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June 2, 2017

—Via Electronic Filing—

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

RE: REPLY COMMENTS
COMMISSION INQUIRY INTO THE CREATION OF A COMMISSION
SUBCOMMITTEE UNDER MINN. STAT. §216A.03, SUBD. 8
DOCKET NO. E999/CI-17-284

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, submits the enclosed Reply Comments in response to the comments filed by other parties in the above-mentioned docket.

We have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on the parties on the attached service list. Please contact Amber Hedlund at amber.r.hedlund@xcelenergy.com or (612) 337-2268 if you have any questions regarding this filing.

Sincerely,

/s/

AMY A. LIBERKOWSKI
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Enclosure
c: Service List

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BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

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Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie J. Sieben	Commissioner
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IN THE MATTER OF A COMMISSION
INVESTIGATION INTO THE CREATION OF
A COMMISSION SUBCOMMITTEE UNDER
MINN. STAT. §216A.03, SUBD. 8

DOCKET NO. E999/CI-17-284

REPLY COMMENTS

INTRODUCTION

Northern States Power Company, doing business as Xcel Energy (the Company), submits these Reply Comments in response to the comments filed by other parties in the above-mentioned docket.

Several comments emphasized the need for efficient and accessible Commission procedures. We support efforts to establish easier and simplified ways for consumers and other stakeholders to participate in Commission matters. The Speak Up! feature available on the Commission’s website – a tool to find cases that are open for public comment and to submit comments – is an example of a useful tool to promote access.

We appreciate the suggestions made by parties regarding the DG subcommittee proposal, but note that there appears to be little consensus on the appropriate procedures or scope of issues that would be suitable for the DG subcommittee. Some commenters opposed establishing a DG subcommittee (Dakota Electric Association, Minnesota Rural Electric Association); others believed a DG subcommittee could potentially be a reasonable option, but also stated that more work is needed to develop details on the appropriate process, scope, and safeguards (the Department of Commerce, Xcel Energy, Minnesota Municipal Utilities Association, Missouri River Energy Services, Scott Randall). And some parties suggested that a DG subcommittee should be instituted immediately as proposed by the Commission staff (Minnesota Solar Energy Industries et. al.,¹ Institute for Local Self-Reliance).

¹ The Minnesota Solar Energy Industries Association, the Minnesota Solar Energy Industries Project, and Fresh Energy.

It is the Company's view that a variety of legal, procedural, and practical questions remain open. While the DG subcommittee has the potential to create efficiencies, there may also be other mechanisms available to achieve these goals as the staff proposal is further developed. Other potential options would be to strengthen the CAO process or to rely more frequently on the alternative informal Commission procedures that are already available.

The remainder of our comments address some selected topics raised by other parties, such as the appropriate scope of matters, alternative Commission procedures that are already available, and other topics for further development.

COMMENTS

A. Commission Subcommittee Membership

Based on the comments submitted by other parties, there seemed to be confusion about the composition of a Commission subcommittee. Our understanding is that a Commission subcommittee can only have members that are current Commissioners, based on the statutory language of Minn. Stat. § 216A.03 and requirements for appointing qualified Commissioners. We appreciate staff's clarification filed on May 30, 2017 that affirms the Company's assumption.

B. Scope of Issues

Several comments raised concerns about the wide range of issues that the Commission staff proposed to be eligible for the DG subcommittee process, including CAO complaints where it is "fairly clear" that a non-violation or violation exists, undisputed DG filings that would benefit from streamlining, and other disputed matters that do not involve high level policy issues.

The comments of the Minnesota Municipal Utilities Association (MMUA) mainly focused on the types of matters contemplated for subcommittee disposition, and made several suggestions to narrow the scope of issues. MMUA proposed to limit the eligible issues to disputes where it is clear that a non-violation or violation exists; where the interpretation of statutes, rules, and standards is clear; and where simple misunderstandings of law are causing the dispute. MMUA saw value in exploring the DG subcommittee proposal further, but only if there are procedural guarantees that the process can be limited to truly non-controversial issues.

Similarly, Missouri River Energy Services (MRES) noted that it could support a DG subcommittee only if the delegation of authority is limited to resolve common DG issues that the Commission has considered previously and where there is an established practice or precedent. According to MRES, the authority should not extend to controversial issues, such as net metering and calculation of average retail rates under Minn. R. 7835.1400, or any other issues that require statutory interpretation. MRES also stated that the list of proposed DG subcommittee issues was so general and broad that it was difficult to provide a complete analysis.

We agree with MMUA and MRES that the subcommittee's authority should, at least initially, be limited to a well-defined set of undisputed or non-controversial issues or matters that already have an established Commission precedent. A narrower scope of issues would provide a trial period for learning and evaluation, with an opportunity to implement future modifications and adjustments based on lessons learned.

We share the concern raised by others regarding whether or not the DG subcommittee process would create efficiencies and shorten the time to a final decision. As several parties commented, there are no savings in time or resources if the decisions of the DG subcommittee are routinely appealed to the full Commission. The Department noted that the Independent Engineering process created for the Company's Solar*Rewards Community program was an attempt to find solutions to interconnection-related disputes without Commission involvement, but that mechanism has not been very successful in creating efficiencies. However, if the scope of issues considered by the DG subcommittee is limited to undisputed or clearly uncontroversial issues, it is less likely that they will be appealed to the full Commission.

It should also be kept in mind that the DG subcommittee would not be an advisory group or an expert panel, but instead would consist of one Commissioner.² As the Department and other parties noted, if the eligible issues are technical in nature, it is critical to consider how the subcommittee will be provided with objective and accurate technical assistance and expertise.

C. Alternative Procedures

As the staff proposal continues to be developed, we believe there can be other ways to address the desire for procedural efficiency and increased access. There are existing channels that may already provide the efficiency and access sought. First,

² We believe that having only one Commissioner at a time being on the DG subcommittee is the only practical way of complying with the open meeting law requirements.

Minn. R. 7829.1200 allows an informal or expedited Commission proceeding when a contested case proceeding is not required. Exploring ways to use this authorized informal proceeding more frequently in a systematic manner could result in a practical process that is based on written submissions or allows participation remotely via telephone/video conferencing in Commission meetings.

Second, Minn. R. 7829.1600 allows the Commission to initiate a formal complaint, as a result of an informal customer complaint, when there is need for formal action by the Commission. The Commission staff could create criteria for the initiation of a formal complaint procedure, for example, when it is clear that a violation or a non-violation exists. Again, the informal Commission process described above could be applied to these matters.

Third, the Commission may designate a Lead Commissioner for a type of docket or for a particular subject area (Minn. Stat. § 216A.03, subd. 9), and this option could be considered for certain DG matters. The Lead Commissioner is authorized to hold hearings and request written and oral comments, and may also provide a written summary of the evidentiary record and advisory recommendations, if so requested by the Commission. Again, proceedings by the Lead Commissioner could adopt a less burdensome, user-friendly format.

Fourth, the Commission may choose to expand its use of the Consent Calendar to also include resolving uncontested matters relating to DG issues.

Finally, some parties have highlighted the desire to see the CAO complaint process become more effective. Complaints made to the CAO were also discussed in the Commission staff proposal. We believe it may be beneficial for the Commission to consider articulating certain authorities for the CAO to investigate and resolve minor disputes. In doing so, the Commission would be exploring ways to strengthen the CAO process and to make it more transparent.

D. Open Issues – Clarification to Staff’s Proposal

We disagree with those commenters who suggested that the DG subcommittee process should be implemented immediately based on the Commission staff proposal. For example, the Minnesota Solar Energy Industries Association et. al. (MnSEIA) recommends a quick rollout in order to save parties significant time and money.

We believe a number of legal, procedural, and material questions remain open and undefined, as pointed out by several other parties. These include the appropriate scope of eligible matters; referral of matters to the subcommittee; many procedural

details and protections, including accessibility and user-friendly format; provision of technical expertise; role of the Commission staff and the Department; compliance with ex parte communication rules and open meeting law requirements; and so on. We agree with the Department, MMUA, and MRES that these details would need significantly more development prior to Commission action on the staff proposal to establish a DG subcommittee.

MnSEIA also makes a recommendation that the burden of proof in the DG subcommittee proceeding should always be on the utility. If the matters referred to the subcommittee are limited to uncontested or uncontroversial matters where it is clear that a non-violation or violation has occurred, then there is no need for the Commission to address the burden of proof at this time. The Company suggests that if the burden of proof will become relevant in subcommittee proceedings, it is taken up at that time based on the facts of a given situation.

CONCLUSION

We appreciate the opportunity to provide these additional comments to the Commission regarding the staff proposal to establish a DG subcommittee. A DG subcommittee may be a useful channel to produce efficiencies and increase access to the Commission, however, this depends on the scope of issues, details of the subcommittee procedures, and due process safeguards in place. The open issues and legal, procedural, and material implications require significantly more development at this time, and we look forward to participating in this dialogue. We also encourage the Commission staff and other parties to explore alternative ways to create accessible and efficient processes, such as strengthening the CAO process or increasing reliance on those informal Commission procedures that are already available.

Dated: June 2, 2017

Northern States Power Company

CERTIFICATE OF SERVICE

I, Carl Cronin, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States mail at Minneapolis, Minnesota

xx electronic filing

Docket No. E999/CI-17-284

Dated this 2nd day of June 2017

/s/

Carl Cronin
Regulatory Administrator

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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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