



April 10, 2026

Sasha Bergman  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, MN 55101

**Re: In the Matter of Formal Complaint of Hennepin County, Minnesota Against Xcel Energy Under  
Minn. Stat. 216B.164  
Docket No. E002/C-25-435**

Executive Secretary Bergman,

Please find enclosed the comments of the Coalition for Community Solar Access, the Minnesota Solar Energy Industries Association, and the Solar Energy Industries Association, collectively the Joint Solar Parties (JSP). The JSP respectfully submits these comments in response to the Notice of Comment Period issued by the Minnesota Public Utilities Commission on January 15, 2026.

The JSP looks forward to continued collaboration with the Commission, the Department of Commerce, the Attorney General, utilities, and all stakeholders on these and other issues to ensure the thoughtful deployment of distributed energy resources in Minnesota.

Sincerely,

*/s/ Logan O'Grady, Esq.*  
*Executive Director*  
*MnSEIA*  
*(P) 651-425-0240*  
*(E) logrady@mnseia.org*

*/s/ Jeff Cramer*  
*President & Chief Executive Officer*  
*CCSA*  
*(P) 720-608-0689*  
*(E) jeff@communitysolaraccess.org*

*/s/ Sara Birmingham*  
*Vice President, State Affairs*  
*SEIA*  
*(P) 415-385-7240*  
*(E) sbirmingham@seia.org*

**STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Hwikwon Ham	Commissioner
Audrey Partridge	Commissioner
Joseph Sullivan	Commissioner
John Tuma	Commissioner

**In the Matter of Formal Complaint of  
Hennepin County, Minnesota, Against Xcel  
Energy Under Minn. Stat. 216B.164**

**REPLY COMMENTS**

**April 10, 2026**

**Docket No. E-002/C-25-435**

**EXECUTIVE SUMMARY**

The Solar Energy Industries Association (SEIA), Minnesota Solar Energy Industries Association (MnSEIA), and Coalition for Community Solar Access (CCSA), collectively the Joint Solar Parties (JSP), respectfully submit these Reply Comments in response to the Notice of Comment Period, issued by the Minnesota Public Utilities Commission (Commission or PUC) on January 15, 2026. After reviewing the Initial Comments filed by stakeholders in this docket, the JSP continue to support Hennepin County’s (County) Formal Complaint because we believe that Xcel cannot establish, implement or enforce significant rules or practices without the Commission’s prior approval and, even if Xcel requested Commission approval of the rule at issue in this docket, it should be rejected because Xcel’s application of this rule is inconsistent with Minnesota and Federal law. Xcel’s Initial Comments demonstrate a fundamental misunderstanding or misinterpretation of the plain language of Minnesota law, conflating provisions unrelated to each other and relying on a FERC order that is clearly distinguishable. There is still no dispute that Xcel’s application of this rule would limit the development of renewable energy resources in Minnesota, especially among counties, cities,

and other public entities who commonly site projects within one mile of each other, impairing Minnesotans' ability to be part of the clean energy economy and Minnesota to meet its clean energy goals. Accordingly, the JSP continue to believe that:

- The Commission has jurisdiction over the subject matter of the Complaint;
- There are reasonable grounds for the Commission to investigate the allegations in the Complaint;
- It is in the public interest for the Commission to investigate these allegations; and,
- The Commission should require Xcel to Answer the Formal Complaint and then initiate an expedited proceeding.

The JSP appreciate the opportunity to provide comments in this docket and the Commission's consideration of these important issues.

## COMMENTS

The JSP provide the following comments in response to the Initial Comments filed by stakeholders. Overall, Xcel's analysis ignores the plain language of Minnesota law and violates fundamental canons of statutory interpretation.<sup>1</sup> Xcel's analysis would result in significant provisions of Minnesota law becoming ineffective and unnecessary.

### **1. Xcel's Arguments Conflate a QF and NMF under Minnesota Law.**

The central issue in this proceeding is whether Minnesota law permits a utility to aggregate separate electric generation facilities for compensation purposes based solely on geographic proximity. It does not: Minn. Stat. § 216B.164 defines capacity at the point of interconnection, and nothing in the statute authorizes application of PURPA's One-Mile Rule to net metered facilities. Xcel's arguments appear to demonstrate either a fundamental misunderstanding of Minnesota law, or an intent to confuse and mislead the Commission. Xcel even begins its argument by misstating the

---

<sup>1</sup> See, e.g., Minn. Stat. § 645.16 ("Every law shall be construed, if possible, to give effect to all its provisions."); Minn. Stat. § 645.08(1) (technical words and phrases are construed according to their definition).

issue, saying, “The Complaint centers on the definition of a Qualifying Facility (QF) in Minn. Stat. §216B.164, Minn. R. 7835.0100, and the Federal Regulatory Commission’s (FERC) regulations (18 CFR 292.203 and 204). For determining eligibility for net-metering rates, the Company appropriately applied the FERC QF definition and the FERC QF one-mile rule, and determined that the two projects are located on the same site, therefore constituting a single QF over 1 MW.”<sup>2</sup> The County’s Complaint does not center on the definition of a QF for eligibility for net-metered rates. The County is asking for compensation as a “net metered facility” (NMF) under Minn. Stat. § 216B.164, subd. 3a, and Minn. R. 7835.4017, neither of which use the term QF.

As noted in our Initial Comments, with regard to compensation under Minn. Stat. § 216B.164, subd. 3a, and Minn. R. 7835.4017, a NMP will receive “a kilowatt-hour credit on the customer’s energy bill carried forward and applied to subsequent energy bills,” with any excess energy at the end of that calendar year being compensated at an avoided cost rate. The definitions of a “net metered facility” under Minn. Stat. § 216B.164, subd. 2a(j), and Minn. R. 7835.0100, subp. 15a, do not use the term QF or otherwise incorporate the Federal definition of a QF.

Although Xcel is correct that an electric generation facility can be both a QF and NMF under Minn. Stat. § 216B.164 because, as also noted in our Initial Comments, how a facility is treated depends on the specific language of the specific provision of Minnesota law that is applicable. For example, for the purpose of compensation, a facility can be either a QF or a NMF because each provision uses specific and different language.<sup>3</sup> And just because an electric generation facility is a QF for purposes of disputes under subdivision 5, or interconnection under subdivision 8, does not mean it is a QF for purposes of compensation under subdivision 3a. One must read the specific

---

<sup>2</sup> *In the Matter of Formal complaint of Hennepin County, Minnesota Against Xcel Energy Under Minn. Stat. 216B.164*, Dkt. 25-435, Xcel, INITIAL COMMENTS, p. 1-2 (March 13, 2026).

<sup>3</sup> *Compare* Minn. Stat. § 216B.164, subd. 3, and Minn. Stat. § 216B.164, subd. 3a.

language of each subdivision to determine how the facility will be treated for the purposes of that particular subdivision. Xcel's arguments treat every facility as only a QF for every provision, regardless of the specific language of the specific provision. Under this approach, the definition of a "net metered facility" would be completely unnecessary in violation of Minn. Stat. § 645.16. In fact, if every NMF is a QF for every provision of Minnesota law, then it would be completely unnecessary to use the term NMF at all. Moreover, the definition of capacity under Minn. Stat. § 216B.164, subd. 2a(c), would become irrelevant, as well as every provision that uses that term, under Xcel's argument that the power production capacity of every facility within one mile is automatically combined. The Minnesota Legislature clearly defined where the capacity of a facility is measured<sup>4</sup> and distinguished between QFs and NMPs in certain provisions of Minnesota law, and those definitions and distinctions must be followed. Neither Xcel, the Commission, nor any other party can ignore the plain language of Minnesota law. Accordingly, a simple reading of the plain language of the relevant law provides the clear answer, the PURPA One-Mile Rule for QFs does not apply to NMFs under Minnesota law with regard to compensation or any other provision that specifically relates to NMFs.

## **2. The Language of the Uniform Statewide Contract Undermines Xcel's Argument; It Does Not Support it.**

Xcel's reliance on the language of the Uniform Statewide Contract (USC) is misplaced. Xcel states that the USC "only applies to QFs and specifically states that the agreement is made between the utility and the QF."<sup>5</sup> Xcel then goes on to say, "The Uniform Statewide Contract refers to the customer as a QF and equates a net metered facility as a QF."<sup>6</sup> These statements are inconsistent with Minn. Stat. § 216B.164 and a violation of Minn. R. 7829.0250, which requires every person who files

---

<sup>4</sup> Minn. Stat. § 216B.164, subd. 2a(c) ("Capacity' means the number of megawatts alternating current (AC) at the point of interconnection between a distributed generation facility and a utility's electric system.").

<sup>5</sup> *In the Matter of Formal complaint of Hennepin County, Minnesota Against Xcel Energy Under Minn. Stat. 216B.164*, Dkt. 25-435, Xcel, INITIAL COMMENTS, p. 9 (March 13, 2026).

<sup>6</sup> *Id.*

something with the Commission to have “a good faith belief that statements of fact made are true and correct, and that legal assertions are warranted by existing law or by a nonfrivolous argument for the extension or reversal of existing law or the modification or establishment of rules.” Minn. Stat. 216B.164, subd. 6, the provision that required the Commission to “promulgate rules to implement the provisions of this section,” explicitly states, “The commission *shall also establish a uniform statewide form of contract for use between utilities and a net metered or qualifying facility having less than 1,000-kilowatt capacity if interconnected to a public utility or less than 40-kilowatt capacity if interconnected to a cooperative electric association or municipal utility.*” (Emphasis added). Thus, the statute authorizing the USC explicitly recognizes the distinction between a QF and a NMF, it does not equate them. Moreover, the fact that the USC uses the term QF throughout the USC to refer to the customer does not help Xcel’s argument. As the Commission is aware, contracts, or even comments, often simplify a reference to a particular party to a common term, like QF, stating “(hereafter called ‘QF’)”, for ease of reference. That is especially true when a standardized document is being used. Such use does not define QF in any particular way nor equate it to a NMF. And while that common reference to a facility as QF may be reasonable because it is a QF for certain provisions of the contract, when it comes to compensation under Minn. R. 7835.4017, it states:

5. The Public Utility will buy electricity from **a net metered facility** under the current rate schedule filed with the Commission or will compensate the facility in the form of a kilowatt-hour credit on the facility's energy bill. If the net metered facility has at least 40 kilowatts capacity but less than 1,000 kilowatts capacity, the QF elects the rate schedule category hereinafter indicated:

- \_\_\_ a. Kilowatt-hour energy credit on the customer's energy bill, carried forward and applied to subsequent energy bills, with an annual true-up under part 7835.4017.
- \_\_\_ b. Simultaneous purchase and sale billing rate under part 7835.4014.
- \_\_\_ c. Time-of-day purchase rates under part 7835.4015.

A copy of the presently filed rate schedule is attached to this contract.<sup>7</sup>

So, even when the USC refers to compensation, it specifically references a “net metered facility” under Minn. R. 7835.4017. And Minn. R. 7835.9910, also doesn’t use the term QF, stating, “The form for the uniform statewide contract *must be applied to all new and existing interconnections between a utility and cogeneration and small power production facilities* having less than 1,000 kilowatts of capacity.” (Emphasis added). Thus, the language of the Minn. Stat. § 216B.164, subd. 6, Minn. R. 7835.9910, and the USC itself, undermine, rather than support, Xcel’s arguments.

### **3. PURPA Does Not Apply to State Net Metering Laws Regarding Compensation.**

And despite Xcel’s claimed reliance on PURPA in this matter, in docket 24-389, quoting a NARUC PURPA Title II Compliance Manual, Xcel stated, “Net metering ‘is an incentive mechanism that is outside the scope of PURPA.’”<sup>8</sup> Xcel reiterated its position several more times, stating, “As pointed out by the Department on page 4 of their Comments, net metering is outside the scope of PURPA,” and, “Further, as recognized by the Department, monthly or annual net metering is outside the scope of PURPA, therefore increasing the availability of monthly or annual net metering is also outside the scope of PURPA.”<sup>9</sup> And, again, on page 10, in response to a stakeholders request for monthly net metering, Xcel stated, “There is no PURPA requirement to offer this type of net metering, and the Department has already explained that net metering is outside the scope of PURPA.”<sup>10</sup> If net metering is outside the scope of PURPA in one docket, then it should be outside the scope of PURPA in another docket that is also about net metering.

---

<sup>7</sup> Minn. R. 7835.9910. It also worth noting that paragraph 5 states the “Public Utility,” when the beginning of the contract referred to the electric utility as “Utility.”

<sup>8</sup> *Proposed Revisions to Net Metering Tariffs*, Dkt. 24-389, Xcel, PETITION, p. 3 (Nov. 20, 2024).

<sup>9</sup> *Proposed Revisions to Net Metering Tariffs*, Dkt. 24-389, Xcel, REPLY COMMENTS, p. 7 (Feb. 28, 2025).

<sup>10</sup> *Id.*, p. 10.

In support of its argument, Xcel provides a misleading quote of subdivision 2(a) of Section 216B.164, leaving out relevant portions. Minn. Stat. § 216B.164, subd. 2(a), states, in its entirety:

This section as well as any rules promulgated by the commission to implement this section **or** the Public Utility Regulatory Policies Act of 1978, Public Law 95-617, Statutes at Large, volume 92, page 3117, as amended, and the Federal Energy Regulatory Commission regulations thereunder, Code of Federal Regulations, title 18, part 292, as amended, shall, **unless otherwise provided in this section**, apply to all Minnesota electric utilities, including cooperative electric associations and municipal electric utilities. (Emphasis added).

This language clearly states that it is implementing state law and PURPA, not just PURPA. But, more importantly, when the Minnesota Legislature stated, “unless otherwise provided in this section,” it made it clear that Minnesota law trumps PURPA when it comes to state energy law, which includes compensation under Minnesota law. And by using the term “net metered facility,” instead of “qualifying facility,” the Minnesota Legislature made it clear that the compensation for an NMF is not based on the Federal definition of a QF.

As discussed in detail in our Initial Comments and by other stakeholders, Minnesota can have different compensation rates and requirements under state law than required by PURPA.<sup>11</sup> The Minnesota Court of Appeals agreed with the Commission and Xcel in, *In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of Its Proposed Community Solar Garden Program*, that “as long as a state provides QFs the opportunity to enter into long-term legally enforceable obligations at avoided cost rates, a state may also have alternative programs that QFs and electric utilities may agree to participate in.”<sup>12</sup> Minnesota’s net metering programs, like the

---

<sup>11</sup> *Proposed Revisions to Net Metering Tariffs*, Dkt. 24-389, MnSEIA, ANSWER, p. 1, 2, 12 (July 25, 2025).

<sup>12</sup> *In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of Its Proposed Community Solar Garden Program*, 2016 WL 3043122, p. 19-20 (Minn. Ct. App. May 31, 2016) (unpublished decision) (citing FERC’s *Winding Creek* solar decision); *see also, Otter Creek Solar LLC*, 146 FERC 61,192 at p. 3-4 (2014) (“Vermont’s SPEED program, in contrast, is a voluntary program that Otter Creek and other QFs may choose to avail themselves of if they wish to do so, but it in no way replaces or supersedes the Rule 4.100 program. Instead, the SPEED program is simply an option offered by Vermont to QFs like Otter Creek in addition to, but not as a replacement for, the Rule 4.100 program.”).

one under Minn. Stat. § 216B.164, subd. 3a, is an alternative state program, whose requirements and compensation rate is determined by state law, not PURPA.

**4. The SunE B9 Holdings, LLC, Decision is Inapplicable to the Current Situation.**

Because the Federal definition of a QF is irrelevant to the compensation that a NMF is entitled to under Minnesota law, Xcel's reliance on FERC's SunE B9 Holdings, LLC (SunE), decision is also misplaced. SunE is inapplicable because it interprets PURPA QF aggregation rules, which do not govern state-law NMF compensation. But, even if it was applicable, a reading of the actual decision instead of Xcel's summary of it, will easily distinguish it from the current situation. In SunE, the owner of the facility was attempting to avoid the Form 556 filing requirements by stating that each of the eighteen 500 kW inverters, which were all located at the same geographic coordinates, were each an individual facility, exempt from PURPA's filing requirements. The County has not made such a claim. Unlike SunE, it is including all of the inverters at each separate location and treating them as one facility, which, even when combined, are less than 1 MW. But, more importantly, SunE was trying to claim QF status under PURPA so that it could receive compensation under PURPA. The County is not seeking compensation under PURPA, it is seeking compensation under Minnesota law. And, as discussed above, compensation under Minnesota law does not require the County's facility to be a QF under PURPA. It is a NMF, as that term is defined under Minnesota law, for purposes of compensation.

**5. The County's Alternative Approach Appears Reasonable for this Situation.**

Because the Commission has jurisdiction, there are reasonable grounds to investigate the complaint, and an investigation is in the public interest, the Commission should require Xcel to Answer the Formal Complaint pursuant to Minn. R. 7829.1800, subp. 2. After the Answer is filed, the JSP agree with the process proposed by the County, wherein the County will file an Initial Brief

within 15 days, allowing Xcel 20 days to reply, with the County having 7 days to respond. In addition, all parties should be allowed to file comments within 20 days of Xcel's reply brief. This approach appears to be a reasonable way to address this situation and allow stakeholders to participate without imposing additional burdens on them.

In the alternative, because there are no material facts in dispute, an expedited proceeding is authorized by Minn. R. 7829.1900, subp. 1, and the County requested an expedited hearing, the Commission could conduct an expedited hearing pursuant to Minn. R. 7829.1200.

### **CONCLUSION**

As noted in our Initial Comments, to determine the eligibility of a facility for a particular compensation structure, the specific language of the relevant Minnesota law must be examined because Minnesota law has different requirements for NMFs and QFs. However, regardless of whether it is a NMF or QF, the capacity of the facility is measured at the facility's point of interconnection/common coupling with the utility's system for the purposes of compensation under Minnesota law.<sup>13</sup> Xcel's Commission approved tariff even agrees, stating, that capacity "is measured by the number of megawatts alternating current at the point of common coupling between a QF or a NMF and a utility's electric system."<sup>14</sup> Facilities are not automatically combined for the purposes of compensation under Minnesota law. Thus, application of PURPA's One-Mile Rule for purposes of Minnesota's compensation schemes would be inconsistent with the plain language of Minnesota law and Xcel's own tariff, and discourage small power production, especially among cities, counties and other public entities because they are the types of entities that are most likely to develop several

---

<sup>13</sup> See Minn. Stat. § 216B.164, subd. 2a(c) ("Capacity' means the number of megawatts alternating current (AC) at the point of interconnection between a distributed generation facility and a utility's electric system."); Minn. R. 7835.0100, subp. 4 ("Capacity' means the capability to produce, transmit, or deliver electric energy, and is measured by the number of megawatts alternating current at the point of common coupling between a qualifying facility and a utility's electric system.").

<sup>14</sup> Xcel, Minnesota Electric Rate Book, Technical and Special Terms for Cogeneration and Small Power Production, Section No. 9, 2<sup>nd</sup> Revised Sheet No. 1, approved on May 9, 2019, in docket 18-714.

renewable energy projects within one mile of each other. This will harm projects that have already been developed, likely wasting taxpayer money, and discourage future development, eliminating the ability of public entities and others to stabilize their energy costs and provide a better environment for their constituents.

Thank you for your time and consideration of the important issues raised in this matter.

Sincerely,

*/s/ Curtis Zaun, Esq.*  
General Counsel  
MnSEIA  
651-677-1602  
czaun@mnseia.org