy’s Quality of Service tariff.”²¹

The Department summarizes the other parties’ opinions on the docket, noting that only themselves are not supportive of including the 129 complaints in the QSP tariff threshold.

2. Xcel Energy

Xcel Energy outlines:

- 1) That the Customer Complaints metric measures the number of customer complaints submitted to CAO;
- 2) That Customer Complaint can be defined as: any complaints submitted by CAO to the Company regarding a complaint submitted by “an Xcel Energy customer in which the customer states a grievance related to the Company’s provision of service to that customer”;²² and
- 3) That the Customer is defined as an electric or natural gas customer that receives a bill for utility service from the Company or a representative of that customer. A representative includes an individual designated as Power of Attorney, an attorney retained by the Customer, or an individual authorized by the Customer to act on his/her behalf.

will be included in that docket.

²⁰ Department of Commerce comments, July 2, 2020, p. 7.

²¹ Department of Commerce reply comments, August 10, 2020, p. 1.

²² Xcel Energy reply comments, August 10, 2020, p. 5.

Xcel Energy appreciates and agrees with the Department's comments that the 129 complaints be excluded and state that "[i]t is inconsistent with the language or intent of the QSP tariff to include complaints filed by third-party installers in their own name relating to interconnection applications submitted in the names of their customers."²³

Xcel notes that they have made multiple updates to their interconnection approval process to mitigate future complaints. Xcel rolled out a new online application portal on December 9, 2019 to accommodate the new MN DIP process. In their initial filing, Xcel divides up the 129 complaints into two categories. Most of the complaints were online portal issues. Xcel explains that a system enhancement had not been fully corrected when the portal went live and inaccurately released an automatic email to installers requesting action from installers to move an application forward in the portal. However, the projects already had installed meters and testing had been completed. The final Permission to Operate letters should have been sent, which Xcel did manually. Some complaints were due to the portal either installers filling out paperwork in the wrong order or applications being held up due to "incomplete steps." Both portal issues were corrected. The remaining complaints were about Xcel missing one of the required application deadlines and hadn't yet provided an extension notice.

In Xcel's reply comments, they state that they had resolved all complaints filed by All Energy Solar and made the following improvements: a) the online portal software will immediately submit a Permission to Operate (PTO) letter after interconnection; b) the meter order step has been removed to match how applicants were completing interconnection applications; c) interface problems listed as "incomplete steps" have been resolved; and d) the Company has been manually notifying installers when a deadline is missed and how many additional days until completion.

3. All Energy Solar

All Energy Solar is the solar contractor that filed 128 of the 129 complaints that triggered Xcel Energy's filing. They have completed "nearly 2000 solar installations sold and constructed within Xcel Energy's service territory."²⁴ They have completed Xcel's interconnection process many times, so filing complaints with CAO "is not something that [they] take lightly" and "the complaints that were submitted is just a small sample of the great amount of issues [they] have come across."²⁵ Tracking Xcel Energy's interconnection process has required them to assign two employees full-time to the task. All Energy says that "a 1-day delay would result in a 10-30-day net impact to the timeline of a customer's project."²⁶

All Energy Solar encourages the Commission to accept all 128 of the complaints:

"If these complaints were thrown out, this would essentially limit the complaint process to emails and or calls to an extremely understaffed Solar Rewards team, and ultimately leads

²³ Xcel Energy reply comments, August 10, 2020, p. 2.

²⁴ All Energy Solar comments, July 1, 2020, p. 1.

²⁵ All Energy Solar comments, July 1, 2020, p. 1.

²⁶ All Energy Solar comments, July 1, 2020, p. 2.

to unhappy and unsatisfied customers, overall frustration in the market, and undermine our efforts to facilitate this process seamlessly for both of our customers.”²⁷

AES argues that Xcel’s Rate Book contradicts the Company’s May 1, 2020 filing that the 128 complaints be omitted, quoting:

“Customer complaints will be recorded and reported with no exclusions. The Company [Xcel Energy] may request exclusion of Customer Complaints that the Company can demonstrate are the result of an event beyond the Company’s control, which the Company took reasonable steps to address.”²⁸

AES argues that Xcel took no steps to demonstrate the exclusion of the 128 complaints, because it was Xcel who failed to meet a deadline (22 of the 128 complaints), failed to order a utility meter in a timely manner (17 of 128), and failed to move projects to completed status within its record systems (53 of 128) and that all these situations demonstrate a failure of service on Xcel Energy’s part. All Energy Solar states that it is “common knowledge within the Distributed Energy Resources (“DER”) industry that Xcel Energy’s administration of the Solar*Rewards program is fraught with problems related to poor quality of service.”²⁹ They say that Xcel’s petition is an attempt to avoid the \$1 million fine, which is in place for a reason.

AES requests that the PUC deny Xcel’s petition. They state that the complaints should not be omitted, because “the complaints are a product of the systemic failures within Xcel Energy’s administration of the Solar*Rewards program and not an outside event.”³⁰

4. MnSEIA

Minnesota Solar Energy Industries Association (“MnSEIA”) says that All Energy Solar’s complaints “actually underrepresent the industry’s frustration with the Company’s **consistent violations of MN DIP**,³¹ rather than a single, outlier installer.”³² In fact, MnSEIA did an informal survey of their members and said that “thus far we have eleven developers that have reported over 100 MN DIP tariff violations.”³³ MnSEIA says that the complaints are valid:

“As a question of law, the Complaints made by the representatives of distributed generation customers are as legitimate as those made by any other customer.”³⁴

²⁷ All Energy Solar comments, July 1, 2020, p. 3.

²⁸ All Energy Solar reply comments, August 10, 2020, p. 9.

²⁹ All Energy Solar reply comments, August 10, 2020, p. 11.

³⁰ All Energy Solar reply comments, August 10, 2020, p. 12.

³¹ Bold, italicized, or underlined text used in Briefing Papers is from party comments and not Commission staff.

³² MnSEIA comments, July 1, 2020, p. 2.

³³ MnSEIA comments, July 1, 2020, p. 2.

³⁴ MnSEIA comments, July 1, 2020, p. 2.

MnSEIA says the Commission should find Xcel Energy in violation of the QSP tariff, in part because if “the Commission [is] to grant Xcel’s requests, it would leave little recourse for the solar installers and developers to hold the utility accountable to its contractual obligations.”³⁵

MnSEIA says that complaints to CAO offer one of the only places where utility customers can have their issues resolved. So “solar installers’ CAO complaints serve their intended purpose, but only if the Commission takes further action.”³⁶ MnSEIA also points out that Xcel Energy had admitted that some of the complaints are due to uncorrected system enhancement, portal issues, and/or engineering delays. Xcel Energy has since made corrections to their system, but MnSEIA says:

“The fact that these corrections to the system took place only after 129 complaints were submitted to the CAO suggests that the complaints spurred the Company to action in a way that its internal troubleshooting and quality control procedures could not or did not.”³⁷

MnSEIA argues that the complaints in question “*underrepresent* the scope of problems related to interconnection.” MnSEIA says that some of their members are afraid of retaliation from Xcel Energy and are hesitant to file a complaint with CAO, even though they could do so. MnSEIA shares in their comments anonymous quotes from solar installers that have had trouble with Xcel Energy.³⁸ MnSEIA believes that these complaints show a much vaster problem. Xcel Energy does not release a quarterly rooftop solar report, only one for CSG, but MnSEIA believes the CSG report could show problems other solar projects are experiencing. Xcel’s most recent CSG compliance report shows that only 12% of the Interconnection Agreements in the second quarter of 2020 were completed on time.³⁹ Per Xcel’s tariff, the wait time for an interconnection agreement can be up to 300 days.

Xcel created an interconnection queue management practice interpreting MN DIP 1.8.3 which introduced “On Hold” status. This is used until the project(s) at the front of the queue drops out or signs an agreement. MnSEIA argues “the Community Solar Gardens program is backlogged with projects and that smaller projects have been and are still backlogged because of the CSG backlog.”⁴⁰ MnSEIA points out that every commenter, Xcel included, agree that there was a

³⁵ MnSEIA comments, July 1, 2020, p. 2.

³⁶ MnSEIA comments, July 1, 2020, p. 6.

³⁷ MnSEIA comments, July 1, 2020, p. 8.

³⁸ MnSEIA comments, July 1, 2020, p. 10-14.

³⁹ MnSEIA Reply, August 10, 2020, p. 12 citing Xcel Energy, QUARTERLY COMPLIANCE FILING COMMUNITY SOLAR GARDENS DOCKET NO. E002/M-13-867, at 4-5 (July 22, 2020) (adding the number of studies “delivered on time” and dividing it by the total number of “studies due in Q2”). Staff Note: Using MNSEIA’s methodology, Xcel Energy’s most recent Solar*Rewards Community compliance report (October 23, 2020) shows in Q3 that 21.6% of studies were delivered on time (11 studies sent on time divided by 51 studies between July - September). Staff is unclear why MnSEIA refers to Interconnection Agreements rather than studies in their reply comments.

⁴⁰ MnSEIA reply comments, August 10, 2020, p. 13. Staff Note: Queue management is a topic under review by the DGWG. In Fall 2020, Xcel Energy revised “on hold” status to allow smaller projects to proceed ahead of front in queue projects if the Company determines capacity is available to

botched rollout of the Interconnection Standards. However, they state that problems have only persisted and gotten worse, instead of being remedied.

MnSEIA recommends that the Commission not grant Xcel Energy's request. MnSEIA extends their recommendations to ask the Commission to require Xcel Energy to update their software and invest in their staff, so Xcel can meet its MN DIP obligations. They also recommend an additional penalty of \$0.013/kWh to be dispersed to the impacted customers based on MNSEIA's estimate of impact.⁴¹

5. IREC et al.

IREC et al. request that the Commission find that the 129 customer complaints count in the Customer Complaints metric of Xcel's Quality of Service Plan. IREC et al. argue that "complaints about the interconnection process involve Xcel's provision of service to customer and are therefore 'customer complaints.'"⁴² They also point out that "including solar interconnection complaints in the QSP customer complaint metric is important to ensure utility accountability for the interconnection process and will benefit Xcel's customers."⁴³ IREC et al. ask that "the QSP's performance threshold for customer complaints should not be changed retroactively, as Xcel knew it applied and could have endeavored to avoid these complaints."⁴⁴

6. Novel Energy Solutions

Novel Energy Solutions says that Xcel Energy has missed almost every Interconnection Agreement (IA) deadline with their company and they have spent over a year trying to address the issues with no success. They ask the Commission to "**demand that Xcel follow tariff and return IAs to developers so that projects can be built...**"⁴⁵ They say they cannot plan or grow their business and that other solar companies have had the same experiences with Xcel. Novel Energy included examples of installations that had delays⁴⁶ and state that, as of July 1, 2020, they have eight overdue projects.⁴⁷

7. Cities of Minneapolis and St. Paul

The City of Minneapolis filed comments noting two dozen of the complaints in question came from Minneapolis residents. The City of Minneapolis does not believe that the Commission

accommodate both.

⁴¹ MnSEIA initial comments, July 1, 2020, p. 15 and Attachment 1.

⁴² IREC et al. comments, July 1, 2020, p. 11.

⁴³ IREC et al. comments, July 1, 2020, p. 15.

⁴⁴ IREC et al. comments, July 1, 2020, p. 21.

⁴⁵ Novel Energy Solutions comments, July 1, 2020, p. 1.

⁴⁶ Novel Energy Solutions comments, July 1, 2020, p. 2-3.

⁴⁷ Commission Staff have spoken with Novel Energy Solutions about filing CAO complaints. Thus far, they have not done so.

should grant Xcel's request based on: 1) the PUC's website statement that CAO resolves disputes; and 2) that the Regulatory Assistance Project defines service quality as a mechanism to measure quality based on (along with other things) time to respond and number of complaints received. Neither of these resources say that complaints cannot come from solar companies filing complaints.

Minneapolis also reviewed Xcel Energy's Solar*Rewards 2019 compliance filing. About Xcel's reporting, they point out that:

"[I]f an applicant withdrew, Xcel excludes dates for the Company's critical review milestones, such as "Date deemed complete", "Date initial review complete", "Date supplemental review complete", etc. Therefore, the otherwise thorough reporting for completed interconnection projects makes it difficult to evaluate whether the utility's review process was consistently timely and whether delays may have contributed to some customers' decisions to withdraw."⁴⁸

Cities of Minneapolis and St. Paul ("Cities") filed joint reply comments on August 10, 2020. Both Cities have clean energy goals and rely on Xcel Energy for assistance in meeting these goals. They appreciated that the Department said that the complaints should be reviewed but disagreed that interconnection customers should not be counted. The Cities request that the Commission evaluate all customer complaints as part the QSP performance metrics.

8. Citizens Utility Board

The Citizens Utility Board of Minnesota (CUB) filed a letter on August 7, 2020, saying that they do not find "Xcel's arguments persuasive" and are "concerned that treating these complaints differently from other customer complaints could set a precedent whereby utilities are held less accountable for ineffective customer services."⁴⁹

CUB refutes that the complaints do not represent solar installers' experiences as whole since 128 of the 129 complaints were from one installer. They point out that Novel Energy Solutions and Sundial Energy have filed letters in this docket supporting All Energy's claims.

To conclude, CUB is concerned that separating solar installers' complaints from the QSP tariff threshold could set a precedent for dividing out other complaints in the future.

B. How should the definition of 'customer complaint' in Xcel Energy's QSP tariff be interpreted?

1. Department of Commerce

The Department is defining 'customer complaint' in its common usage and not including solar vendors:

⁴⁸ City of Minneapolis comments, July 2, 2020, p. 3 Staff Note: Utility reporting on interconnection milestones is being addressed by the DGWG.

⁴⁹ CUB comments, August 7, 2020, p. 1.

“Vendors like the solar installers in this proceeding should not be automatically allowed to file a customer complaint for an autonomous retail customer under the ‘or an individual authorized by the Customer to act on his/her account’ unless it can be shown that the vendor is unambiguously lodging the complaint for the financial benefit of affected retail customers.”⁵⁰

The Department doesn’t support defining ‘Customer Complaint’ as solar installers filing complaints on their customers’ behalf. The Department says that the “complaints should not be categorized as customer complaints under the QSP tariff,” but instead “should be evaluated as part of the Commission’s review of the MN DIP process.”⁵¹ They say that a third-party vendor is not consistent with the QSP tariff’s definition of ‘customer.’

The Department takes the position that a customer complaint signifies that the customer has come to harm, specifically financial harm, at the behest of the utility. While the QSP tariff definition of customer complaint allows for a representative to file a complaint on the customer’s behalf, “there is not information in this proceeding to indicate that any of the customers were harmed.”⁵² Instead, the Department claims an ‘agency problem’ may be in play:

“If Xcel’s actions as part of the interconnection process for one or more of those 129 Solar Rewards customers could be shown to have negative financial repercussions for those same customers, and that the two solar installers were filing complaints to highlight those negative impacts one could argue that a sufficient basis for a complaint might exist.”⁵³

The Department’s interpretation of a customer complaint in the QSP tariff considers “whether the retail customer was harmed financially” and the Department notes:

“Our review of the other parties’ comments did not identify any specific instances of retail customers suffering financial harm. Until such harm is demonstrated, we maintain our position that the Solar Installers’ complaints should not be included in the QSP complaint calculation in this proceeding.”⁵⁴

2. Xcel Energy

Xcel Energy supports removing rooftop solar installer complaints from their QSP tariff definition of customer complaints, because the complaints were not brought to CAO by a “customer” as defined by the MN DIP:

“To briefly summarize the requirements of MN DIP for dispute resolution, only an “interconnection customer” can bring a MN DIP dispute to the CAO. Solar installers are not

⁵⁰ Department of Commerce comments, July 2, 2020, p. 7.

⁵¹ Department of Commerce comments, July 2, 2020, p. 3.

⁵² Department of Commerce comments, July 2, 2020, p. 3.

⁵³ Department of Commerce comments, July 2, 2020, p. 4.

⁵⁴ Department of Commerce reply comments, August 10, 2020, p. 8.

an “Interconnection Customer”, but instead, are classified as an “Applicant Agent” when installing the system for our retail customers. This term is defined in our MN DIP tariff at Sheet 10-205 as follows:

Applicant Agent – A person designated in writing by the Interconnection Customer to represent or provide information to the Area EPS on the Interconnection Customer’s behalf throughout the interconnection process.”⁵⁵

3. All Energy Solar

In All Energy Solar’s reply comments, they maintain that they can submit complaints on behalf of their customers:

“The PUC should deny Xcel Energy’s petition because ... AES did have the requisite authorizations through its contracts with its customers and as an authorized agent acting on behalf of its clients.”⁵⁶

Furthermore, AES discusses authorization options that they performed:

“Authorizations may be - but are not required to be - obtained directly, through individual affirmation by the customer (such as an explicit email asking the customer to expressly approve the action). Alternatively, authorizations can be indirectly obtained by placing the customer on notice (such as copying the customer on email communications between AES and PUC staff).”⁵⁷

All Energy met with PUC staff in January 2020, who maintained that AES did not have to go back to customers to obtain approval for the 2019 cases, but instead recommended that customers be copied on all communication regarding their complaint. All Energy did develop an internal process to collect customer authorizations for future complaints.

All Energy’s contract define a “Scope of Work” that allows them to complete solar photovoltaic (PV) systems and include the language: “All Energy Solar Inc. and Sub-contractors shall have the right to determine method, details, and means of performing the work.”⁵⁸ AES argues that the Scope of Work contract covers acting as a representative in consumer complaints and that the best course of action is to submit complaints with CAO after having issues with the interconnection portal and Solar*Rewards.

All Energy Solar submitted complaints to assist their customers with obtaining an operational system. By signing a contract with AES, its customers consented to filing complaints through writing. AES says they were acting on behalf of their customers, not on their own behalf, because the customer pays them up front specifically for installing their system:

⁵⁵ Xcel Energy reply comments, August 10, 2020, p. 6.

⁵⁶ All Energy Solar reply comments, August 10, 2020, p. 3.

⁵⁷ All Energy Solar reply comments, August 10, 2020, p. 3.

⁵⁸ All Energy Solar reply comments, August 10, 2020, p. 5.

“As part of their relationship with AES, Customers expect AES to coordinate all the elements of an installation project for them. This includes interacting and coordinating with the customers’ utility provider and any other party necessary for AES to timely complete a project.”⁵⁹

4. MnSEIA

MnSEIA argues that the complaints in question meets the definition of customer complaints in the tariff on basis of being a customer’s representative:

“The QSP tariff defines ‘customer’ for the purpose of measuring customer complaints as an ‘electric or natural gas customer that receives a bill for utility service **or the customers’ representative.**’ A representative is defined as ‘an individual designed with Power of Attorney for the customer, an attorney retained to represent a customer or an individual authorized by the Customer to act on their account.’ A ‘customer complaint’ is one where ‘the customer states a grievance related to the Company’s provision of service to that customer.’”⁶⁰

The MN DIP also allows an Application Agent (or solar contractor) to act on behalf of the Interconnection Customer to handle the application process. MnSEIA suggests those contractors are best able to work on the interconnection process, because they can handle the complexities of the MN DIP and are best able to recognize and report issues. Contractors have the necessary qualifications to manage the process:

“The owners of these systems do not have detailed knowledge of the process, but they have in fact contracted for that knowledge by hiring a solar installer.”⁶¹

5. IREC et al.

IREC et al. says that the complaints can be considered ‘customer complaints’ by virtue of them being filed by installers on customers’ behalf. They note that the only commenting party that said the 129 complaints do not meet the definition of “customer complaint” per Xcel’s QSP is the Department of Commerce. They state that the “Department’s position was based on an erroneous interpretation of the QSP tariff’s language and added a nonexistent requirement that a customer seeking to install solar must suffer financial harm before a solar installer could submit a complaint on their behalf.”⁶² IREC et al. state that the QSP tariff does not have language requiring customers to be suffering from or threatened by financial harm, but instead measures the number of complaints submitted.

They state that there has been no dispute from any stakeholder, nor from Xcel themselves, that the Company failed to process solar interconnection applications within the timeframe allotted

⁵⁹ All Energy Solar reply comments, August 10, 2020, p. 8.

⁶⁰ MnSEIA comments, July 1, 2020, p. 3.

⁶¹ MnSEIA comments, July 1, 2020, p. 5.

⁶² IREC et al. reply comments, August 10, 2020, p. 2.

by the MN DIP. IREC et al. say that solar customers must be treated the same as other customers:

“If solar customers’ complaints are not counted here, as Xcel requests and DOC suggests is appropriate, solar customers will be treated differently from all other electric customers and be forced to expect a lower quality of customer service from the utility regarding their electrical service, of which their solar installation is an essential component.”⁶³

IREC et al. points out that Xcel’s QSP tariff does not explicitly exclude any service complaint types, including those complaints that are submitted by a representative of a customer they have authorized to act on their behalf, but rather just counts complaints received. The comments also note CAO does not consider whether a complaint will fit into Xcel’s QSP tariff when they take a complaint, nor should they. Otherwise, adjudication of complaints becomes duplicative, creates a burdensome process, and customers may be more tentative to make complaints.

6. Cities of Minneapolis and St. Paul

Minneapolis “believes that customers applying to interconnect solar to the distribution grid are included in [Xcel’s QSP tariff] definition” of a customer, and therefore “should be granted fair, non-discriminatory treatment.”⁶⁴

In their reply comments, the Cities of Minneapolis and St. Paul cite Xcel’s expert witness testimony from the November 2019 rate case. The witness acknowledges that the definition of customer and customer service is changing as more options are provided to customers:

“We understand that many of our customers continue to want the same things they have always wanted – safe, reliable, affordable electric service. However, there is a growing segment of our customers whose expectations are changing, in large part due to changes in technology. Customer expectations continue to evolve rapidly in all areas involving utility service and products. The following are becoming important considerations for our customers:

- Emerging technologies – Customers are increasingly interested in evolving technologies, such as electric vehicles, home energy managements, batter storage, and solar.
- Clean energy – Customer interest in renewable energy continues to grow as prices decline.”⁶⁵

⁶³ IREC et al. reply comments, August 10, 2020, p. 4.

⁶⁴ City of Minneapolis comments, July 2, 2020, p. 3.

⁶⁵ Docket 19-564 Direct Testimony and Schedules Greg P. Chamberlain. Before the Minnesota Public Utilities Commission State of Minnesota In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in Minnesota. Nov. 1, 2019. p. 16-17. From Cities reply comments, August 10, 2020, p. 2.

7. CUB

CUB notes that the ‘Customer Complaint’ definition was broadened to include complaints from customers’ representatives in 2013. Since solar installers are the party interfacing with the interconnection portal, they are ‘representing’ customers in the interconnection process. Therefore, CUB finds it “appropriate to consider installers ‘representatives.’”⁶⁶

C. Did Xcel Energy’s interconnection process delays cause solar customers and installers financial harm?

1. Department of Commerce

The Department of Commerce, concerned about an agency problem in the solar installers filing the complaints, has placed much significance on whether solar customers experience financial harm:

“In this instance the agency question would turn on whether the Solar Installers were submitting complaints: 1) on their customers’ behalf to highlight the financial harm those Solar*Rewards customers would or could experience; 2) to prevent or preclude potential financial harm to themselves; 3) as a way to demonstrate their displeasure with Xcel’s roll out of its MN DIP protocol; 4) some combination of (1) or (2) or (3); or 5) some other unknown cause.”⁶⁷

The Department argues that the QSP tariff was written to at least partially prevent financial harm to the customer by improving service quality. As outlined below, when the Department could not wholly prove that customers had come to financial harm, they state that the complaints in question should not be counted in the QSP.

In the Department’s IR No. 5, they asked Xcel Energy if any of the customers that had filed one of the 129 complaints suffered financial harm from Xcel’s implementation errors. Xcel responded that they do not know, but then said that one customer received a 26% tax credit instead of a 30% tax credit because the project’s construction was delayed. In the Department’s IR No. 4, they asked Xcel if the solar installers suffered financial harm. Xcel responded that they do not know and are unable to answer since they do not have access to installers’ financial records. The Department concludes that there is not enough information to determine whether any financial harm came to the customers or installers.

In Department IR No. 7, they asked how many complaints Xcel received from solar installers. Xcel received 129 complaints from solar installers on behalf of their customers with one installer filing 128 and another filing one. The Department concluded that “these responses do not support...the contention that a large number of solar installers were concerned that they might be financially harmed by the inefficiencies of the MN DIP roll-out.”⁶⁸

⁶⁶ CUB comments, August 7, 2020, p. 2.

⁶⁷ Department Initial Comments, July 2, 2020, p. 4.

⁶⁸ Department of Commerce comments, July 2, 2020, p. 6.

After other parties in the record offered examples of potential financial harm to customers, the Department determined that any negative financial effects on customers was “cursory and not substantiated.”⁶⁹ The Department argues that the only group that experienced financial harm was All Energy Solar, but it was unclear how much harm has transpired. The Department further noted Novel Energy Solutions similarly made claims of financial harm were without specificity. MnSEIA provides estimates of financial harm from the decrease in the federal tax credit, but the Department says that their argument is unclear. The Department states:

“Given that the QSP tariff was developed to minimize service quality issues (and the corresponding financial effects) on Xcel’s Minnesota retail ratepayers, this information appears to support the Department’s position that the complaints should not be addressed in the QSP docket.”⁷⁰

2. All Energy Solar

All Energy Solar cites financial harm, saying that delays led to customers missing out on solar energy incentives:

“The Federal Tax Credit reduced from 30% in 2019 to 26% in 2020. Xcel failed to meet many deadlines in 2019 causing projects to get pushed to 2020, thereby causing customers to lose out on 4% of their tax credit incentive.”⁷¹

3. MnSEIA

MnSEIA states that CAO complaints do not require financial harm to be filed:

“Complaints made to the CAO about a utility’s service do not—as a matter of law and practice—require a showing of financial damages, but if they did, delayed interconnection of a distributed energy resource should be prima facie evidence of financial damages.”⁷²

MnSEIA spoke about how the Department proposed a legal test to determine the legitimacy of a complaint by a solar installer, but “the proposed test, then, would exclude at the point of filing any and all Complaints made by vendors or other authorized representatives that could not show—unambiguously—that the Complaint was made for the purpose of financially benefiting the customer.”⁷³ Meanwhile, the QSP tariff says that, “Customer complaints **will be recorded and reported with no exclusions.**”⁷⁴ Also the “CAO Complaint portal does not seem to contemplate financial harm or benefit to the consumer—or else that kind of harm is either

⁶⁹ Department of Commerce reply comments, August 10, 2020, p. 4.

⁷⁰ Department of Commerce reply comments, August 10, 2020, p. 5.

⁷¹ All Energy Solar comments, July 1, 2020, p. 2.

⁷² MnSEIA reply comments, August 10, 2020, p. 6.

⁷³ MnSEIA reply comments, August 10, 2020, p. 6.

⁷⁴ MnSEIA reply comments, August 10, 2020, p. 6.

assumed or immaterial.”⁷⁵ MnSEIA states that the Department’s test misreads or maladapt the text of the QSP and the CAO portal since neither exclude on the basis of financial harm.

MnSEIA does point out that the complaints at hand do demonstrate financial harm and were made to mitigate that harm. They note that the Department asked Xcel whether harm had been inflicted but did not ask AES. They pointed out that AES filed the complaints with eight (8) days left in the year, so AES likely figured that the 2019 solar tax rewards were lost, but Xcel did not take this into account in their response. MnSEIA admits that AES did not include in their comments detailed financial data, but “they do plainly state that more than one customer suffered a reduction in tax credit benefits—i.e. financial harm—as a result of utility delays.”⁷⁶ MnSEIA argues that the delay itself is financial harm, because every day a customer is not able to offset their energy use is another day they are not saving on their bills. MnSEIA asks the Commission to recognize that delays create financial harm. MnSEIA proposes a payment to solar customers impacted based on estimated harms.⁷⁷

4. IREC et al.

IREC et al. are concerned that the Department based its arguments on customers not experiencing financial harm but did not consult those customers. Like MnSEIA, IREC et al. claims that customers were harmed by Xcel’s delays every day that they cannot offset their energy costs. Also, customers without completed solar interconnections lose out on tax credits, which are decreasing each year. One installer says that they have suffered financial losses, since some interconnection delays extend into months or years; another lost a customer after Xcel’s repeated delays.

Solar installers suffer financial consequences when projects are delayed:

“Because the installer had guaranteed the solar installation would be online in time to receive the tax credit—relying on the timelines in the MN DIP that Xcel was supposed to adhere to—the installer lost over \$150,000 that it paid to its customers as penalties, a significant percentage of which was directly caused by Xcel’s delays.”⁷⁸

5. Sundial Solar Energy

Sundial Solar Energy submitted a letter to the docket on August 6, 2020, echoing others’ comments of missed deadlines, plans being incorrectly reviewed, and sidelined projects. While they do not include an exact figure, Sundial states, “Xcel’s delays are causing serious economic hardships and preventing already-existing energy sector employees from returning to work.”⁷⁹

⁷⁵ MnSEIA reply comments, August 10, 2020, p. 7.

⁷⁶ MnSEIA reply comments, August 10, 2020, p. 10.

⁷⁷ MnSEIA initial comments, July 1, 2020, Att. 1.

⁷⁸ IREC et al. reply comments, August 10, 2020, p. 12.

⁷⁹ Sundial Solar Energy comments, August 6, 2020, p. 1.

6. Cities of Minneapolis and St. Paul

The Cities refuted Xcel’s claim that no financial harm was done. Comments from All Energy, Novel Energy Solutions, and Sundial Energy all report financial harm to their residential customers and the businesses themselves. They state that “there is financial harm to customers whose interconnections are delayed including:

- Lost revenue associated with on-site energy production;
- Lost time and increased transactions costs associated with a project; and
- In some cases, reduced financial incentives from federal investment tax credits.”⁸⁰

The Cities are critical of the Department, saying that “the Department did not report in initial comments whether they took the important step of inquiring directly with solar installation professionals and/or solar customers.”⁸¹ They conclude:

“Considering the comments from multiple solar installation companies in this docket and the harm that would likely result if the petition were granted, we ask the Commission not to approve Xcel’s petition to exclude solar customers from the 2019 QSP evaluation.”⁸²

D. Should Xcel Energy’s customer complaints performance threshold be re-evaluated?

In the below section, staff summarizes parties’ positions on how customer complaints by solar installers should be reported in the future.

1. Department of Commerce

The Department does not support recalculating Xcel Energy’s customer complaint threshold or counting the 129 solar complaints in the QSP threshold.

2. Xcel Energy

Xcel Energy offers the suggestion to re-evaluate the performance threshold if the Commission determines that interconnection complaints count toward the QSP’s customer complaint metric. Xcel Energy notes that the QSP tariff was “established prior to the expansion of DER installations or the implementation of our new interconnection process as part of our transition to the MN DIP.”⁸³ Meanwhile, the MN DIP allows CAO as a venue for mediation. Xcel points out that they are going through more technology upgrades, which will likely generate complaints as well.

3. Citizens Utility Board

⁸⁰ Cities of Minneapolis and St. Paul reply comments, August 10, 2020, p. 3-4.

⁸¹ Cities of Minneapolis and St. Paul reply comments, August 10, 2020, p. 4.

⁸² Cities of Minneapolis and St. Paul reply comments, August 10, 2020, p. 4.

⁸³ Xcel Energy reply comments, August 10, 2020, p. 3.

While CUB does not directly address whether the threshold should be re-examined, they argue that the complaints cannot be discounted just because what makes up customer service has changed:

“It is undeniable that complaints regarding customer service are intended to be tallied and included in those tracked under the QSP tariff.”⁸⁴

E. Should complaints from solar installers be tracked in a separate tracking mechanism or another docket?

1. Department of Commerce

The Department would like to see interconnection complaints from solar installers addressed in Xcel Energy’s MN DIP tariff docket (18-714), instead of adjusting the QSP customer complaint threshold, because interconnection matters are different and more complex than the usual customer complaints. Additionally, the Department notes such tracking could be a good learning opportunity about interconnection issues.

2. Xcel Energy

Xcel supports “the Department’s conclusion that complaints from solar installers should be tracked, but not as “customer complaints” for QSP purposes.”⁸⁵

About the MN DIP dispute resolution provision, Xcel Energy says that “in the case of these 129 complaints, this process was generally not followed, or in some cases the Company was provided only 24 hours to resolve.”⁸⁶ Xcel acknowledges that there have been delays for the parties, but since the Commission has developed a process in the MN DIP for disputes, they “do not believe the record has been substantially built to address changes to MN DIP here and would support moving this topic to another open docket.”⁸⁷

They propose tracking and reporting MN DIP complaints separately in the statewide MN DIP docket (16-521). If the Commission decides to include solar developer or other “third-party” complaints in the QSP, Xcel believes “a separate proceeding is needed to examine the intent of the metric, the definitions in the tariff, and how performance is measured going forward.”⁸⁸

3. IREC et al.

IREC et al. state that, “[E]very party commenting on this issue agrees that solar customer complaints must be tracked somehow, and every party but the Department of Commerce

⁸⁴ CUB comments, August 7, 2020, p. 2.

⁸⁵ Xcel Energy reply comments, August 10, 2020, p. 4.

⁸⁶ Xcel Energy reply comments, August 10, 2020, p. 6.

⁸⁷ Xcel Energy reply comments, August 10, 2020, p. 7.

⁸⁸ Xcel Energy reply comments, August 10, 2020, p. 3.

agrees that Xcel needs to be held accountable for its failures to comply with the MN DIP.”⁸⁹ IREC et al. want interconnection customer complaints at issue here counted under Xcel’s QSP:

*“[T]he QSP customer complaint metric is a measure of customer service and customer satisfaction; adjudication is unnecessary, unwarranted, and counter to the intent of the measure. This would also ensure that Xcel has a financial incentive to provide adequate service to all of its customers, including meeting its obligations under the MN DIP.”*⁹⁰

IREC et al. also recommended that the Commission establish a process to identify Xcel’s violations of the MN DIP and hold Xcel accountable for compliance with its procedures:

*“This accountability mechanism should include a reporting and tracking MN DIP timeline compliance under the QSP with a corresponding penalty for noncompliance. Similar to the QSP’s SAIDI and SAIFI measures of actual electric system reliability, the QSP should track and enforce Xcel’s actual compliance with the MN DIP timelines, separate from any metric related to customer complaints.”*⁹¹

4. City of Minneapolis

Minneapolis does not support a separate tracking mechanism, because they argue that it would “remove the utility’s incentive to work expediently to resolve interconnection issues, and this would lead to discriminatory treatment of customers interested in solar.”⁹² The City argues MN DIP already provides performance requirements.

F. Public Comments

After the comment period, CAO received six (6) customer or solar installer complaints/comments requesting to be shared with Commissioners and the Commission’s Distributed Generation Workgroup (DGWG), who is reviewing the first year of statewide MN DIP implementation. In total, these comments mention interconnection reviews taking three to five (3-5) months for Simplified Projects⁹³, triggering distribution upgrade costs⁹⁴ (resulting in one customer withdrawing their project), loan payments for solar that was not operational⁹⁵, and lost federal solar tax benefits.⁹⁶

V. Staff Analysis

The only issue that requires Commission action is whether Xcel has exceeded the customer complaint threshold in its 2019 QSP. The Commission has the option to provide further

⁸⁹ IREC et al. reply comments, August 10, 2020, p. 13.

⁹⁰ IREC et al. reply comments, August 10, 2020, p. 13.

⁹¹ IREC et al. reply comments, August 10, 2020, p. 13.

⁹² City of Minneapolis comments, July 2, 2020, p. 2.

⁹³ Public Comment (Dec 1, 2020) and Public Comment (November 19, 2020).

⁹⁴ IBID

⁹⁵ Public Comment #2 (October 20, 2020).

⁹⁶ Public Comment #1 (October 20, 2020).

guidance going forward – both in terms of how to handle DER interconnection complaints in future QSP reports and on the Company’s efforts to address persistent, ongoing issues with interconnection review process.

A. History of QSP

It is important to start with the origin of the QSP. Other rate regulated utilities in Minnesota do not have a QSP. The QSP was a settlement negotiated by Xcel, the Department, and the OAG and accepted by the Commission, to settle problems originally related to irregularities in outage data. It was not a penalty plan unilaterally imposed by the Commission under a particular statute. This is noteworthy, because some decision options suggested by parties ask the Commission to unilaterally impose new financial penalties or establish additional metrics. The Commission should consult with its counsel about these decision options. Further, past amendments to the QSP have occurred through negotiations with the parties to the settlement, not through the filing of the QSP annual report. These past amendments through a negotiation and notice/comment process ensure the amendments have been properly vetted and noticed.

B. Should the 129 complaints be counted in the QSP tariff, and therefore, exceed the threshold?

There are three reasons the Commission may decide not to count the complaints: 1) they do not constitute a “customer”, 2) they do not constitute a “customer complaint” under the QSP; or 3) the Company can demonstrate the complaints are the result of an event beyond the Company’s control despite the Company taking reasonable steps to address.

In determining what constitutes a “Customer Complaint” under Xcel Energy’s QSP tariff, the parties highlight the following for Commission consideration:

- Definition of Customer Complaint in the QSP Tariff;
- Definition of Interconnection Customer, Application Agent and Parties in the MN DIP; and,
- Other signs of agency for the installer or developer to act on a customer’s behalf.

There are many definitions of ‘customer.’ For instance, in Minnesota State Statute §216B.38, ‘customer’ is defined as “a person contracting for or purchasing electric service at retail from an electric utility.”⁹⁷ In this definition, the solar installer is not included, only the solar customer.

Xcel Energy’s QSP tariff defines customer and customer complaints in the following manner:

“For purposes of Customer Complaints, "Customer" is defined as an electric or a natural gas customer that receives a bill for utility service from the Company or a representative of that customer. A representative includes an individual designated with Power of Attorney for the Customer, an attorney retained to represent the Customer, or an individual authorized by the Customer to act on his/her account.

"Customer Complaint" is defined as any complaint submitted, in writing, by US Mail, e-mail, or by fax, registered by the Minnesota Public Utilities Commission’s Consumer Affairs Office

⁹⁷ Minnesota Statute §216B.38 Definitions. <https://www.revisor.mn.gov/statutes/2019/cite/216B.38>

to the Company, regarding a complaint submitted by an Xcel Energy customer in which the customer states a grievance related to the Company's provision of service to that customer.

Customer Complaints will be reported in the following categories:

- Billing & Credit
- Customer Service
- Meter Reading
- Trouble Orders
- Reliability Duration
- Reliability Frequency
- Other

This is calculated by dividing the total number of Customer Complaints in the performance year by the product of the total number of Minnesota customers, as reported in the Company's electric and gas jurisdictional reports, divided by 1,000."⁹⁸

Xcel's tariff does not specifically include solar installers, nor does it entirely rule them out. The definition of 'customer' includes a representative that the customer has authorized to work on their behalf. As seen in the record, this definition can be used for or against solar installers acting as representatives for their customers when filing a complaint with CAO.

Another consideration Xcel Energy raises is whether DER interconnection was contemplated in establishing the QSP Tariff's performance threshold categories. Xcel Energy argues that DER interconnections were not considered when the tariff was established, and therefore, should not count in the QSP performance threshold now.⁹⁹ However, the Cities of Minneapolis and St. Paul highlight expert witness testimony from Xcel Energy's 2019 withdrawn rate case that demonstrates the Company's recognition of evolving customer service. Staff notes the QSP customer complaint threshold was adopted without revision as a performance metric with a list of additional metrics in Xcel Energy's Performance Incentives Metric docket (17-401).¹⁰⁰ There is no mention of separating sub-categories of customer complaints (e.g. MN DIP, DER, solar, etc.) in that docket.

The QSP tariff allows that "[t]he Company may request exclusion of Customer Complaints that the Company can demonstrate are the result of an event beyond the Company's control, which the Company took reasonable steps to address." The complaints were about Xcel's interconnection process and online portal in the first year of the MN DIP. The Company took steps to make improvements to their interconnection process and online portal. The question for the Commission to consider is whether the complaints are a result of an event beyond Xcel Energy's control that the Company took reasonable steps to address.

⁹⁸ Xcel Energy Minnesota Electric Rate Book, Section No. 6, 3rd Revised Sheet No. 7.2.

⁹⁹ Xcel Energy Reply Comments, August 10, 2020, p. 3-4.

¹⁰⁰ ORDER ESTABLISHING METHODOLOGIES AND REPORTING SCHEDULES (April 16, 2020), Docket No. E002/CI-17-401. Cites Xcel Energy Reply Comment (December 12, 2019), Docket No. E002/CI-17-401 where customer complaints are discussed at pp. 2-3, 10, 15.

1. Should ‘financial harm’ be a requirement for a complaint to be counted within the QSP tariff threshold?

Staff appreciates the Department raising the issue of harm done to the customer as a factor in deciding whether something is a customer complaint. Staff also notes that in a previous dispute surrounding the QSP, the Suburban Rate Authority argued that the municipal pumping metric should be amended, showing that the customer (in that case municipalities) incur financial harm. The Commission agreed with the SRA and adopted its metric.¹⁰¹

While that past decision did make financial harm a part of the Commission’s decision, the matter here is different. Customers can file complaints without financial harm being inflicted upon them. Many customers make complaints about down power lines, unreliable service, or other matters that do not affect them financially, but are still valid complaints counted in the QSP. Furthermore, staff found no language in the QSP tariff or the 12-383 historical record that considers financial harm as necessary to count as a customer complaint.

Staff cautions interpreting financial harm as a requirement for a customer complaint and suggests the Commission look at the QSP tariff language defining a customer complaint. As discussed by Xcel Energy, City of Minneapolis, and CUB, what constitutes customer service with emerging customer options (such as DER interconnections) is evolving and what fits in “customer service” and “other” for the QSP “customer complaint” metric may need further fleshing out or may warrant reconsideration of the metric threshold.

2. What is the impact if the complaints are not added to the threshold?

Many of the parties raise concerns about possible negative outcomes if the complaints are thrown out, including poor customer service with nowhere else to lodge complaints, discriminatory treatment, and a precedence set to not allow future groups to file complaints. Parties are conflating two separate and distinct processes: a decision under the QSP versus the Commission’s authority to handle customer complaints. Staff disagrees that a decision in this docket has any bearing on the Commission’s own independent authority to handle complaints. Staff understands why some parties raised this concern for consideration; however, there should be no dispute among any party in this docket that CAO will continue to mediate solar complaints regardless of the outcome of this docket.

Even if the Commission decides to exclude these customer complaints from Xcel Energy’s 2019 QSP, CAO will take solar complaints as it has been, working with regulatory staff internally, the utility, and when needed, the developer to resolve the complaint. The QSP does not bind or affect the Commission’s authority to take solar complaints via its CAO. The same complaints that CAO receives would still be taken; rather, it may be that some are tracked, but simply not counted for purposes of the QSP customer complaint metric in 2019 or beyond. When a utility is reporting complaints, only customer issues that have been marked as complaint are included; customer inquiries are not included in the count.

¹⁰¹ ORDER APPROVING AMENDMENTS TO SERVICE-QUALITY TARIFF, current docket, Issued August 12, 2013.

For this same reason, the Commission need not reach the issue of how CAO should handle complaints filed by third party representatives of the customer. No party, including Xcel or the Department, has ever suggested CAO cannot accept complaints from a representative of a customer, just that it may not be counted for the QSP. Xcel has in fact stated that they support the Commission's authority to track and address complaints. In the meetings between Commission staff and Xcel, Xcel stated that they could not accept complaints from the representative of the customer, which is why CAO asked All Energy Solar to contact and document customers whose project were delayed for their permission to file the complaint. CAO's primary role is to help resolve issues for individual customers. CAO may recognize and work with a third-party when CAO has determined, in its own judgment, that the customer has authorized a third-party and that working with the third-party will help resolve the complaint. This situation is not limited to solar transactions. It is not uncommon, for instance, for an elderly customer to have one of their adult children on their account to assist with bill payment and other account issues. This is not a new issue, and the status quo may continue regardless of the outcome of this docket.¹⁰²

3. Should a penalty be imposed on Xcel Energy?

If the Commission finds that the 129 complaints should be counted, then Xcel Energy may be required to pay a \$1 million underperformance penalty.

The penalty for exceeding the QSP's thresholds is \$1 million per Xcel's Rate Book:

"The under performance payments are as follows:

Customer Complaints \$1.0 million

...

The determination of a required payment under this provision will be made, after notice and hearing, by the Minnesota Public Utilities Commission."¹⁰³

Note that "any underperformance payments incurred by Xcel Energy pursuant to Section B of this Service Quality Tariff will be borne by shareholders and will not be eligible for cost recovery in any future rate proceeding."¹⁰⁴

The record before the Commission contains arguments addressing whether to apply the \$1 million penalty. These require careful consideration by the Commission. Charging Xcel Energy a penalty may not be as important as addressing the larger problem – the need for improved performance from Xcel.

A more middle of the road option is for the Commission to include the 129 complaints in the QSP going forward, but grant an exemption for 2019, because extenuating circumstances

¹⁰² The energy industry is a dynamic one and it is likely that other services will emerge that in the future also require third parties to assist CAO with complaints. The status quo would allow CAO to also work with third parties in its discretion in those future instances.

¹⁰³ Xcel Minnesota Rate Book, Section No. 6, 3rd Revised Sheet No. 7.5.

¹⁰⁴ Xcel Minnesota Rate Book, Section No. 6, 3rd Revised Sheet No. 7.5.

warrant the exemption. It is noteworthy that the 129 complaints were all filed at the end of 2019 in a two-week period in December. As noted earlier in these briefing papers, such a volume of complaints has never been filed with CAO before in such a short window of time nor at the end of a calendar year. Nor has it happened in 2020. 2019 could be considered an anomaly. Therefore, Xcel's 2019 compliance filing could be accepted based on the fact that a very large number of complaints were filed together at the end of the year. However, if Xcel were to extend their customer complaint threshold in the future, whether they be from solar installers or not, all complaints will be included within the threshold and the Commission can consider the \$1 million penalty.

C. How should the 129 complaints be tracked?

The Department and Xcel Energy are the only parties to support tracking solar installers' CAO complaints in a non-QSP docket, specifically in either Xcel Energy's MN DIP tariff docket (18-714) or the statewide MN DIP docket (16-521). Neither docket currently track interconnection complaints specifically. The statewide MN DIP docket includes temporary reporting by all rate-regulated utilities on interconnection review timelines, failed interconnection screens, variances on estimated versus final distribution upgrades, among other issues. The Company submitted their first MN DIP implementation compliance report on March 2, 2020. They also reported on improvements to the interconnection portal made, challenges encountered, and how they've adjusted processes. Staff notes that in other dockets, namely the Community Solar Garden docket, Xcel files monthly reports that provide transparency and have motivated Xcel to improve service. CAO reports on DER complaint trends to the Distributed Generation Advisory Group (DGAG) approximately every two months (next DGAG meeting is January 15, 2021), and the Commission's DER Specialist provides approximately quarterly updates to the Commissioners at Planning Meetings or in writing. Commission staff does not distinguish DER complaints by utility in either case.

It is unclear what the tracking would look like in the Department's proposal. If the Commission supports the Department or Xcel Energy's proposals, the Executive Secretary could determine the specifics of any compliance filings.

If the Commission chooses to count these complaints toward the QSP metric, Xcel Energy suggests modifying the threshold for customer complaints. Alternatively, IREC et al. suggest an additional accountability mechanism within the QSP be created for MN DIP compliance with robust timeline compliance reporting and a noncompliance financial penalty. Either of these recommendations would require additional development and tariff changes.

1. Should complaints instead be considered in the MN DIP dockets?

Staff distinguishes between tracking customer complaints and working on resolving ongoing, recurring interconnection issues; such as, utility interconnection review timeframes. Currently, such efforts are limited to CAO mediation and the statewide Distributed Generation Workgroup which includes rate-regulated utilities; as well as, stakeholders, rural cooperatives and municipal utilities.

While it is useful to discuss emerging issues faced by, in this instance, Xcel Energy with more interconnection applications and DER penetration on their distribution system, it is not efficient

or advisable to work on resolving a specific utility's implementation issues in the DGWG. Staff considers a threshold question of whether the change needed is to the statewide MN DIP or if it is a business practice, interpretation, or technical issue with a specific utility's implementation efforts. When it is a specific utility's implementation efforts, the DGWG is a less effective and efficient place to address the issue.

If the issues are limited to a few customer complaints, it may be sufficient to address the issue through CAO dispute mediation and the Company's evolving implementation; however, as seen in this docket, there may be times when issues emerge that fall somewhere between individual resolutions and needed updates to the statewide interconnection standards (MN DIP). Some progress has been seen via the DGWG discussion on several issues, including a utility's queue management business practices. Another example is the technical subgroup addressing planned outages, interconnection technical requirements, and how Community Solar Gardens are treated which is occurring at the Company's Solar*Rewards Community stakeholder group.

Staff is hopeful the good faith efforts by the Company and stakeholders to address the currently identified issues within subgroups at the DGWG and the Solar*Rewards Community stakeholder group will resolve the current suite of ongoing issues identified by customers, stakeholders and the Company. Even if so, it may be useful to provide guidance on how to address future interconnection implementation issues that rise to this level. Without such guidance, the DGWG will remain the de facto repository and entity tasked with considering MN DIP implementation issues even when limited to a single utility's implementation efforts.

VI. Decision Options

A. Xcel Energy's 2019 QSP Compliance Filing

1. Accept Xcel Energy's 2019 QSP filing as in compliance with the annual filing requirement included in the Section 1.9.D of the Company's tariff. (*Department, Xcel Energy*)
2. Take no action on Xcel Energy's 2019 QSP compliance filing.

B. Xcel Energy's Request to Not Count 129 Complaints as 'Customer Complaints'

1. Find that 129 of the complaints submitted to the Commission's Consumer Affairs Office (CAO) should not be counted in the Customer Complaints metric in its Quality of Service Plan (QSP) tariff. (*Xcel Energy, Department*)
 - a. Accept Xcel Energy's proposal to include received complaints and inquiries from installers in Docket No. E999/CI-16-521 [or E002/M-18-714] and propose metrics in consultation with the Distributed Generation Advisory Group [or Distributed Generation Workgroup]. (*Department, Xcel Energy modified by staff*)
2. Deny Xcel Energy's request to dismiss the 129 complaints from counting toward the Company's Quality Service Plan performance threshold for "Customer Complaints." (*MnSEIA, IREC et al., All Energy Solar, Novel Energy Solutions, Sundial Solar Energy, Cities of Minneapolis and St. Paul*)
3. Find that the 129 complaints submitted to the Consumer Affairs Office shall normally be counted in the Customer Complaints metric in Xcel's Quality of Service (QSP) tariff but decline to impose the \$1 million penalty for 2019.

C. Additional Decision Options

1. Require Xcel Energy to identify all the steps the Company will take to prevent any similar reoccurrence. (*Department, Xcel Energy*)
2. Require Xcel Energy to make the necessary investments in staff and software to meet its MN DIP obligations. (*MnSEIA*)
3. Initiate a reinvestigation in MN PUC Docket 16-521 into proper timeline lengths for projects. (*MnSEIA, IREC et al. modified*)
4. Require Xcel Energy to pay an additional financial penalty of 1.3¢/kWh, which is based on an estimate of the harm done to the average array, to all the impacted DER customers. (*MnSEIA*)
5. Open a further proceeding to:
 - a. Adjust threshold for the QSP customer complaint metric. (*Xcel Energy if B.1.a is not adopted*)
 - b. Clarify what constitutes 'customer service' and 'other' for the QSP 'customer complaint' metric.
 - c. Establish QSP metric(s) to track and enforce Xcel Energy's compliance with the MN DIP timelines. (*IREC et al.*)
6. Require all compliance filings within 30 days of Order or another date agreed upon with the Executive Secretary.