

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

November 14, 2016

**In the Matter of a Petition by Minnesota Power for Approval
of a Community Solar Garden Program, Eligibility of the Energy
for Small Scale Solar Energy Standard Compliance and a Recovery
Method for Program Cost Recovery**

Docket No. E-015/M-15-825

**COMMENTS BY FRESH ENERGY CONCERNING MINNESOTA POWER'S
COMPLIANCE ITEMS FILED ON OCTOBER 3, 2016**

Fresh Energy respectfully submits the following Comments in response to the Commission's October 11, 2016 Notice of Comment Period regarding Minnesota Power's ("MP" or the "Company") community solar garden ("CSG") October 3, 2016 compliance filings. The Company filed compliance items on two issues which we address below, (1) a draft Request for Proposals ("RFP") for non-utility CSG projects to participate in the Company's CSG program; and (2) the results of its inquiry into solar renewable energy credits ("SREC") pricing.

**I. Minnesota Power's "Draft" Request for Proposals for Non-Utility
Community Solar Gardens**

In the Commission's July 27, 2017 order approving Minnesota Power's CSG proposal with modifications, the Commission ordered that, "in consultation with interested stakeholders, Minnesota Power shall draft an RFP for three non-utility community solar gardens, each up to 1 MW, and file the draft RFP with the Commission."¹ The Commission's order required the Company to seek such

¹ Order Point 8 at 12.

proposals because it recognized the customer and public interest benefit of exploring non-utility offerings in Minnesota Power's CSG program.

Community solar gardens represent an opportunity to explore new frameworks for providing customers with affordable, renewable, and distributed electric generation. Failing to take advantage of that opportunity would be inconsistent with the public interest.

To balance the interest in opening the program to new ownership and development models with the interest in a controlled roll-out of this pilot program, the Commission will require Minnesota Power to draft (in consultation with interested stakeholders) an RFP for three non-utility community solar gardens, each up to 1 MW, and file the draft RFP with the Commission. This will give the Commission an opportunity to review the proposal and move toward opening Minnesota Powers' community solar garden program offerings in a deliberate manner and consistent with customer demand.²

Minnesota Power filed its draft RFP for three non-utility CSGs on October 3, 2016. Overall, we appreciate Minnesota Power's effort to be inclusive in its RFP and its inclusion of forward-thinking elements, such as offering to provide voltage maps for the Company's distribution system and information regarding line load, capacity and an estimate of interconnection costs.³ Providing this information will not only lower project costs and reduce utility staff time, but can also be a strategy to guide projects to locations where they provide the most benefit to MP's system.

We also appreciate that the Company's draft RFP is broad so as not to preclude different CSG project models, types and scales. However, to be successful in

² Order at 10.

³ MP RFP at 9.

realizing successful bids, the RFP must be clear that the proposals for non-utility CSGs will be projects participating in MP's CSG program. The draft RFP is unclear on this point and, most importantly, does not explicitly lay out the subscriber bill credit terms and other elements of MP's program that would also apply to the non-utility CSG subscribers from the selected RFP projects. The purpose of this RFP is not to create a separate, non-utility CSG *program* for MP customers, but to facilitate non-utility CSG *projects* in MP's CSG program. As the Commission's order states, a central purpose of the RFP is "opening the program to new ownership and development models" and to "move toward opening Minnesota Power's community solar garden program offerings."⁴

Fresh Energy recommends the following changes to the draft RFP to clarify how non-utility CSG projects responding to the RFP would participate in MP's CSG program:

- Add a section to the RFP describing the aspects of MP's CSG program, as approved by the Commission, that will apply to non-utility CSG subscribers. This should include:
 - The bill credits for subscribers
 - A contract between the non-utility CSG operator and the Company
 - Tariff sheets, either changes to, or new sheets in, Minnesota Power Electric Rate Book Volume 1, Section V, Pilot Rider for Community Solar Garden Subscription
 - The provisions relevant to non-utility CSG subscribers appear to be
 - The Application section
 - The Rate section, Option 3, Monthly kWh credit
 - The Service Conditions section

⁴ Order at 10.

- The information the Company needs to incorporate the non-utility CSG subscribers into its program administration software and/or billing systems
- Strike section 2. b) 1), bullet 3, sub-bullet 5 (page 5): “What is the structure of the bill credit to the subscriber? (Dollars or kWh?).” The bill credits for non-utility CSGs will be in the same form as MP’s CSG in the program.
- Make changes to section 2. b) 1), bullet 7 (page 6): “Unsubscribed energy and capacity” and strike section 5. a) bullet 3 (pages 10,11): “Bid economics.” Unsubscribed energy and capacity as well as SREC pricing should be established in the RFP as part of the program rules described above and it should be made clear that MP is responsible for buying all energy produced by the CSG project and “[h]ow reimbursement for excess generation [is] handled.” For unsubscribed energy, we recommend the same treatment as for Xcel Energy’s CSG program, as this rate encourages fully subscribing CSGs. For SRECs, we recommend that the established mirror the pricing in MP’s CSG pilot, unless the SRECs would be coming from a CSG that is smaller than 20kw.
- Strike section 2. b) 3), bullets 2 and 3 (page 6): “What methods shall be used to integrate with Minnesota Power’s billing system?” and “What data is required to be transferred to/from Minnesota Power?” Instead, Minnesota Power should provide this information in the RFP and supporting materials.
- Strike section 2. b) 3), bullet 4 (page 6): “Have you explored the impact to your program upon a change in Minnesota Power’s rates or rate structure.” Since the non-utility CSG operator will be signing a contract with the Company that includes the bill credits for the 25-year project term (per the terms of MP’s CSG program), this information is irrelevant.
- Strike section 2. c) 1), bullet 8, sub-bullet 3 (page 8), underlined portion: “Bidder must provide preliminary scope details and high

level cost estimates allocated towards constructing the interconnection.” Even though MP is providing system information to streamline interconnection costs (which is a good step), it is unrealistic for bidders to estimate the interconnection cost. Instead, MP could provide a matrix of ballpark cost estimates along with its system information.

- Strike section 2. c) 2), bullet 1 (page 8): “Identify the method and technology required for transferring metering data from the community solar site to Minnesota Power’s system.” Instead, Minnesota Power should provide all of the data formats options compatible with its systems and any data security requirements in the RFP materials.
- Add to MP’s column in the “responsibilities matrix” on page 5, that MP will administer bill credits on subscribers bills based on production information from the non-utility CSG. Similarly, strike from the developers’ column on the matrix “[i]f applicable, distributes credits against subscription.”
- Any other program rules that would apply to non-utility CSG projects
- For clarity, the RFP should also indicate which information is required and which information is optional.

We would also support the Company including an option for smaller, community organization-based projects, where the Company would manage subscriptions and billing. If Minnesota Power is open to such an option, in addition to providing the above requested information and changes regarding how a non-utility CSG will be incorporated into MP’s program, it should separately describe the mechanics for the community organization-based CSG option in the RFP and accompanying documents (e.g., tariff sheets, contracts). However, we do not think including a preference specifically “for smaller, multiple projects distributed throughout Minnesota Power’s territory, rather than for one large project” is appropriate. If such a project can demonstrate other community benefits, it will receive preference, but sizing in a vacuum should not receive preference considering the

maximum size allowed in the RFP is 1 MW. Therefore, we recommend striking that language at section 5 a), bullet 4, sub-bullet 8 (page 12).

The draft RFP also contains requirements that are either not relevant for non-utility CSGs in this context or, if relevant, are sensitive and should be protected as trade-secret. First, the RFP asks for information regarding rate impacts and “cost shifting.” This information is unnecessary and irrelevant in this context. Since these non-utility CSGs are participating in MP’s CSG program, there is no rate impact or cost-shifting that would differ from MP’s CSG projects.

Fresh Energy recommends the following change, which is also deleted in the attached redline:

- Strike section 5. a), first paragraph, last sentence (page 10): “Cost shifting to non-subscribers and equitability to participating customers are paramount considerations to any CSG program.”

Second, the draft RFP seeks various cost elements from proposals that are costs that would be borne entirely by the non-utility project. As non-utility projects, the costs for the project, as well as the subscription prices for subscribers, are up to these private offerings to determine. Generally, a competitive market would discipline these costs and the companies would compete on subscription terms to customers. However, since non-utility CSG participation is limited to three projects, it makes sense to look for projects that provide reasonable terms for subscribers and include that as a project evaluation component. Still, as private businesses competing, they should be required to submit only the customer-facing costs and enough financial information to provide confidence that they can execute the project. Not only is this information sensitive to other non-utility competitors, but since Minnesota Power has, and will likely continue, to compete with developers in solar resource acquisitions and in CSG offerings, the Company should receive only the information necessary to evaluate project viability.

Moreover, the RFP should be clear that this information will be protected as trade secret.

Fresh Energy recommends the following changes on this point, which are also reflected in the attached redline to the extent possible:

- Note that the information in section 2. b) 1), bullet 3 “Subscription cost and credit” (page 5) will be protected as trade secret.
- Note that the information in section 2. b) 1), bullet 5 “Project cost” (pages 5-6) will be protected as trade secret.
- Strike section 2. b) 1), bullet 5, second sentence (page 6): “How is the project being financed?” Financing structure and partners is often the most proprietary information and is not needed above and beyond overall project cost information for the purposes of project selection.
- Note that the information in section 2. b) 2), bullet 5 “Provide marketing and outreach plan, if any (e.g. web based portal, marketing materials” (page 6). Will be protected as trade secret and is not required.
- Strike section 3, bullet 5 “Cost proposal” (page 9). If bidders are providing subscription pricing, MP does not need detailed equipment information. Project viability can be determined through other information.
- Note that bidders may request that information provided per section 3. Proposal requirements (page 10) be protected as trade secret.

Finally, we ask that the Department analyze section 7 Reservation of rights, to ensure that it is not more onerous than RFP best practices in Minnesota and does not undermine the purpose of the RFP. We are concerned that certain provisions in this section, such as a unilateral right for MP to modify the RFP at any time, presumably even after Commission approval, reserve authority for the Company to the extent that it could chill RFP participation.

II. Minnesota Power's Solar Renewable Energy Credit ("SREC") Pricing Compliance Filing

On October 3, 2016 Minnesota Power also made a compliance filing regarding the Company's RFP for SREC pricing, as required in the Commission's order.⁵ The Company explains that it did not receive any responses to its SREC RFP or from a brokerage firm's similar request on the Company's behalf. The lack of responses is somewhat expected since the RFP and the brokerage solicitation were for information only, rather than for an actual SREC sale/purchase. Therefore, the Company proposes to continue with its SREC discount price of \$0.002 per kWh.⁶ Under the circumstances and unless additional SREC pricing information is provided in the record, we do not oppose the Company using this SREC pricing for the initial phase of its pilot.

However, because MP's SREC pricing has no basis in the record, it should be updated as soon as substantiated SREC pricing is provided in the record. Throughout the docket, Minnesota Power has maintained that its SREC pricing was developed by information from companies responding to its request for proposals and states the same in its compliance filing: "[t]his \$0.002/kWh S-REC value was initially determined through the competitive bidding process the Company used for acquiring the 1 MW solar Power Purchase Agreement ("PPA") that will supply solar generation for the CSG Pilot Program."⁷ However, in response to Fresh Energy information requests Minnesota Power's stated – contrary to its claim that SREC pricing was provided through its bidding process – that "[t]he confidential information provided by U.S. Solar [the winning bidder] and other developers regarding SREC pricing was outside the scope of the Request

⁵ Order Point 3 at 11 ("Minnesota Power shall discount subscription prices by current market pricing for S-RECs, as determined by a competitive bidding process for S-RECs in northern Minnesota.")

⁶ Minnesota Power *Compliance Filing to meet the requirements of Order Point 3 from the July 27, 2016 Order*, October 3, 2016.

⁷ *Id.* at 2.

for Proposal.”⁸ Further, when asked for *any* information and/or supporting documentation regarding the SREC pricing provided by the winning bidder, the Company did not provide any information or documentation. As such, the Company has failed to provide any meaningful information or justification supporting its SREC pricing in the docket other than generic statements that it has since contradicted. Therefore, the Company’s current SREC pricing should not be considered to reflect SREC pricing for any other purposes and should be updated as soon as reasonable and supported SREC pricing is provided in the record.

III. Customer Pricing Information

Minnesota Power’s compliance filing also included a report of its facilitated discussions related to Order Point 10: “Minnesota Power shall discuss with interested stakeholder whether and how pricing information on public-facing programs can be made public in the future.” This order point was included because Minnesota Power first filed its proposed CSG program customer pricing, including its SREC compensation proposal, on April 14, 2016. Before that filing, the Company’s program pricing information was filed as trade secret during the seven month period between that date and the Company’s initial program filing. During that period, there were three public comment opportunities where customer pricing and compensation were unknown to the public and stakeholders other than the Department.

Fresh Energy did not anticipate this issue being addressed through the RFP development stakeholder process the Company instituted with an independent facilitator. Instead, we envisioned the Company being proactive by making public as much pricing information as possible and working specifically with regulatory stakeholders on protection agreements regarding trade secret information. Instead of any conversations on this topic with Fresh Energy, Minnesota Power has stated it will not make any changes to its current practice because “[t]here were no specific

⁸ Fresh Energy Information Request No. 1.

suggestions related to public pricing of programs” through its RFP stakeholder process.⁹

Recommendations

Fresh Energy recommends that the Commission:

1. Order that Minnesota Power adopt the recommendations for additional information to include in the RFP as detailed in Section I.
2. Order that Minnesota Power strike RFP components as detailed in Section I and the attached redline.
3. Order that the Company’s current SREC pricing should not be considered to reflect SREC market pricing and should be updated as soon as reasonable, supported SREC pricing is provided in the record.

/s/ Allen Gleckner
Allen Gleckner
Director, Energy Markets
Fresh Energy
408 St. Peter Street, Suite 220
St. Paul, MN 55102
(651) 726-7570
gleckner@fresh-energy.org

⁹ Minnesota Power Compliance Filing at 5. While Fresh Energy was invited to the facilitated CSG stakeholder discussion, it was not aware that the pricing information issue would be included.