

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
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In the Matter of the Petition of Northern States  
Power Company, dba Xcel Energy, for  
Approval of Its Proposed Community Solar  
Garden Program

ISSUE DATE: September 6, 2016

DOCKET NO. E-002/M-13-867

ORDER APPROVING VALUE-OF-  
SOLAR RATE FOR XCEL'S  
SOLAR-GARDEN PROGRAM,  
CLARIFYING PROGRAM  
PARAMETERS, AND REQUIRING  
FURTHER FILINGS

**PROCEDURAL HISTORY**

**I. Initial Filings and Orders**

On September 30, 2013, Xcel Energy (Xcel or the Company) filed a proposal for a community-solar-garden program, as required by statute.<sup>1</sup>

The Commission received stakeholder comments on numerous issues and on April 7, 2014, issued an order rejecting Xcel's initial proposal. The Commission required a number of changes to the program, including that the Company pay solar-garden subscribers at the applicable retail rate for energy generated by their subscriptions.

On September 17, 2014, after receiving a revised proposal from Xcel and a second round of stakeholder comments, the Commission approved the program with modifications. The Commission reaffirmed its prior decision to adopt the applicable retail rate; however, it directed stakeholders to explore the possible use of the value-of-solar rate.<sup>2</sup>

**II. Program Launch**

On December 12, 2014, Xcel began accepting applications from developers wishing to construct and operate community solar gardens.

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<sup>1</sup> Minn. Stat. § 216B.1641.

<sup>2</sup> The value-of-solar rate is a rate designed to reflect the value of distributed solar generation to a utility, its customers, and society. Minn. Stat. § 216B.164, subd. 10(a).

The response to the program surpassed expectations, and by June 2015, the aggregate capacity of proposed solar-garden projects had exceeded 900 megawatts (MW). Xcel argued that developers' practice of co-locating solar gardens in large groups resembling utility-scale projects violated statutory requirements and threatened to impose a significant cost burden on nonparticipating ratepayers.

### **III. The Partial Settlement Agreement**

On June 22, 2015, Xcel filed a settlement agreement between the Company and several solar-garden developers. Among other things, the agreement limited the aggregate capacity of each group of co-located gardens to 1 MW for applications submitted after September 25, 2015.

On August 6, 2015, the Commission issued an order adopting portions of the partial settlement agreement, including the 1 MW cap on co-location and a provision excusing Xcel from performing "material upgrades" on its distribution system to allow interconnection of co-located gardens.

### **IV. Investigation into Program Changes**

On July 24, 2015, Xcel requested that the Commission open a formal investigation into potential changes to its solar-garden program.

On November 16, 2015, the Commission denied Xcel's request for a formal investigation but directed stakeholders to file comments addressing

- whether and how the Commission should modify the payment rate, including whether the Commission should replace the applicable retail rate with the value-of-solar rate; and
- what actions, if any, the Commission should take to encourage residential, low-income, and minority participation in the program.

### **V. Stakeholder Comments**

By April 1, 2016, the Commission had received initial comments from the following parties:

- Xcel Energy
- Minnesota Department of Commerce (the Department)
- Office of the Attorney General – Residential Utilities and Antitrust Division (the OAG)
- Community Power et al., a group of nonprofit organizations filing jointly<sup>3</sup>
- Fresh Energy and the Environmental Law and Policy Center (ELPC)

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<sup>3</sup> The following parties joined Community Power's comments: Cooperative Energy Futures, Energy Transition Lab, Environment Minnesota, Growth & Justice, ISAI AH, Minnesota 350, Minnesota Interfaith Power and Light, Minnesota Public Interest Research Group, Neighborhoods Organizing for Change, North American Water Office, and Vote Climate.

- Energy CENTS Coalition, joined by the Legal Services Advocacy Project and Dayton’s Bluff Neighborhood Housing Services (Energy CENTS et al.)
- Energy Freedom Coalition of America (EFCA)
- Interstate Renewable Energy Council, Inc. (IREC)
- Joint Commenters, a group of stakeholders filing jointly<sup>4</sup>
- Minnesota Solar Energy Industry Association (MnSEIA)
- Novel Energy Solutions, LLC
- Rural Renewable Energy Alliance
- Sundial Solar
- SunShare, LLC
- Ten K Solar, Inc.
- UU Community Solar Coalition

Commenters differed as to whether and how to transition to a value-of-solar rate and how to encourage residential, minority, and low-income participation. Several commenters also advocated removing the co-location and material-upgrade limits from the partial settlement agreement and extending a program deadline for completing solar-garden projects.

On April 29, the following parties filed reply comments:<sup>5</sup>

- |                          |                                   |
|--------------------------|-----------------------------------|
| • Xcel                   | • IREC                            |
| • The Department         | • Joint Commenters <sup>6</sup>   |
| • The OAG                | • MnSEIA                          |
| • Community Power et al. | • Novel Energy Solutions          |
| • EFCA                   | • Northfield Area Community Solar |
| • Fresh Energy and ELPC  | • Renewable Energy Partners       |
| • Geronimo Energy        | • SunShare                        |
| • GreenMark Solar, LLC   |                                   |

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<sup>4</sup> The Joint Commenters were Fresh Energy, the City of Minneapolis, the Energy Transition Lab, Cooperative Energy Futures, GRID Alternatives, IREC, Minnesota Community Action Partnership, Minnesota Interfaith Power and Light, Minnesota Solar Connection, and the Minnesota Solar Energy Industry Association.

<sup>5</sup> A reply comment was also received from Alliance for Sustainability on June 1.

<sup>6</sup> In their second iteration, the Joint Commenters were Community Power, Cooperative Energy Futures, the Energy Transition Lab, Fresh Energy, GRID Alternatives, IREC, ISIAAH, Minnesota Community Action Partnership, Minnesota Interfaith Power and Light, MnSEIA, and the Minnesota Unitarian Universalist Social Justice Alliance.

## **VI. Public Comments**

On May 19 and 24, 2016, the Commission convened public hearings to solicit oral and written comments from the public on how to make solar gardens accessible to a broad cross-section of customers and customer classes, and specifically how to encourage developers to include low-income and minority subscribers in their projects.

An administrative law judge (ALJ) received testimony from 43 members of the public, and three people filed written comments. The ALJ filed a summary of public testimony on June 24.

Xcel Energy and Cooperative Energy Futures also filed written comments after the public hearings.

## **VII. Supplemental Comments**

From June 13 to 17, 2016, the Commission received comments from the following parties on extending the project-completion deadline, among other topics:

- Xcel
- The Department
- The OAG
- Fresh Energy and ELPC
- Geronimo Energy
- GreenMark Solar, Novel Energy Solutions, SolarStone, and Sunrise Energy Ventures, and SunShare, five jointly filing solar developers
- SunShare

On June 16, eight stakeholders filed a joint proposal for tariff modifications to address the project-completion-deadline issue.

The Commission heard oral arguments on July 19 and reconvened on July 21 to decide the matter.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Commission Action**

In this order, the Commission takes the following actions:

- Approves the value-of-solar rate for solar-garden applications filed after December 31, 2016, with modifications to the inflation escalator and the calculation of avoided distribution-capacity costs;

- Requests that the Department investigate whether the solar-garden bill-credit rate should be adjusted to encourage developers to seek out residential and low-income subscribers or to site projects in beneficial locations;
- Requires Xcel to file a proposal or proposals to develop a solar garden specifically for low-income customers;
- Requires Xcel to maintain the 1 MW cap on co-located solar gardens;
- Requires Xcel to remove the material-upgrade limit for new applications; and
- Requires Xcel to make several tariff modifications to address the project-completion-deadline issue.

The Commission will require Xcel to file, within 30 days of the date of this order, updated tariff sheets reflecting these decisions.

## **II. Background**

### **A. The Community-Solar-Garden Statute**

The community-solar-garden statute, Minn. Stat. § 216B.1641, requires Xcel to file a plan to operate a community-solar-garden program, under which its customers may subscribe to solar generating facilities (known as “community solar gardens,” or simply “solar gardens”) and receive bill credits for a portion of the energy generated.

Solar gardens are limited to a maximum capacity of 1 MW each.<sup>7</sup> They may be owned by Xcel or by a third-party operator who contracts to sell the output to the utility.<sup>8</sup>

Subscribers—customers of Xcel who live in the county where a garden is located or in an adjacent county—receive bill credits for the energy generated by the garden in proportion to the size of their subscription.<sup>9</sup> Each subscription must be sized to supply no more than 120 percent of the subscriber’s average annual consumption of electricity, and no subscriber may own a greater-than-40-percent share in single garden.<sup>10</sup>

The statute authorizes the Commission to approve, disapprove, or modify Xcel’s community-solar-garden program.<sup>11</sup> Any program approved by the Commission must, among other requirements, reasonably allow for the creation, financing, and accessibility of community solar gardens and be consistent with the public interest.<sup>12</sup>

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<sup>7</sup> Minn. Stat. § 216B.1641(b).

<sup>8</sup> Minn. Stat. § 216B.1641(a).

<sup>9</sup> Minn. Stat. § 216B.1641(b)–(c).

<sup>10</sup> Minn. Stat. § 216B.1641(a)–(b).

<sup>11</sup> Minn. Stat. § 216B.1641(e).

<sup>12</sup> Minn. Stat. § 216B.1641(e)(1), (4).

## **B. Xcel's Solar-Garden Program**

Xcel opened its program to developers in December 2014. By mid-January 2015, the Company had received applications to construct solar gardens with an aggregate capacity of 431 MW. By late June that number had grown to nearly 1,000 MW.

Many of the proposed solar gardens were clustered in a few sites surrounding the Twin Cities urban core. The largest of these “co-located” projects—including a group of 50 1-MW gardens proposed by a single developer—resembled utility-scale facilities whose output Xcel would ordinarily procure through competitive bidding.

To prevent developers from circumventing the statutory limit on garden size and to mitigate the program's financial impact, Xcel proposed a 1 MW limit on the total capacity of each co-located project. In its August 2015 order, the Commission adopted this cap with an effective date of September 25, 2015.

By October 2015, Xcel had received nearly 2,000 MW of solar-garden applications, with 651 applications submitted in September alone.<sup>13</sup> Following the instatement of the co-location cap on September 25, however, the rate of new applications dropped to an average of about four per month. As a result of this drop-off in applications, as well as the voluntary withdrawal of applications by developers, by July 2016 there were 855 MW of active applications in the program.

Interconnection challenges and disputes over co-location and other program rules have delayed Xcel's processing of solar-garden applications; despite the high initial volume of applications, by July 2016 only three solar gardens, representing 370 kW of capacity, were in service. But Xcel stated that it anticipated having 200 MW of solar-garden capacity online by the end of 2016, and another 200–250 MW completed by the end of 2017.

## **III. Transitioning to the Value-of-Solar Rate**

### **A. Introduction**

The solar-garden statute requires Xcel to purchase all energy generated by a garden at the value-of-solar rate or, until that rate has been approved by the Commission, at the applicable retail rate.<sup>14</sup>

The Commission has not yet approved the value-of-solar rate for use in Xcel's solar-garden program, and the Company therefore offers solar-garden subscribers the applicable retail rate. The issue before the Commission is whether the time has come to transition Xcel's program to the value-of-solar rate.

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<sup>13</sup> Since most applications have been for 1 MW gardens the number of applications received corresponds closely to MW of capacity.

<sup>14</sup> See Minn. Stat. § 216B.1641(d) (providing that the compensation for garden energy “shall be at the rate calculated under section 216B.164, subdivision 10 [the value-of-solar statute], or, until that rate for the public utility has been approved by the commission, the applicable retail rate”).

## 1. Value-of-Solar Rate

The value-of-solar rate is designed to reflect the value of distributed solar photovoltaic resources to a utility, its customers, and society.<sup>15</sup> It is calculated according to a methodology developed by the Department and approved by the Commission that accounts for avoided fuel costs, avoided operations-and-maintenance costs, avoided generation-capacity costs, avoided transmission and distribution costs, avoided environmental costs, and other benefits of distributed solar generation.<sup>16</sup>

The value-of-solar rate is updated annually based on changes in the input data used in the approved value-of-solar methodology. Xcel calculated the following value-of-solar rate in 2016, expressed in dollars per kilowatt hour (kWh):

<b>2016 Value-of-Solar Rate</b> (\$/kWh)
0.09950

This rate represents the compensation a subscriber would receive for energy produced during a garden's first year of operation. In each succeeding year, the rate would be adjusted for inflation using the latest Consumer Price Index (CPI) data.

## 2. Applicable Retail Rate

Xcel currently offers subscribers the applicable retail rate. For Xcel's solar-garden program, the applicable retail rate is a subscriber's full retail rate, including the energy charge, demand charge, customer charge, and applicable riders.<sup>17</sup> Because retail rates are tied to customer class, Xcel offers three rates depending on which class a subscriber belongs to:

<b>2016 Applicable Retail Rates (\$/kWh)</b>		
<b>Residential Service</b>	<b>Small General Service</b>	<b>General Service</b>
0.12596	0.12229	0.09740

In addition, under the applicable retail rate, Xcel must offer to purchase the renewable energy credits (RECs) associated with garden energy at a rate of \$0.02/kWh for large gardens and

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<sup>15</sup> Minn. Stat. § 216B.164, subd. 10(a).

<sup>16</sup> See *In the Matter of Establishing a Distributed Solar Value Methodology Under Minn. Stat. § 216B.164, Subd. 10(e) and (f)*, Docket No. E-999/M-14-65, Order Approving Distributed Solar Value Methodology, at 7–8 (April 1, 2014).

<sup>17</sup> April 7, 2014 Order, at 15.

\$0.03/kWh for small gardens.<sup>18</sup> While these payments do not reflect a market rate for RECs, the Commission determined early in the development of Xcel’s program that they were needed to reasonably allow for the creation and financing of solar gardens.<sup>19</sup>

<b>2016 Applicable Retail Rates + Optional REC Payment (\$/kWh)</b>			
<b>Garden Size</b>	<b>Residential Service</b>	<b>Small General Service</b>	<b>General Service</b>
> 250 kW	0.14596	0.14229	0.11740
≤ 250 kW	0.15596	0.15229	0.12740

The applicable retail rates are not adjusted annually for inflation using the CPI. But they are updated annually to reflect changes in Xcel’s retail rates and rate riders, and subscribers receive the applicable retail rate in effect at the time of energy generation.

### **3. Prior Commission Orders**

In past orders, the Commission has recognized the importance of eventually transitioning to the value-of-solar rate, as contemplated by the solar-garden statute. At the same time, however, the Commission expressed doubt as to whether the value-of-solar rate would provide sufficient compensation to reasonably allow for the creation and financing of solar gardens, as required by the same statute.

In its April 2014 order rejecting Xcel’s initial program proposal, the Commission directed the Company to file a value-of-solar tariff for solar gardens or, alternatively, to file a calculation of the value-of-solar rate for solar gardens and show cause why the rate should not be implemented for solar gardens.<sup>20</sup>

In response, Xcel provided a calculation of the value-of-solar rate but argued that the rate might overincentivize solar-garden subscriptions and impose excessive costs on nonparticipating customers. It also argued that using the applicable retail rate would give the Commission greater flexibility to adjust the REC value based on market response to the program.

Other stakeholders split roughly evenly between those who supported using the value-of-solar rate and those who supported using the applicable retail rate. Those favoring the value-of-solar rate generally did so because they found it to be more transparent and predictable, while those favoring the applicable retail rate did so because, combined with the REC value, it resulted in larger payments for garden energy, at least initially.

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<sup>18</sup> *Id.* at 16. RECs are tradable, intangible property interests that represent energy produced by an eligible renewable-energy technology. Xcel is automatically entitled to the RECs associated with any energy that it procures at the value-of-solar rate. Minn. Stat. § 216B.164(i).

<sup>19</sup> April 7, 2014 Order, at 15.

<sup>20</sup> *Id.* at 25.



In its September 2014 order, the Commission concluded that it was not in the public interest to approve a value-of-solar rate for solar gardens at that time and directed Xcel to continue using the applicable retail rate with an optional REC payment. The Commission also directed the parties to engage in further discussions and to file comments on potential “adders” to apply to a value-of-solar rate to ensure that the total effective rate would reasonably allow for the creation, financing, and accessibility of community solar gardens.<sup>21</sup>

In its August 2015 order, the Commission concluded that changes to the bill-credit rate should wait until stakeholders had gained more experience with the program.<sup>22</sup> And in its November 2015 order, the Commission directed stakeholders to file comments by April 1, 2016, addressing whether and how the Commission should modify the bill-credit rate, including switching to the value-of-solar rate.<sup>23</sup>

## **B. Positions of the Parties**

Commenters had wide-ranging views on whether and how to transition to a value-of-solar rate. Those who supported maintaining the applicable retail rate generally did so out of a belief that there was not enough data to support any particular compensation rate, or because they believed that the applicable retail rate afforded the Commission more flexibility to adjust the rate to minimize ratepayer impact.

Commenters who supported a transition to the value-of-solar rate maintained that it would improve the financeability and accessibility of gardens by providing a transparent schedule of yearly rate increases. They also argued that adopting the value-of-solar rate would be consistent with the statute’s requirement that Xcel purchase solar-garden energy at that rate.

And those commenters who supported reducing the applicable retail rate argued that it was out of line with community-solar rates in other states and threatened to cause a significant bill impact for nonparticipating ratepayers.

### **1. Support for Reducing Applicable Retail Rate and/or Suspending Applications to the Program**

The following commenters were concerned about the bill impact of the solar-garden program if a significant percentage of the pending capacity were to come online at current rates. These commenters therefore recommended either that the applicable retail rates and REC payments be reduced from their current levels or that new solar-garden applications be suspended while the Commission considers changes to the program.

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<sup>21</sup> September 17, 2014 Order, at 10. The term “adder,” as used in this order, refers to an additional amount, ranging from a fraction of a cent to several cents, that is added to solar-garden subscriber’s bill-credit rate, whether it be the applicable retail rate or the value-of-solar rate. Stakeholders have advocated for their use based on the solar-garden statute’s directive that a community-solar-garden program approved by the Commission must reasonably allow for the creation, financing, and accessibility of solar gardens and be consistent with the public interest.

<sup>22</sup> August 6, 2015 Order, at 24.

<sup>23</sup> November 16, 2015 Order, at 4.

**a. Xcel**

Xcel recommended that the Commission reduce the applicable retail rate by three or four cents per kWh and replace the two-to-three-cent REC payments with competitive market rates, which Xcel suggested would be between \$0.0003 and \$0.00035 per kWh. Xcel suggested that the Commission could achieve the desired reduction in the applicable retail rate by removing the demand-charge, customer-charge, and/or rider components.

Xcel argued that a reduction was needed to bring its solar-garden rates in line with community-solar programs in other states and limit the rate impact of the program. The Company estimated that for each 100 MW of community solar gardens that comes online at current rates, ratepayers will bear an incremental fuel-cost increase of \$17 million annually. Xcel stated that as many as 400 MW of solar gardens could be built in the next year, leading to a customer bill impact of approximately 1.8 percent for nonparticipating ratepayers.

Xcel did not support transitioning to the value-of-solar rate without adjustments to the value-of-solar methodology. The Company argued that adjustments were necessary to, among other things, (1) reflect that most solar gardens are being developed in rural areas, reducing their avoided-transmission-cost benefit, (2) correct for volatility in demand-growth forecasts, and (3) allow for an “off ramp” to a lower rate if the methodology results in an unreasonably high rate.

**b. The OAG**

Like Xcel, the OAG was concerned about the rate impact of the solar-garden program on nonparticipating customers. It recommended that the Commission immediately reset the bill credit rate to a lower rate, such as the net-energy-metering rate received by customers with rooftop solar.

Longer term, the OAG recommended that the Commission control the program’s size by setting a capacity target and a schedule for procuring that capacity. And it recommended establishing a competitive bidding process to establish a market-based rate. Under this proposal, subscribers would continue receiving a fixed bill-credit rate (the net-energy-metering rate) and the solar-garden operator would receive an adjustment from Xcel depending on the level of its bid compared to the net-energy-metering rate.

The OAG acknowledged that the Commission is not in a position to determine with certainty how much more capacity should be procured and on what timeline, because it does not know how much capacity will be built from the applications in queue. The OAG suggested that the Commission could suspend applications to the program for a period of time to gain more certainty about how much capacity will result from the current crop of applications.

**c. Energy CENTS et al.**

Energy CENTS Coalition, the Legal Services Advocacy Project, and Dayton’s Bluff Neighborhood Housing Services were concerned about potential bill effects on low-income customers. They recommended that the Commission initiate an investigation into the scale and location of solar-garden projects, the level of costs associated with the program, and alternative solar-garden models, among other topics. And they argued that the Commission should address these issues before allowing the program to expand further.

## **2. Support for Maintaining Current Bill-Credit Rate**

Commenters in this category generally supported maintaining the current applicable retail rates and REC payments either because they were unpersuaded that there was sufficient data to support a change or because they believed the current rates were spurring satisfactory development.

### **a. Novel Energy Solutions**

Novel is the developer of the first operational community solar gardens in Xcel's program. It recommended making no change to the bill-credit rate due to a lack of data to determine whether the current rate is or is not consistent with the statutory requirements. It also recommended eliciting stakeholder input on potential changes to the value-of-solar methodology and the appropriate timing for implementing the value-of-solar rate.

### **b. Community Power et al.**

Community Power and its co-commenters recommended making no changes to the bill-credit rate at this time, arguing that it is accomplishing the goal of making solar gardens financeable and that changing it when only a handful of gardens have achieved commercial operation would create market uncertainty. In the long term, Community Power would support a value-of-solar rate but would want to see changes to the methodology to better account for the location-specific benefits of distributed solar, the economic multiplier benefits, and environmental benefits.

### **c. Alliance for Sustainability**

The Alliance for Sustainability also recommended no change to the current bill-credit rate for reasons similar to Novel—there is not enough evidence to determine whether the rate works or not since there are only three small gardens in operation.

## **3. Support for Transitioning to Value-of-Solar Rate**

Commenters in this group supported an immediate transition to the value-of-solar rate as calculated under the approved methodology. However, commenters suggested two minor changes to the methodology designed to enhance the predictability of the value-of-solar rate: (1) using a fixed 25-year average inflation rate and (2) using weather-normalized peak-load data in calculating avoided distribution-capacity cost.

### **a. The Department**

The Department recommended that the Commission adopt the value-of-solar rate effective September 2016, with one change to the annual inflation adjustment under its methodology: Instead of using the previous year's CPI data to determine inflation each year, the Department recommended that the inflation rate be fixed at the general escalation rate used in the value-of-solar methodology—that is, a 25-year average inflation rate. The Department argued that this change would increase certainty and thus improve the financeability of solar gardens.

### **b. Fresh Energy and ELPC**

Fresh Energy and ELPC recommended that the Commission order that the approved value-of-solar rate in effect at the time a solar-garden application is deemed complete be the subscriber bill-credit rate for the 25-year term of that solar garden, with the inflation rate fixed at the value-of-solar methodology's general escalation rate.

Fresh Energy and ELPC argued that adopting the value-of-solar rate would be consistent with the solar-garden statute's requirement that a utility purchase garden energy at the value-of-solar rate and that using that rate would satisfy the other statutory criteria for the program. Specifically, they asserted that a value-of-solar rate would be in the public interest because it is designed to compensate solar generation at a rate that matches its value, minimizing concerns about unfair impacts to nonparticipants. And they argued that the stability and predictability of the value-of-solar rate would help promote the financing and accessibility of solar gardens.

Finally, they noted that Xcel's 2016 value-of-solar calculation included a zero value for avoided distribution-capacity costs, apparently because there had been negative demand growth over the past ten years—i.e., peak load in 2006 was higher than peak load in 2015. To help prevent such anomalous results in the future, they recommended that the historical peak-load data be weather normalized so as not to carry forward historical weather conditions in the calculation of avoided distribution-capacity costs.

### **c. Geronimo Energy**

Geronimo supported the Department and Fresh Energy's recommendation to adopt the value-of-solar rate with a fixed inflation escalator for 25 years. It argued that adopting the value-of-solar rate with a consistent escalator would make bill credits more transparent. And it maintained that transparent bill credits would in turn inform customer demand, help developers determine the market for community solar, and provide a more stable platform for financing solar gardens, resulting in lower development and construction costs.

## **4. Support for Using Value-of-Solar Rate with Residential Adder**

SunShare, GreenMark, and MnSEIA recommended that the Commission transition to a value-of-solar rate with a residential adder.

These parties argued that the value-of-solar rate, by providing a fixed annual escalator, would better achieve the statutory mandate that the program reasonably allow for the creation and financing of solar gardens. However, they asserted that an adder for residential customers was necessary to meet the statutory mandate that solar gardens be accessible, since there would otherwise not be sufficient incentive for developers to take on the administrative burden of enrolling residential subscribers.

Energy Freedom Coalition of America did not take a position on transitioning to the value-of-solar rate, but it concurred that an adder or other incentive would be necessary to increase the value-of-solar rate to a level that incentivizes developers to pursue residential subscribers.

## 5. Support for Other Adders

Several commenters recommended using adders to create incentives for developers to construct solar gardens in economically efficient locations or in other locations that would advance program goals. Ten K Solar encouraged the Commission to adopt a multi-tiered rate structure to encourage the siting of solar gardens in locations such as brownfields, landfills, public facilities, and large commercial rooftops.

Sundial Solar argued that the Commission should incentivize true community solar, which it defined as solar generation sited within the community it serves, through an adder designed to offset the cost of siting generation in areas with higher population density. And in a similar vein, Sundial encouraged the Commission to also adopt an adder for rooftop solar gardens, which it asserted cannot compete in pricing with very large ground-mounted arrays located outside the Twin Cities urban core.

Finally, several parties also supported using an adder to make solar gardens more accessible to low-income customers.

### C. Commission Action

The Commission concurs with those parties who have advocated adopting the value-of-solar rate that doing so is consistent with the intent of the solar-garden statute. Accordingly, the Commission will approve the value-of-solar rate for use as the solar-garden bill-credit rate under the conditions discussed below.

Critical to the Commission's decision is the fact that the solar-garden statute requires Xcel to purchase garden energy at the value-of-solar rate.<sup>24</sup> Although the statute allows for the applicable retail rate to be used on an interim basis until the Commission has approved the value-of-solar rate for a utility, the clear intent is that a solar-garden program will eventually transition to the value-of-solar rate.<sup>25</sup>

Early in the development of Xcel's program, the Commission refrained from adopting the value-of-solar rate, lacking at that time any actual experience with solar gardens, and with developers arguing that a rate lower than the applicable retail rate would not allow for financing of gardens. Now, however, it is clear that solar gardens are financeable under the applicable retail rate, and

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<sup>24</sup> See Minn. Stat. § 216B.1641(d).

<sup>25</sup> Xcel argues, based on language in the value-of-solar statute, that whether to adopt the value-of-solar rate is a discretionary decision for Xcel to make. The Company's argument is premised on the statute's statement that "[a] public utility *may* apply for commission approval for an alternative tariff" implementing the value-of-solar rate. Minn. Stat. § 216B.164, subd. 10(a) (emphasis added).

The above-quoted language simply indicates that the value-of-solar rate can serve as an alternative to the net-metering rates set forth in the other subdivisions of section 216B.164 if a utility chooses to file a tariff implementing the rate for its net-metered customers. However, this language in the value-of-solar statute does not affect the solar-garden statute's requirement that garden energy be purchased at the value-of-solar rate once the Commission approves that rate for solar gardens.

several developers have argued that the value-of-solar rate, by providing predictable yearly rate increases to adjust for inflation, will actually improve the financeability of gardens.<sup>26</sup>

Because the value-of-solar rate compensates subscribers for the value—and only the value—that their generation brings to Xcel’s system, it will address concerns that nonparticipating ratepayers are subsidizing the program. To ensure that the value-of-solar rate fairly reflects the value of distributed solar generation, the Commission will require Xcel to use weather-normalized historical peak-load data in the calculation of avoided distribution capacity, as recommended by Fresh Energy and ELPC. This will not require a change to the approved methodology and should minimize the impact of the volatility Xcel has seen in its demand forecasts.

The Commission will also require Xcel, beginning with the 2018 value-of-solar rate, to use location-specific avoided costs in calculating avoided distribution capacity. Part of the benefit of distributed generation derives from its location on the grid; by being located near load, it reduces local peak demand and defers the need for distribution-system upgrades. The approved methodology allows a utility to calculate its value-of-solar rate using either location-specific or system-wide avoided distribution-capacity costs.<sup>27</sup> In its filings to date, Xcel has used system-wide avoided distribution-capacity costs to calculate the value-of-solar rate. To fully reflect the value of distributed solar generation, however, Xcel will be required to begin including location-specific avoided costs in its 2018 value-of-solar calculations.

Parties unanimously recommended that any change to the bill-credit rate be applied prospectively so as not to undermine the viability of existing applications. The Commission concurs and will require that the value-of-solar rate apply only to applications filed after December 31, 2016. Moreover, to provide additional certainty, the Commission clarifies that the value-of-solar rate that is in place at the time a solar-garden application is deemed complete will be the subscriber bill-credit rate for the term of the garden. The Commission will require Xcel to file, by October 1 each year, its calculation of the value-of-solar rate for the upcoming year so that the Department can review it for compliance with statute and Commission order.<sup>28</sup>

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<sup>26</sup> The Department, Fresh Energy, and others recommended that the Commission adopt a fixed inflation escalator based on a 25-year average of CPI data. No party opposed this change. A fixed escalator will enhance the predictability of the value-of-solar rate for Xcel, developers, and subscribers; the Commission concurs in this recommendation and will adopt it.

<sup>27</sup> Docket No. E-999/M-14-65, Value-of-Solar Methodology, at 33 (April 10, 2014).

<sup>28</sup> Having adopted the value-of-solar rate, the Commission will take no action to modify the applicable retail rate or REC payments at this time.

Xcel argued that the Commission should revise the applicable retail rate regardless of whether it adopts the value-of-solar rate. It pointed out that the value-of-solar statute forbids a utility to charge an “alternative tariff rate” that is lower than the utility’s applicable retail rate until three years after the Commission approves an alternative tariff for the utility. Minn. Stat. § 216B.164, subd. 10(j).

Fresh Energy and ELPC argued that this three-year “floor” applies only if a utility offers an approved value-of-solar tariff in lieu of the net-metering rates in section 216B.164. The Commission agrees with Fresh Energy and ELPC that this provision does not set a floor on the value-of-solar rate as used in Xcel’s solar-garden program.

Finally, several commenters recommended that the Commission adopt bill-credit adders to encourage developers to pursue residential and low-income subscribers or to construct gardens in beneficial locations. Although the record is not sufficiently developed at this time to determine the amount of any adders, the Commission agrees that these adders warrant further exploration.

The Commission will therefore request that the Department consider whether the solar-garden bill-credit rate should be adjusted with a positive or negative adder, for any of the following:

- Brownfield sites or landfills
- Public facilities
- Commercial or industrial rooftops
- Prime agricultural land
- Directly in the communities the solar gardens serve
- Residential subscribers
- Low-income residential subscribers
- Others the Department identifies as warranting modification or an adder

The Commission will request that the Department report back to the Commission on its findings by March 1, 2017.

#### **IV. Making Solar Gardens Accessible**

##### **A. Introduction**

The solar-garden statute requires that a community-solar-garden program reasonably allow for the accessibility of solar gardens.<sup>29</sup>

After Xcel's program launched, stakeholders began raising concerns about the ability of residential ratepayers—and in particular, low-income and minority ratepayers—to participate in Xcel's program, arguing that these ratepayers were likely to be underrepresented among subscribers due to the relatively greater cost of recruiting them compared to large commercial customers.

In February 2016, the Commission solicited stakeholder input on (1) what steps the Commission could take to ensure that solar gardens are accessible to and benefit a broad cross-section of customers and customer classes and (2) what steps it could take to encourage developers to include low-income and minority subscribers in solar gardens.

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<sup>29</sup> Minn. Stat. § 216B.1641(e)(1).

## **B. Positions of the Parties**

Parties offered three main recommendations to improve accessibility for low-income customers: requiring developers to obtain a certain percentage of low-income subscribers, setting a target level of low-income participation supported by incentives, and developing a solar garden specifically for low-income subscribers.

With respect to residential customers generally, commenters' primary recommendation was to use a bill-credit adder to encourage developers to pursue these customers.<sup>30</sup>

### **1. Capacity Carve-Out**

Xcel, the OAG, and the Rural Renewable Energy Alliance (RREA) recommended that the Commission require developers to set aside, or "carve out," a specified portion of garden capacity for residential or low-income subscribers. They argued that a carve-out would ensure a minimum level of participation without imposing any additional financial burden on nonparticipating ratepayers.

Xcel and RREA recommended a 5 percent carve-out for low-income customers, while the OAG recommended a 50 percent carve-out for residential subscribers generally. Xcel and the OAG recommended applying the carve-out on a per-garden basis, while RREA recommended applying the carve-out to a developer's entire portfolio and leaving it up to each developer to determine the subscriber composition of individual gardens.

The Department did not recommend requiring carve-outs, arguing that it could increase the cost of financing for all subscribers and result in additional administrative cost at a still-early stage of the program.

The Joint Commenters also opposed a low-income carve-out. They stated that in Colorado, which uses a five percent low-income carve-out in its community-solar program, the carve-out had effectively become a ceiling on low-income participation in community solar. Instead, they recommended a low-income participation target supported by incentives, as described in the following section.

### **2. Low-Income Target**

The Joint Commenters recommended that the Commission set a target low-income participation level of ten percent per garden. For each garden that meets this threshold, they recommended that Xcel

- waive the developer's application deposit;
- waive any engineering-study fees; and

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<sup>30</sup> Fresh Energy and ELPC proposed allowing developers who commit to obtaining at least 60 percent residential subscribers to co-locate gardens up to 5 MW. However, for the reasons discussed in the next section, the Commission will maintain the 1 MW limit on co-location established in its August 2015 order.



- allow a large institutional subscriber (“backup subscriber”) to automatically take over the subscriptions of low-income subscribers who leave a garden and receive those subscribers’ bill-credit rate for up to 90 days while the garden operator seeks new low-income subscribers.

The Joint Commenters argued that these measures would remove barriers to recruiting low-income ratepayers. In particular, they maintained that the backup-subscriber measure would provide assurances for garden financiers by leveraging an institutional subscriber’s financial standing to reduce perceived investment risk.

Community Power et al. generally supported the Joint Commenters’ recommendation. However, they recommended a 20 percent low-income target. And they argued that backup subscribers should not be limited to gardens achieving a low-income participation target and could be used to mitigate the credit risk of residential subscribers generally.

RREA supported combining the Joint Commenters’ ten percent low-income target with a five percent carve-out, to both ensure a minimum level of low-income participation and to incentivize developers to achieve greater levels of participation.

Xcel argued that a five percent carve-out was more likely to ensure low-income customer participation than the Joint Commenters’ voluntary approach, and it opposed waiving the application deposit or engineering-study fees.

The Department expressed doubt about the wisdom of waiving application and engineering-study fees, questioning how Xcel would enforce the low-income target after it had waived these fees, the garden had begun operating, and the operator then failed to meet the target. And it maintained that a backup subscriber’s share of a garden could not be increased beyond the statutory limit of 40 percent.<sup>31</sup>

### **3. Low-Income Garden**

Energy CENTS et al. and UU Community Solar Coalition both agreed that the current solar-garden model might not prove particularly beneficial for low-income subscribers, asserting that the current crop of solar-garden contracts offer no guarantee, and slight likelihood, of a positive financial return.

Energy CENTS recommended that, rather than encouraging low-income ratepayers to lock themselves into a 25-year subscriber contract, Xcel develop a solar-garden specifically for low-income customers participating in LIHEAP.<sup>32</sup> It reasoned that a low-income garden owned by Xcel would remove some of the challenges of low-income participation in solar gardens, such as high administrative costs, data-privacy and consumer-protection concerns, and credit-score barriers. It recommended that the Commission solicit additional input on how to design a garden that will provide benefits to these customers.

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<sup>31</sup> See Minn. Stat. § 216B.1641(a) (providing that “no single subscriber [may have] more than a 40 percent interest” in a solar garden).

<sup>32</sup> Low-Income Home Energy Assistance Program

At hearing, Xcel stated that it was willing to explore developing a solar garden specifically for low-income subscribers.

#### **4. Other Measures to Improve Accessibility**

##### **a. Administrative Improvements**

SunShare argued that, before attempting to fashion a solution, the Commission should review Xcel's subscriber data to determine the extent of any accessibility issues. It argued that the Commission should only implement solutions that are tailored to address an identified accessibility problem. It suggested that, as a first step, the Commission could direct Xcel to streamline the subscription process to make recruiting residential customers less burdensome relative to large customers.

##### **b. On-Bill Repayment**

SunShare, the Joint Commenters, Community Power et al., and Cooperative Energy Futures supported enabling on-bill repayment of solar-garden subscription fees for low- and moderate-income subscribers. They argued that on-bill repayment would reduce credit-score requirements, simplify customer payments, and encourage developers to focus on serving residential customers.

Xcel stated that on-bill repayment would require it to modify its billing systems and that it would need to take a closer look at the potential administrative costs before deciding whether to pursue on-bill repayment. The Company asserted that this repayment arrangement would go beyond its role under the solar-garden statute and could potentially increase customer confusion as to its role in the program.

##### **c. Bill-Credit Adders**

A number of stakeholders argued that transitioning to the value-of-solar rate, with its fixed annual escalator, would improve accessibility for low-income and minority customers by increasing subscription transferability and lowering credit-score requirements. However, most of these commenters also maintained that an additional payment would be needed to increase the effective bill-credit rate for residential and low-income customers. Without an adder, they argued, the value-of-solar rate would not provide sufficient incentive for developers to pursue these customers.

#### **C. Commission Action**

The Commission concurs with the parties that the potential for involving low-income customers in Xcel's solar-garden program bears further examination. The Commission concludes that Energy CENTS' proposal for an Xcel-owned garden stands the best chance of extending the benefits of community solar to low-income customers and will therefore direct the Company to file a specific proposal for consideration by the Commission and stakeholders.

A low-income customer may face numerous obstacles to participating in the solar-garden program, including a lack of funds to make an up-front investment, an insufficient credit score, limited internet access, language barriers, and constrained time and resources. Each of the

proposals discussed above addresses some of these obstacles. But none of them directly address the concern Energy CENTS raises—that the program as currently structured may present a financial risk for these customers.

Energy CENTS' proposal for an Xcel-owned solar garden for low-income subscribers has several benefits. It would leverage the Company's technical expertise, financial stability, and existing relationship with subscribers. It makes LIHEAP participation the basis for eligibility, a criterion that would target truly needy customers and be simple to administer. And finally, Xcel's expertise and longstanding relationships with low-income customers will help it design a proposal that minimizes the financial risks faced by these subscribers.

For all these reasons, the Commission will require Xcel to develop a community solar garden proposal or proposals specifically for low-income customers, applying LIHEAP eligibility standards. To gain the benefit of other stakeholders' insights, the Commission will also accept for consideration proposals by other parties to enhance access to community solar gardens for low-income customers. Xcel's proposal(s) and any others should be filed by March 1, 2017.

Finally, unlike the applicable retail rate, the value-of-solar rate does not provide preferential treatment to residential subscribers. Transitioning to the value-of-solar rate may therefore reduce developers' incentive to pursue residential subscribers, relative to other customer classes. Parties have suggested employing a bill-credit adder to bring the value-of-solar rate to a level that will spur developers to recruit residential customers. The Commission agrees that residential and low-income adders bear further exploration and has included them in the list of specific adders for the Department to consider and report on.

## **V. Co-location Limit**

### **A. Introduction**

In early 2015, Xcel informed the Commission that a number of solar-garden developers were proposing large-scale projects composed of multiple 1 MW solar gardens clustered together at a single site. Xcel was concerned that these "co-located" projects were inconsistent with the statutory limit on solar-garden size and presented a risk of a significant bill impact to ratepayers who were not participating in the program.

In August 2015, the Commission adopted provisions of a settlement between Xcel and several developers addressing co-location and other program details. The agreement capped co-location at 1 MW after September 25, 2015, while allowing co-location up to 5 MW prior to that date as a concession for projects already in the interconnection queue. And it provided that parties would ask the Commission to determine whether further co-location limits would apply to applications submitted after September 15, 2016.

### **B. Positions of the Parties**

Several stakeholders, primarily solar-garden developers and solar industry groups, supported increasing the co-location cap to 5 MW (with Community Power supporting an increase to 2 MW). These commenters argued that, at the current bill-credit rate, a 1 MW project does not provide sufficient economies of scale, particularly in light of expected interconnection costs.

Fresh Energy and ELPC proposed that the 1 MW cap be increased to 5 MW only for developers who commit to sell at least 60 percent of a garden's subscriptions to residential customers. If the residential percentage drops below 60 percent, the nonresidential portion of the solar garden would revert to the lower unsubscribed energy rate<sup>33</sup> until the garden returns to compliance, and the operator would not be able to collect subscription fees from these customers during that time.

Xcel, the Department, the OAG, and others argued that there was no basis to allow co-location of solar-gardens beyond 1 MW after September 15, 2016. The OAG, in particular, argued that nothing had changed since the Commission's August 2015 order—neither the 1 MW statutory limit nor the potential for significant rate impacts on nonparticipating customers. And the OAG maintained that the applications Xcel has received since the co-location cap took effect demonstrate that solar gardens are still financeable with a 1 MW cap.

### **C. Commission Action**

The Commission concurs with Xcel, the Department, and the OAG that the co-location cap should remain at 1 MW. The key factors supporting the cap have not changed since August 2015. Allowing co-location beyond 1 MW would render the statutory limit superfluous, undermine the legislative intent to foster small, widely distributed solar gardens, and create a risk of significant rate increases to nonparticipating ratepayers.

Developers and industry groups argued that a higher cap was needed to meet the statutory requirement that the program reasonably allow for the creation and financing of solar gardens. But this requirement is in tension with the statute's express limit on garden size. And the statute does not require the Commission to guarantee the financeability of all solar-garden projects—it merely requires that Xcel's program *reasonably* allow for the creation and financing of projects. Based on the slower but steady rate of applications since the 1 MW cap took effect, the Commission concludes that the program meets this requirement.

Finally, while the Commission appreciates Fresh Energy and ELPC's effort to find a compromise that will reach more residential subscribers, their proposal suffers from the same defect as raising the cap without conditions—it would undermine the 1 MW statutory limit. Moreover, Xcel has raised questions about the administrative feasibility of the proposal, given its requirement of automatic switching between bill-credit rates and the need for direct oversight of financial transactions between developers and subscribers.

For all these reasons, the Commission will require Xcel to maintain the 1 MW co-location cap.

### **VI. Material-Upgrade Limit**

Under another settlement provision that the Commission adopted in its August 2015 order, Xcel is excused from upgrading its distribution system to accommodate a co-located garden project if the requested upgrade is "material." Material upgrades fall into two categories: upgrades that are

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<sup>33</sup> The unsubscribed energy rate is Xcel's avoided-cost rate for solar gardens larger than 40 kW capacity and its average retail energy rate for solar gardens smaller than 40 kW. April 7, 2014 Order, at 18.

per-se material and will never be performed, such as installing or upgrading a substation transformer, and upgrades that are considered material if their cost exceeds \$1 million.<sup>34</sup>

Fresh Energy, ELPC, SunShare, and Novel recommended removing the limit on material upgrades. They argued that its purpose was to restrict the number of co-located solar gardens from the initial pool of applications and to speed up the interconnection queue. They also argued that the limitation represented a significant departure from Minnesota's interconnection standards and national interconnection best practices. And they pointed out that developers pay the full cost of the upgrades, benefitting all ratepayers.

Xcel initially opposed removing the limit on material upgrades; however, at hearing the Company stated that if the Commission maintained the 1 MW co-location limit, a material-upgrade limit would be unnecessary.

The Commission agrees that the material-upgrade limit no longer accomplishes its original purposes. With a 1 MW co-location cap in place, a material-upgrade limit is not needed to prevent utility-scale projects from being developed under the auspices of the solar-garden program. And the need for a fast-moving interconnection queue is less acute than it appeared in August 2015: At that time, a federal tax credit that accounted for a significant portion of many solar gardens' financing was set to expire at the end of 2016. Congress has since extended the expiration date.

For the foregoing reasons, the Commission will require Xcel to remove the material-upgrade limit for applications filed after the date of this order.

## **VII. Project-Completion Deadline**

### **A. The Issue**

In its September 2014 order, the Commission recognized the need for a project-completion deadline to ensure that unworkable projects would not tie up valuable solar sites or waste program resources. The Commission concluded that requiring a developer to complete a solar-garden project within 24 months of Xcel finding its application complete would be reasonable.

The high number of solar-garden applications in the early months of the program's rollout tested Xcel's interconnection procedures, and the Company has struggled to keep up with the flood of applications. Moreover, disputes over co-location and material-upgrade limits caused additional delays throughout 2015.

Fresh Energy, ELPC, MnSEIA, the Department, and several developers recommended extending the project-completion deadline for projects affected by program delays. Xcel maintained that the deadline serves an important purpose but acknowledged the interconnection challenges faced by some developers as the solar-garden program has evolved.

At the hearing on July 21, 2016, Xcel presented proposed program modifications to address the project-completion-deadline issue. Solar developers present at the hearing stated that they supported Xcel's proposal. In brief, the proposal would require Xcel to modify its tariff to

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<sup>34</sup> See December 15, 2015 Order, at 4–5 (clarifying definition of “material upgrade”).

- Clearly define project “completion”;
- Allow a developer 24 months to complete a project from the later of August 6, 2015, or Xcel’s determination that an application is “expedited ready”<sup>35</sup>;
- Grant extensions to the deadline for delays resulting from interconnection disputes and force-majeure events, with certain exceptions related to local-government permits; and
- Require a developer to fulfill all expedited-ready requirements within 60 days of Xcel’s determination that its application is complete, or 60 days from July 21, 2016, whichever is later.

**B. Commission Action**

In establishing the original project-completion deadline, the Commission reasoned that a deadline was needed to keep the interconnection queue moving but also recognized that too short a timeframe would present a significant risk to developers and might prevent viable projects from being built. It now appears that, as a result of the growing pains experienced in the program’s first year, a number of otherwise viable solar-garden projects are in danger of missing the deadline.

To prevent these projects from being cancelled through no fault of the developers, the Commission will adopt the proposal advanced by Xcel and concurred in by stakeholders, as set forth in the ordering paragraphs below.

**ORDER**

1. The Commission approves the value-of-solar rate for use as the solar-garden bill-credit rate for all solar-garden applications filed after December 31, 2016. The value-of-solar rate that is in place at the time an application is deemed complete will be the subscriber bill-credit rate for the term of that solar garden.
2. Xcel shall incorporate the following adjustments when calculating the value-of-solar rate for solar gardens:
  - a. Adopt a fixed inflation escalator by setting the value-of-solar inflation at the Consumer Price Index (CPI) rate in the value-of-solar methodology.
  - b. Use weather-normalized historical peak-load data in the calculation of avoided distribution capacity.
3. Xcel shall file, by October 1, 2016, for Department compliance review an updated value-of-solar rate to be effective for the 2017 calendar year (the 2017 value-of-solar rate). In subsequent years, the Company shall continue this practice, filing an updated value-of-solar rate on October 1 to be effective for the following calendar year.

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<sup>35</sup> “Expedited ready” refers to solar-garden applications that have been deemed complete by Xcel and that meet certain additional requirements that qualify them for expedited interconnection review. *See* Minnesota Rate Book section 9, sheet 68.1.

4. Starting with its 2018 value-of-solar rate filing on October 1, 2017, Xcel shall use location-specific avoided costs in the calculation of avoided distribution capacity.
5. Xcel shall maintain the 1 MW cap on co-located solar gardens.
6. Xcel shall remove the limit on material upgrades for applications filed after the date of this order.
7. The Commission requests that the Department consider and report to the Commission by March 1, 2017, whether the value-of-solar rate for use as a solar-garden bill-credit rate should be adjusted with a positive or negative adder for any of the following:
  - a. Brownfield sites or landfills
  - b. Public facilities
  - c. Commercial or industrial rooftops
  - d. Prime agricultural land
  - e. Directly in the communities the solar gardens serve
  - f. Residential subscribers
  - g. Low-income residential subscribers
  - h. Others the Department identifies as warranting modification or an adder
8. Xcel shall make the following changes to its solar-garden tariff:
  - a. Revise Section 9, Sheet No. 67 of as follows:

The applicant shall ~~complete~~ achieve Mechanical Completion of the project within twenty-four (24) months from the later of August 6, 2015 or the Company finding that the application is ~~complete~~ Expedited Ready. Failure of the Company to meet the timeframes for completing engineering studies and interconnection cost estimates set forth in the Commission's September 28, 2004 Order in Docket No. E999/CI-01-1023 as implemented in Section 10 of the Company's tariff will extend this twenty-four (24) month period on a day-for-day basis. Day-for-day extensions will also be applied to the extent the application is the subject of an Independent Engineer review (Section 9, Sheets 68.11–68.13) or to the extent it is directly delayed as the result of an Independent Engineer review for another application in the same Study Queue. The Company shall provide, upon an applicants' good-faith request, written confirmation of the then-current Mechanical Completion deadline for an application under this section, accounting for applicable day-for-day extensions.

The 24-month period shall be tolled day-for-day for a project application that, in the Company's determination, has suffered a Force Majeure event prior to Mechanical Completion. For purposes of this section, Force Majeure means: any act of God, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, or any other cause beyond a Party's control, except that a local-government moratorium to issuing a permit may extend the 24-month period for no more than an additional 6 months. Failure to seek a permit, delay in seeking a permit, or permit-processing time not subject to a moratorium is not included in this extension. An event of Force Majeure does not include an act of negligence or intentional wrongdoing.

~~If the project is not completed~~ If Mechanical Completion is not achieved within this twenty-four (24) month period (including any day-for-day extension referenced above), then the Company will return the deposit and the garden operator, if it still intends to proceed with the project, will need to reapply and submit a new application fee and deposit. Additionally, in this situation, if applicant already has an executed Interconnection Agreement, then that Interconnection Agreement may not be used for a project as part of the Solar\*Rewards Community program, and such project shall immediately lose its queue position in the interconnection queue.

- b. Insert the following paragraph at Section 9, Sheet No. 68:
  - i. "Mechanical Completion" means completion by the Applicant of each of the nine items the Applicant's personnel is required to complete in Step 8 of Section 10 (at Sheet No. 98).
- c. Revise Section 9, Sheet No. 76 as follows:

The Community Solar Garden Operator shall ~~complete~~ achieve Mechanical Completion of the project ~~and the Date of Commercial Operation shall be~~ within the later of twenty-four (24) months from August 6, 2015 or the Company finding that the application is ~~complete~~ Expedited Ready. Failure of the Company to meet the timeframes for completing engineering studies and interconnection cost estimates set forth in the Commission's September 28, 2004 Order in Docket No. E999/CI-01-1023 as implemented in Section 10 of the Company's rate book will extend this twenty-four (24) month period on a day-for-day basis. Day-for-day extensions will also be applied to the extent the application is the subject of an Independent Engineer review (Section 9, Sheets 68.11–68.13) or to the extent it is directly delayed as the result of an Independent Engineer review for another application in the same Study Queue.



The 24-month period shall be tolled day-for-day for a project application that, in the Company's determination, has suffered a Force Majeure event prior to Mechanical Completion. For purposes of this section, Force Majeure means: any act of God, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, or any other cause beyond a Party's control, except that a local-government moratorium to issuing a permit may extend the 24-month period for no more than an additional 6 months. Failure to seek a permit, delay in seeking a permit, or permit-processing time not subject to a moratorium is not included in this extension. An event of Force Majeure does not include an act of negligence or intentional wrongdoing.

~~If the Date of Commercial Operation is not~~ If Mechanical Completion is not achieved within this twenty-four (24) month period (including any day-for-day extension referenced above), then the Company will return the Deposit and the Community Solar Garden Operator, if it still intends to proceed with the project, will need to reapply and submit a new application fee and deposit.

- d. Add the following language at Section 9, Sheet No. 68.16:

15. Cancellation for failure to Timely Become Expedited Ready

An applicant must fulfill all of the requirements to become Expedited Ready by the later of the following:

1. 60 days from Initial Application Completeness (Section 9, Sheet 67, step (i), being "Deemed Complete").
2. 60 days from July 21, 2016.
3. When applicant has appealed to the Department a Company Co-Location Notice, 60 days from the later of the Department ruling on the issue, or if a party appeals the Department ruling, 60 days from the Commission order addressing that Co-Location Notice.

Any applicant failing to become Expedited Ready within this timeframe will be provided written notice, then cancelled automatically without further notice unless cured within 10 business days of notice.

9. Xcel shall develop a community-solar-garden proposal or proposals specifically for low-income customers, applying LIHEAP eligibility standards, and file the proposal(s) by March 1, 2017. Any proposals by other parties to enhance access to community solar gardens for low-income customers shall be filed by the same date.

10. Within 30 days of this order, Xcel shall file updated tariff sheets reflecting the Commission's decisions herein.
11. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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