

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

In the Matter of an Investigation and Audit of Northern States Power Company's Service Quality Reporting

ISSUE DATE: February 18, 2021

DOCKET NO. E,G-002/CI-02-2034

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

DOCKET NO. E,G-002/M-12-383

ORDER ACCEPTING FILING AND DENYING REQUEST TO EXCLUDE COMPLAINTS

PROCEDURAL HISTORY

In December 2019, Northern States Power Company d/b/a/ Xcel Energy (Xcel or the Company) received 129 complaints through the Commission's Consumer Affairs Office (CAO). The complaints were initiated primarily by one solar installer,¹ and all were regarding problems with interconnection applications.

On May 1, 2020, Xcel filed its 2019 Quality of Service Plan (QSP) annual report. Xcel requested that the Commission find that the 129 complaints from solar installers did not count towards the Customer Complaint metric in the QSP tariff.

On July 1 and 2, 2020, the Commission received initial comments from the following commenters:

- All Energy Solar (AES)
- Minnesota Solar Energy Industries Association (MnSEIA)
- Novel Energy Solutions (NES)
- Interstate Renewable Energy Council, Inc., Fresh Energy, Environmental Law and Policy Center, and Vote Solar (jointly, IREC et al.)
- Department of Commerce, Division of Energy Resources (the Department)
- City of Minneapolis

¹ 128 complaints were initiated by All Energy Solar; one complaint was initiated by a different solar installer.

Between August 7 and 10, 2020, the Commission received reply comments from the following commenters:

- Citizens Utility Board (CUB)
- Sundial Energy Solar
- City of Minneapolis and City of St. Paul
- AES
- Xcel
- IREC et al.
- The Department
- MnSEIA

Between August 10 and December 1, 2020, the Commission also received comments from several members of the public.

On January 21, 2021, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Background

A. Overview of QSP tariff and MN DIP

In 2002, the Commission initiated an investigation of Xcel's service quality and the accuracy of Xcel's reports about its service quality, among other things.² An independent auditing firm conducted the investigation and identified a number of concerns regarding how Xcel recorded, documented, and reported service quality information.

Xcel subsequently negotiated a settlement agreement with the Department and the Office of the Attorney General. In 2004, the Commission accepted the settlement agreement, which included QSP standards and an annual reporting requirement.³ Additionally, underperformance payments were established for failing to meet the QSP standards.

In 2012, Xcel petitioned for amendments to the QSP tariff, and in 2013 the Commission approved amendments to the tariff language, including definitions and performance thresholds.⁴

² *In the Matter of the Inquiry Into Possible Effects of Financial Difficulties at NRG and Xcel on NSP and its Customers and Potential Mitigation Measures*, Docket No. E, G-002/CI-02-1436, Order Requiring Additional Information and Audit (October 22, 2002).

³ *In the Matter of an Investigation and Audit of Northern States Power Company's Service Quality Reporting*, Docket No. E,G-002/CI-02-2034, Order Accepting Settlement Agreement as Modified (March 10, 2004).

⁴ *In the Matter of an Investigation and Audit of Northern States Power Company's Service Quality Reporting*, Docket No. E,G-002/CI-02-2034; *In the Matter of the Petition of Northern States Power*

The language approved in 2013 is the current QSP tariff language.

The QSP tariff compels a \$1 million underperformance payment for each benchmark, with 50% applied to customer bills and 50% added to the amount budgeted for maintenance and repair of the Company's distribution system. These payments are not eligible for cost recovery in future rate proceedings.

In 2017, the Commission convened the Distributed Generation Work Group (DGWG) to update statewide interconnection standards, ultimately resulting in the Minnesota Distributed Energy Resource (DER) Interconnection Process and Agreement (MN DIP) and accompanying Technical Interconnection and Interoperability Requirements. Rate-regulated utilities filed tariff language to implement the MN DIP; Xcel's MN DIP tariff was approved in Docket No. 18-714. The statewide MN DIP went into effect in June 2019.

B. December 2019 CAO complaints

The CAO helps resolve disputes between customers and utility companies. If a customer is unable to resolve an issue with a utility directly, the customer may submit a written complaint to the CAO. After reviewing all necessary information, CAO will contact the utility with specific questions. In complaints involving interconnection of distributed energy resources, CAO and the Commission's Economic Analysis Unit will engage with the utility and the customer until all questions are answered and the complaint is resolved as completely as possible.

In late December 2019, CAO received 129 complaints regarding delays and technical issues with Xcel's solar interconnection process. 128 of those complaints were filed by AES. Commission staff held separate in-person meetings with both AES and Xcel, and Xcel asked whether solar customers had given AES consent to file the complaints. Commission staff asked AES to acquire consent from any of their clients who had not already given such consent. Some complaints were resolved before staff could obtain consent from the customer; staff did not retroactively ask for consent for closed cases.

C. Xcel's 2019 QSP annual report and request to exclude complaints

On May 1, 2020, Xcel filed its QSP annual report for 2019, as required by the QSP tariff. In addition, Xcel requested that the Commission exclude the 129 complaints from solar installers from the customer complaints metric, thereby keeping the number of customer complaints under the QSP threshold for the \$1 million underperformance payment.

Xcel stated that the complaints did not meet the definition of a "customer complaint" filed by a "customer" under the QSP tariff, and they were not the type of complaint contemplated when the metric was originally developed. These arguments are discussed further below.

Company d/b/a Xcel Energy for Approval of Amendments to its Natural Gas and Electric Service Quality Tariffs, Docket No. E,G-002/M-12-383; Order Approving Settlement Agreement with Minor Modifications (August 13, 2013).

II. Party Comments

Eight parties commented in this docket; generally, the Department supported Xcel's request to exclude the 129 complaints and other parties were opposed. Parties disagreed on several main issues, including the definition of a "customer complaint" under the QSP tariff, whether the presence or absence of financial harm to customers should be considered, whether the scope of complaints included in the QSP or the QSP complaint threshold should be modified, and whether the QSP underperformance payment or an additional penalty should be imposed on Xcel.

A. Definition of "customer complaint"

The QSP tariff defines "customer complaint" 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 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"⁵ and notes that "[c]ustomer complaints will be recorded and reported with no exclusions. The 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."⁶

The QSP tariff defines a "customer" 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."⁷

Xcel argued that the solar installers did not fall under the definition of a "customer," and therefore complaints made by solar installers could not be defined as "customer complaints." Xcel stated that the solar installers had not been authorized by their clients—who are the actual Xcel bill recipients—to bring complaints to CAO. Additionally, Xcel argued that the complaints were mostly regarding technological issues with the Company's online MN DIP application portal, not complaints about the "provision of service to [the] customer," as required by the definition of "customer complaint."

Furthermore, Xcel stated that the solar installers had not followed the dispute resolution processes in MN DIP, which state that only an "interconnection customer" can bring a complaint to CAO. Xcel noted that solar installers are considered "application agents," not "interconnection customers," under MN DIP.

The Department argued that the term "customer complaint" should be "interpreted using common usage or understanding," and stated that complaints filed by vendors such as the solar installers in this docket should not be considered "customer complaints" unless it is unambiguous that the vendor's complaint is for the financial benefit of affected customers.

⁵ Xcel Energy rate book, section no. 6, sheet no. 7.2.

⁶ Xcel Energy rate book, section no. 6, sheet no. 7.7.

⁷ Xcel Energy rate book, section no. 6, sheet no. 7.2.

Other parties argued that the 129 complaints filed by solar installers did fall under the QSP definition of a “customer complaint.” AES maintained that it was authorized to submit complaints on behalf of its customers, either through contract language, through explicit customer permission, or by placing the customer on notice that complaints were submitted. IREC et al. and other parties agreed with this interpretation. IREC et al. also argued that if the complaints at issue were not counted towards the QSP threshold, this would mean that solar customers were treated differently from other electric customers and subjected to a lower quality of service.

MnSEIA also noted that MN DIP allows an Application Agent to act on behalf of the Interconnection Customer to handle the application process and stated that solar installers are best equipped to resolve interconnection issues because they have the necessary knowledge.

B. Financial harm

The Department argued that the common usage of the term “customer complaint” implies that a customer has been harmed. The Department argued that a complaint should only be counted for purposes of the QSP if the customer suffered a financial harm, and that there was not enough information to determine whether this had occurred in the 129 solar installer complaints.

AES and other parties stated that there had been financial harm to customers, noting that Xcel’s delays had led to certain customers losing a portion of a federal tax credit for solar installations. The cities of Minneapolis and St. Paul also noted that interconnection delays may cause lost revenue from on-site energy production, and lost time and increased transaction costs for the project.

Parties also argued that financial harm was not part of the definition of a customer complaint and should not be considered. Several parties pointed to the QSP tariff language stating that “customer complaints will be recorded and reported with no exclusions,” and argued that this language means that any factors not explicitly included in the QSP tariff—including financial harm—should not be grounds to exclude complaints.

C. Reevaluation of QSP threshold or scope

Xcel argued that, when the QSP tariff was written, the definition of “customer”—and particularly a “representative” of a customer—did not contemplate a solar installer filing a complaint on behalf of a client. Rather, Xcel stated that it was written to allow, for example, an adult child to file a complaint on behalf of an elderly parent. Xcel noted that, in 2013, solar developers such as AES, who are involved with each step of the installation and interconnection process, did not exist, and the Company and Commission could not anticipate this use of the CAO complaint process. Additionally, Xcel argued that the large number of complaints filed at the end of the calendar year made it impossible for the Company to resolve issues earlier and potentially avoid exceeding the customer complaint threshold. Xcel suggested that the QSP performance threshold be reevaluated if the interconnection complaints were counted towards the customer complaint metric.

The Department did not support recalculation of the QSP threshold, but suggested addressing interconnection complaints from solar installers in Xcel’s MN DIP tariff docket⁸ rather than in the QSP tariff. The Department noted that interconnection matters are more complex than usual customer complaints, and tracking them in the Company’s MN DIP docket could help parties learn more about interconnection issues. Xcel supported this idea generally, but proposed tracking and reporting MN DIP complaints in the statewide MN DIP docket.⁹

Other parties opposed the suggestions to change the QSP threshold or the scope of complaints addressed in the QSP tariff. IREC et al. and the City of Minneapolis both argued that counting all customer complaints in the QSP tariff would hold Xcel accountable and incentivize the Company to resolve interconnection issues. IREC et al. also suggested that the Commission track and enforce Xcel’s compliance with MN DIP timelines as part of the QSP metrics, separate from the customer complaint metric.

D. Underperformance payment or other penalty

Under the QSP tariff, the underperformance payment for exceeding the threshold for customer complaints is \$1 million. Additionally, “[t]he determination of a required payment under this provision will be made, after notice and hearing, by the [Commission].”¹⁰

Generally, as discussed above, Xcel and the Department argued that the 129 solar installer complaints should not be counted towards the threshold and the \$1 million payment should not be imposed on the Company; other parties argued that the \$1 million payment should be imposed.

MnSEIA suggested that, in addition to the \$1 million payment contemplated by the QSP tariff, the Commission should impose an additional financial penalty to be paid to the impacted customers. MnSEIA stated that its proposed additional penalty of \$0.013 per kilowatt-hour (kWh) was an estimate of financial harm done to the average solar array due to Xcel’s delays, including loss of federal tax credits, challenges with procuring equipment, additional development costs, project cancellations, and interest on refundable deposits.

III. Commission Action

The Commission will accept Xcel’s QSP annual filing as in compliance with the reporting requirement in section 1.9.D of the Company’s tariff. However, the Commission will deny Xcel’s request to exclude the 129 complaints filed by solar developers on behalf of customers from the QSP customer complaints metric; Xcel will therefore be subject to the underperformance payment.

The QSP tariff is clear—written complaints from Xcel’s bill payers or their representatives are to be counted towards the metric, with no exclusions except as defined in the tariff. Solar installers

⁸ *In the Matter of Xcel Energy’s Tariff Revisions Updating Interconnection Standards for Distributed Generation Facilities Established under Minn. Stat. §216B.1611*, Docket No. E-002/M-18-714.

⁹ *In the Matter of Updating the Generic Standards for the Interconnection and Operation of Distributed Generation Facilities Established Under Minn. Stat. § 216B.1611*, Docket No. E-999/CI-16-521.

¹⁰ Xcel Energy Rate Book, section no. 6, sheet no. 7.5.

such as AES are hired by their clients to manage all aspects of solar installation, including the interconnection process; for this purpose, the solar installer is the representative of the client. Requiring individual customers to understand the details of the interconnection process and file complaints on their own would set an unreasonable expectation; it is reasonable for a customer to assume that the solar installer it has hired will handle all problems that arise during the installation, including problems that arise with the interconnection process. Furthermore, in this case, AES' contracts with its clients specifically state that AES will determine the "method, details, and means of performing the work."¹¹ Resolving interconnection issues is a critical and complicated detail, without which the work cannot be completed.

Xcel has not alleged that the interconnection issues were outside the Company's control, only that these complaints should be treated differently from other types of customer complaints. However, the QSP tariff does not contemplate any additional factors such as those proposed by Xcel and the Department—neither financial harm nor the timing of complaints in the calendar year are relevant to whether those complaints should be counted. Although the situation that has arisen in this docket may not have been anticipated at the time the QSP tariff was written, the Commission will not retroactively change the tariff requirements.

Going forward, the Commission will direct Xcel to work with stakeholders to develop a mechanism to help resolve solar installation issues before they rise to the level of a customer complaint under the QSP. This mechanism should be complementary to and consistent with MN DIP, and will help ensure that issues involving multiple customers are addressed proactively, rather than relying on individual customer complaints. The Commission's priority is ensuring that the reported interconnection issues are resolved, and the process is improved. Xcel and stakeholders should work together to establish a process for handling this type of relatively small dispute before a CAO complaint becomes necessary. In future years, the Commission anticipates that this additional process will help Xcel keep its customer complaints under the QSP threshold.

Finally, the Commission will direct Xcel to submit quarterly reports on the solar interconnection process, including information about interconnection requests received, any disputes or problems that have arisen, any work in progress to improve the interconnection process, and other relevant information as listed below. These updates will provide important information as the Commission closely tracks this issue going forward.

ORDER

1. Xcel's 2019 QSP filing is accepted as in compliance with the annual filing requirement included in Section 1.9.D of the Company's tariff.
2. Xcel's request to dismiss the 129 complaints from counting toward the Company's Quality Service Plan performance threshold for "Customer Complaints" is denied.
3. Xcel shall work with stakeholders to develop, outside the QSP customer complaint metrics, a different mechanism or tariff to resolve solar installation issues before they become QSP complaints, that provides clear transparency to the installers and customers

¹¹ AES reply comments, at 5 (August 10, 2020).

for the tracking and holding accountable of Xcel Energy's compliance with the MN DIP timelines. By June 1, 2021, or another date agreed upon with the Executive Secretary, Xcel shall propose such a tariff or mechanism.

4. Beginning with the first quarter of 2021, and quarterly thereafter, Xcel shall report on the number of interconnection requests received, the number and status of interconnection requests in process, the number of interconnection requests withdrawn and the reason, and the number of interconnection requests successfully completed. The reports shall include, at a minimum, a detailed assessment of compliance with required timelines, the number and status of any disputes or complaints, and a description of any work in progress to improve the interconnection process. The Commission delegates authority to the Executive Secretary to establish the specific details for quarterly reporting of Xcel Energy's compliance with the interconnection process. The quarterly reporting will be guided by the updated temporary annual reporting required in Docket No. E-999/CI-16-521.
5. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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CERTIFICATE OF SERVICE

I, Leesa Norton, 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.

**Minnesota Public Utilities Commission
ORDER ACCEPTING FILING AND DENYING REQUEST TO EXCLUDE
COMPLAINTS**

Docket Number **E,G-002/CI-02-2034; E,G-002/M-12-383**

Dated this 18th day of February, 2021

/s/ Leesa Norton

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_2-2034_1
Brooke	Cooper	bcooper@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_2-2034_1
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_2-2034_1
Kim	Havey	kim.havey@minneapolismn.gov	City of Minneapolis	350 South 5th Street, Suite 315M Minneapolis, MN 55415	Electronic Service	No	OFF_SL_2-2034_1
Susan	Medhaug	Susan.medhaug@state.mn.us	Department of Commerce	Suite 280, 85 Seventh Place East St. Paul, MN 551012198	Electronic Service	No	OFF_SL_2-2034_1
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_2-2034_1
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_2-2034_1
Russ	Stark	Russ.Stark@ci.stpaul.mn.us	City of St. Paul	390 City Hall 15 West Kellogg Boulevard Saint Paul, MN 55102	Electronic Service	No	OFF_SL_2-2034_1
James M	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	150 S 5th St Ste 700 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_2-2034_1
Lynnette	Sweet	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_2-2034_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Rebecca S.	Winegarden	beckwine@msn.com	Unknown	10555 Union Terrace Ln N Maple Grove, MN 553692622	Electronic Service	No	OFF_SL_2-2034_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Allen	michael.allen@allenergysolar.com	All Energy Solar	721 W 26th st Suite 211 Minneapolis, Minnesota 55405	Electronic Service	No	OFF_SL_12-383_Official
Laura	Beaton	beaton@smwlaw.com	Shute, Mihaly & Weinberger LLP	396 Hayes Street San Francisco, CA 94102	Electronic Service	No	OFF_SL_12-383_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_12-383_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_12-383_Official
Kim	Havey	kim.havey@minneapolismn.gov	City of Minneapolis	350 South 5th Street, Suite 315M Minneapolis, MN 55415	Electronic Service	No	OFF_SL_12-383_Official
Craig	Johnson	cjohnson@lmc.org	League of Minnesota Cities	145 University Ave. W. Saint Paul, MN 55103-2044	Electronic Service	No	OFF_SL_12-383_Official
Cliff	Kaehler	cliff.kaehler@novelenergy.biz	Novel Energy Solutions LLC	4710 Blaylock Way Inver Grove Heights, MN 55076	Electronic Service	No	OFF_SL_12-383_Official
William D	Kenworthy	will@votesolar.org	Vote Solar	332 S Michigan Ave FL 9 Chicago, IL 60604	Electronic Service	No	OFF_SL_12-383_Official
Brad	Klein	bklein@elpc.org	Environmental Law & Policy Center	35 E. Wacker Drive, Suite 1600 Suite 1600 Chicago, IL 60601	Electronic Service	No	OFF_SL_12-383_Official
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_12-383_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_12-383_Official
Isabel	Ricker	ricker@fresh-energy.org	Fresh Energy	408 Saint Peter Street Suite 220 Saint Paul, MN 55102	Electronic Service	No	OFF_SL_12-383_Official
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_12-383_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_12-383_Official
David	Shaffer	shaff081@gmail.com	Minnesota Solar Energy Industries Project	1005 Fairmount Ave Saint Paul, MN 55105	Electronic Service	No	OFF_SL_12-383_Official
Bria	Shea	bria.e.shea@xcelenergy.com	Xcel Energy	414 Nicollet Mall Minneapolis, MN 55401	Electronic Service	No	OFF_SL_12-383_Official
James M	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	150 S 5th St Ste 700 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_12-383_Official
Lynnette	Sweet	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_12-383_Official
Peter	Teigland	pteigland@mnseia.org	MnSEIA	2288 University Ave. W. St. Paul, MN 55114	Electronic Service	No	OFF_SL_12-383_Official