

January 8, 2024

Mr. Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 East Seventh Place, Suite 350  
Saint Paul, MN 55101-2147

RE: DOCKET E002/M-13-867 In the Matter of the Petition for Approval of Northern States Power Company, dba Xcel Energy, for Approval of its Community Solar Garden Program

Dear Mr. Seuffert:

The City of Minneapolis (“Minneapolis”) respectfully submits these Comments regarding Xcel Energy’s proposal (“Proposal”) to place Applicable Retail Rate (“ARR”) Community Solar Garden (“CSG”) subscriptions on the 2017 Value-of-Solar (“VOS”) schedule.<sup>1</sup> We respond to Commission questions 1 and 2 below.

### 1) Should the Commission approve Xcel’s proposal?

Minneapolis respectfully opposes the Proposal from Xcel Energy to transition ARR-era CSG subscribers to a VOS credit. While Minneapolis understands that Xcel filed a Proposal in response to a Commission Order,<sup>2</sup> this Proposal would cause harm to the City of Minneapolis and its residents if implemented. It is also inconsistent with a previous Commission decision on the topic of bill credits.<sup>3</sup>

#### A. NOTICE

Xcel failed to notify local governments about its Proposal to change the CSG bill credit rate as required under Minnesota law. Specifically, Minnesota Statutes § 216B.16, subd. 1 provides:<sup>4</sup>

*The filing utility shall give written notice, as approved by the commission, of the proposed change to the governing body of each municipality and county*

<sup>1</sup> Docket No. 13-867. Xcel Proposal. September 25, 2023.

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={A02FCE8A-0000-C61C-89B3-D9976636C794}&documentTitle=20239-199127-01>

<sup>2</sup> Docket No. 13-867. ORDER ADOPTING 2023 ARR AND REQUIRING ADDITIONAL FILING. June 27, 2023 p.10.

<https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={D055FE88-0000-CB17-82A7-5FFE7B6084BA}&documentTitle=20236-196933-01>

<sup>3</sup> DOCKET NO. E-002/M-13-867 ORDER APPROVING SOLAR-GARDEN PLAN WITH MODIFICATIONS. p.19. September 17, 2014.

<sup>4</sup> 216B.16 RATE CHANGE; PROCEDURE; HEARING. <https://www.revisor.mn.gov/statutes/cite/216B.16>

*in the area affected.*

While we understand that Xcel's proposal arises out of an order from this Commission, neither that Order nor the statute excuse Xcel from providing notice to municipal governments. It is only due to Minneapolis's ongoing engagement in clean energy endeavors that this issue rose to our attention. Soon thereafter, Minneapolis collaborated with two local governments to analyze the Proposal and staff have tried to raise awareness about what this Proposal is and might mean for local governments.

But the burden was not on Minneapolis to provide proper notice on a change in rates that will significantly impact Minnesota solar subscribers. While we reached some local governments within our network, we believe there may be many more who are unaware that their subscriptions--or those of their residents and businesses--are at risk of significant changes that will do material harm. Namely, significant financial harm may result for some customers who rely on the 1:1 (bill credit : Xcel ARR) parity to be able to afford their electricity bills and for others to remain within their planned budgets.

The fact that local governments and subscribers were not notified about potential changes means that they likely continue to expect that their solar production credits will continue to be at parity with the ARR Xcel Energy charges them. As explained further below, this could have a dramatic and unexpected impact on local government budgets that taxpayers at large would be required to make up for or the local government will have to reduce services.

#### ***B. ARR CREDIT DECIDED IN PRIOR COMMISSION ORDER***

In a prior Commission Order within this docket,<sup>5</sup> the Commission clarified that the ARR credit rate was for the 25-year term of the contracts:

*Order Point 3. Xcel shall clarify the following in its tariff with respect to the use of the applicable retail rate...:*

*b. Community-solar-garden projects under the applicable retail rate should be credited at the applicable retail rate in place at the time of energy generation for the duration of the 25-year contract<sup>6</sup>*

It would not be in the public interest to reverse this longstanding decision in the middle of the 25-year term. In 2014, the Commission deliberated the appropriate credit for the full 25-year statutory term of CSGs. Local governments, non-profits, businesses, and residents may have reasonably relied on the Commission's decision to permanently assign an ARR bill credit when negotiating contracts and deciding to participate in the program. If instead of affirming the ARR credit rate the Commission had determined that the ARR was subject to change in the middle of the 25-year term, subscribers would have made different decisions that took that risk into account.

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<sup>5</sup> DOCKET NO. E-002/M-13-867 ORDER APPROVING SOLAR-GARDEN PLAN WITH MODIFICATIONS. September 17, 2014.

<sup>6</sup> *Id.* p. 19

## 2) Is Xcel's proposal in the public interest?

### A. *INCOMPLETE INFORMATION TO EVALUATE THE PROPOSAL*

Assuming Xcel's Proposal to reduce program participants' credits is legally defensible, evaluating whether the Proposal is in the public interest would require analysis of additional data. A partial list of necessary data includes:

- The number and types of subscribers who will be impacted
- Local economic development impacts of the CSGs operating under ARR
- Analysis of the spectrum of residential subscribers who would be impacted, including the portion that are low- and moderate-income
- Costs or savings associated with deferred or avoided development of additional fossil generation
- Greenhouse gas emissions avoided
- Savings associated with reduced exposure to MISO LMP pricing when excess CSG production is sold into the market or reduces the requirement to purchase generation from the MISO market

Changing the terms of the tariff mid-way through implies that the State has not benefitted from the addition of these 700 MW of in-state community solar. However, the program has been a success to the extent that these community solar projects:

- Alleviate the need to build out expensive fossil generation;
- Reduce greenhouse gas emissions;
- Help the Company manage system peaks; and/or
- Reduce the number and amount of bad debt write-offs due to customers who would otherwise be unable to afford their electric bills.

It would be difficult to estimate the financial harm that this Proposal would inflict on Minnesotans if adopted since it is likely to go beyond the bill credit savings. For example, reversing the Commission's decision may lead to housing insecurity, near and long-term budget impacts, unplanned layoffs, and disruption of services or projects planned for the benefit of the public.

The City of Minneapolis entered into CSG contracts for our water distribution plants and convention center. Should Xcel's Proposal be approved, Minneapolis residents and businesses will likely experience an increase in some combination of municipal taxes, water bills, and/or fees to utilize the convention center, as the City will be forced to pass a net loss from program participation on to the public we serve.

### B. *REGULATORY UNCERTAINTY*

Importantly, approving Xcel's Proposal would create regulatory uncertainty because it contradicts a prior Commission Order affirming the ARR rate for the 25-year term as noted in Q1. Such uncertainty is likely to erode customer confidence and reduce investment in clean energy projects at a time when the need to encourage such projects to mitigate climate change has never been greater. Moreover, the program supports the new State of Minnesota goal to

achieve 100% of its electricity needs from clean energy by 2040. It will make it more difficult to achieve the goal if regulatory uncertainty discourages long-term investment in clean energy.

### C. ANTI-COMPETITIVE CONCERNS

Minneapolis notes that to the extent that third-party-developed, in-state CSGs are offsetting Midcontinent Independent System Operator premium Locational Marginal Price (“LMP”) purchases with carbon-free generation, the program supports state policy.

It is concerning that Xcel proposes different treatment for community solar compared to its own generation. Xcel’s Proposal states:

*We note that in the Fuel Clause Reform proceeding we recently filed a proposal to change the allocation methodology for above LMP market CSG costs to allocate costs based on CSG subscription capacity instead of system sales with an alternative proposal to directly assign the costs to CSG subscribers.<sup>7</sup>*

If any cost above LMP should not be recovered from customers for CSGs, Xcel must not be permitted to charge customers for costs in excess of LMP for Xcel-owned assets and PPA’s to avoid anti-competitive behavior.

### D. XCEL’S PROPOSAL HARMS SUBSCRIBERS WHILE HOLDING XCEL HARMLESS

There are three parties and three agreements under the CSG program: The Subscriber, Xcel Energy, and the Community Solar Owner.

It is unfair that this Proposal has no shared sacrifice among the three parties to the community solar program. The Proposal punishes Xcel customers without Xcel itself offering to share the burden. Xcel Energy and CSG owner-operators would not be impacted while subscribers are being asked to bear 100 percent of the burden.

- Speaking for the City enterprise, Minneapolis would not have entered into the agreements with Xcel or Community Solar Developers if we had known the terms between Xcel and the City were subject to change. When original contracts with solar garden developers were negotiated, compensation per kWh we would owe to the developer was based in part on the expected ARR bill credit.
- Minneapolis understood the program to be a low risk, potentially cash flow positive opportunity since an ARR bill credit is based on what the utility charges customers from year to year. Based on program information from the Commission and the Company, our analysis showed both a societal and enterprise benefit for participating.
- Minneapolis would have recognized a VOS credit schedule as creating a risk for being cash flow negative if Xcel’s rates increased significantly during the 25-year term, which has come to pass. Xcel indicates a new multi-year rate case is planned for this fall, which will further harm subscribers ARR-era subscribers if Xcel’s Proposal is approved.

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<sup>7</sup> p.6 of Xcel’s Proposal.

## *City of Minneapolis Government Operations Impact*

Minneapolis worked closely with CSG developers to build-out contracts based upon the ARR bill credit calculation and the risk associated with being an anchor subscriber. These agreements were structured in such a way that Minneapolis would achieve a positive cashflow within a few years of subscribing to account for that risk, and the ARR bill credit calculation was material in determining the energy charges owed to the CSG owner operators. At this time, Minneapolis has achieved a positive cashflow on all 80 CSGs it subscribes to that utilize the legacy ARR bill credit methodology, funding it uses to support other clean energy and energy efficiency projects.

Xcel's Proposal doesn't just lessen the positive cashflow the City receives, but in fact reduces the bill credit so substantially that Minneapolis **would owe the CSG owner operators more than the proposed bill credit on 65 of the 80 solar gardens the Minneapolis subscribes to on the legacy ARR rate for the next few years.** Furthermore, on 50 of those 65 solar gardens the City subscribes to, the annual escalator owed to the Garden Operator is greater than the annual escalator in the VOS bill credit, leading to these garden subscriptions being a loss for the City from here on out. The City Energy Manager estimates the financial impact of this change to be a reduction of **\$440,000** in the first year if Xcel's Proposal is adopted.

While these financial harms are specific to the City of Minneapolis as an Xcel customer and CSG participant, Minneapolis is concerned that many other customers could be financially harmed by this Proposal as well. Impacted customers may include additional public entities, residents, non-profits, and businesses, both large and small. We request the Commission to consider the full spectrum of impacted customers when making a decision about Xcel's Proposal or other program changes.

In conclusion, the competition introduced by the statute that created the community solar program<sup>8</sup> is healthy and appropriate. It generates in-state economic activity and is an additional vehicle to deploy solar consistent with state policy goals. The program also reduces Minnesota's reliance on gas and coal generation, resources not found in the State.

Minneapolis strongly urges the Commission to reject the Proposal from Xcel and preserve regulatory certainty for customers who subscribe to this successful Minnesota program and future clean energy programs approved by the State. Minneapolis appreciates the Commission's consideration of our Comments.

Respectfully submitted,



Stacy A. Miller  
Sustainability Program Coordinator for Energy and Climate Regulatory Policy

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<sup>8</sup> Minn. Stat. § 216B.164, subd. 10 Solar Jobs Act of 2013.