KEYES&FOX LLP

1580 Lincoln St., Suite 1105
Denver, CO 80203

January 8, 2024

**Via eDocket and electronic submission**

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

**RE:** ***In the Matter of the Petition for Approval of Northern States Power Company, d/b/a Xcel Energy for Approval of its Community Solar Garden Program***
**MPUC Docket No. E-002/M-13-867**

Dear Mr. Will Seuffert,

Please find attached comments from the Coalition for Community Solar Access and the Minnesota Solar Energy Industries Association, collectively referred to as the Joint Solar Associations, in response to the Public Utilities Commissions Notice of Comment Period issued on October 9, 2023, in Docket No. E-002/M-13-867.

Sincerely,

*/s/ Andrew J. Ball*

Scott F. Dunbar
Andrew J. Ball
Keyes & Fox LLP
1580 Lincoln Street, Suite 1105
Denver, CO 80203
sdunbar@keyesfox.com
aball@keyesfox.com
720-639-2190

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**In the Matter of the Petition of Northern States Power Company for Approval of its Proposed Community Solar Gardens Program**

**INITIAL COMMENTS OF THE JOINT SOLAR ASSOCIATIONS**

**Docket No. E-002/M-13-867**

**January 8, 2024**

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The Coalition for Community Solar Access[1] ("CCSA") and the Minnesota Solar Energy Industries Association[2] ("MnSEIA," together with CCSA, the "Joint Solar Associations") respectfully submit the following Initial Comments in response to the Minnesota Public Utilities Commission's October 9, 2023 Notice of Comment Period regarding Xcel's September 25, 2023 Proposal for Switching ARR-era Community Solar Gardens to Appropriate VOS Rate ("Xcel's Proposal").

The Joint Solar Associations provide their comments in response to the first two topics the Commission identified and recommend that the Commission deny Xcel's Proposal. Xcel's Proposal would reverse the Commission's prior orders, improperly amend existing contracts between Xcel and community solar garden developers without developer input, harm community solar garden subscribers that signed contracts in reliance on the Commission's prior orders to compensate them at the applicable retail rate ("ARR") for 25 years, and harm Minnesota's distributed generation programs, threatening Minnesota's ability to achieve its clean energy goals. The Commission should find that Xcel's Proposal to reverse the Commission's prior decisions is contrary to Minnesota law and the public interest and, therefore, reject it.

## INTRODUCTION

Xcel's Proposal asks this Commission to revisit matters that it properly decided almost 10 years ago. When this Commission first implemented the requirements of Minnesota's Community

[1] The Coalition for Community Solar Access is a 501(c)(6) non-profit organization and is the national trade organization specifically focused on the community solar industry. It represents more than 80 member companies with active operations in more than 20 states and at the federal level. CCSA's mission is to empower energy consumers, including renters, homeowners, businesses, and households of all socioeconomic levels, by increasing their access to reliable, clean energy. CCSA serves as the central voice for the community solar industry.

[2] The Minnesota Solar Energy Industries Association is a 501(c)(6) nonprofit trade association that represents Minnesota's solar and storage industry, with over 150 members, ranging from individuals, legal and engineering firms, government agencies, and non-profit organizations to manufacturers, installers, developers and utilities, and many others, which employ over 4,500 Minnesotans.

Solar Garden ("CSG") Statute, Minn. Stat. § 216B.1641, in 2013 and 2014, it determined that the value-of-solar ("VOS") rate under development for use in the distributed generation context was not sufficient to support the beginnings of Minnesota's CSG Program. Instead, it mandated that Xcel purchase subscribed CSG electricity through a bill credit to subscribers equal to Xcel's ARR, which is the full retail cost that Xcel charges ratepayers, and that it do so for the duration of the 25-year contracts Xcel then signed with CSG developers. The Commission also approved a form Standard Contract as the starting point for those agreements, which Xcel and CSG developers then signed as typical, bilateral contracts. Those executed contracts confirmed the use of an ARR-based bill credit and, like the Commission's orders, that while the dollar value of the bill credit might fluctuate from year to year, the basic formula used to reach that dollar value would remain the ARR for the 25-year term. In fact, in its 2014 CSG order, the Commission explicitly directed Xcel to clarify in its tariff that "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."[3]

In 2016, the Commission reaffirmed this reasonable approach, deciding that while post-January 1, 2017 CSGs would operate with a VOS-based bill credit, ARR-era CSGs would continue to operate with an ARR-based bill credit for the remainder of the existing terms of those projects, as the Commission decided at the outset of the program. While some disagreed with that initial decision not to tie the bill credit to VOS at the outset, the Commission's decisions provided Xcel,

[3] *In re Petition of Northern States Power Co. for Approval of Its Proposed Community Solar Garden Program*, Docket No. E-002/M-13-867, Order Approving Solar-Garden Plan with Modifications at 8-10, 19 (Sept. 17, 2014) (explaining that this ordering point came from the Department of Commerce's recommendation and that the Commission concurred with it because it would "improve the predictability of the applicable-retail-rate-plus-REC combination and aid solar-garden developers in securing financing").

CSG developers, and CSG subscribers with a predictable and stable foundation on which to build Minnesota's CSG program. And build they did.

By nearly any metric, Minnesota's CSG program has been a success, in large part because of the willingness of CSG subscribers and CSG developers to invest in the program early. Today, CSGs in Minnesota produce more than 860 MW of clean, renewable, and reliable electricity and deliver it to a broad cross-section of Minnesota customers. From low-to-moderate income residential consumers, to non-profits, schools, municipalities, and companies, Minnesota's CSGs serve the public broadly.

To reach this level of success, CSG developers—like project developers in any other context—reasonably relied on the Commission's prior orders and their contractual arrangements with Xcel to establish certainty in their projects. The Commission's prior orders and those contractual arrangements in turn influenced and shaped the agreements CSG developers offered to their subscribers. Those run-of-the mill, bilateral contractual relationships, at both levels, remain largely in place today. But now, Xcel's Proposal seeks to undo that certain and stable foundation—without providing minimum safeguards such as reasonable notice—harming subscribers, developers, and the public interest in the process.

While Minnesota law contemplates that the CSG program transition from an ARR-based bill credit to a VOS-based bill credit, the Commission already determined how that transition would unfold in its 2014 and 2016 CSG orders. In its 2014 order, the Commission elected not to institute a VOS-based bill credit. And in its 2016 decision, the Commission decided that it was time to compensate ***new*** CSGs only with a VOS-based bill credit, but that early CSGs with applications dated before January 1, 2017, would stay the course with their ARR-based bill credits, consistent with the Commission's prior decision. Specifically, the Commission found that parties

"unanimously recommended that any change to the bill-credit rate be applied prospectively so as not to undermine the viability of existing applications" and concurred, stating that it would "require that the value-of-solar rate apply only to applications filed after December 31, 2016."[4] In other words, the Commission already considered and decided the first topic it seeks comment on here, when it rejected any effort to upend the settled foundation of Minnesota's earliest CSGs.

Nothing material has changed since this Commission's 2016 decision. The Commission's action here shouldn't change, either. Indeed, since nothing has changed in fact or law, any such change would be arbitrary and capricious. The Commission should reject Xcel's Proposal because it is inconsistent with the Commission's prior orders, will harm CSG subscribers, CSG developers, and cause significant regulatory uncertainty, hampering Minnesota's distributed generation programs and clean energy efforts. Minnesota law entrusts this Commission with the authority to protect the public interest and it should exercise that authority to reject Xcel's Proposal and affirm its 2014 and 2016 decisions that Xcel purchase subscribed CSG energy at the ARR for the 25-year duration of all ARR-era-CSG signed contracts.

## INITIAL COMMENTS

### I. Reversing the Commission's Decisions Affirming Long-Term Use of ARR-Based Credits Would Be Arbitrary and Capricious Because Nothing Material Has Changed and Because Minnesota Law Does Not Require A VOS-Based Credit for All CSGs.

A threshold question lurks beneath Xcel's Proposal: Does the CSG Statute, Minn. Stat. § 216B.1641, mandate that the Commission shift CSGs that currently receive an ARR-based bill credit to a VOS-based bill credit? This is not the first time this Commission has confronted that threshold question. On at least two prior occasions, the Commission correctly decided that while section 216B.1641, subd. 1(d) contemplates that the CSG program eventually transition to VOS-

[4] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 14 (Sept. 6, 2016).

based bill credits,[5] it vests in the Commission the authority to decide ***not*** to require a VOS-based bill credit for CSG-produced electricity.[6] The Commission faithfully applied the plain language of section 216B.1641, subd. 1(d) and gave meaning to all provisions of the CSG statute when it decided in 2014 and 2016 that ARR-based bill credits were appropriate for early CSGs, and that those credits would apply for the initial 25-year term of those projects. A decision here reversing those prior decisions would be unreasonable, arbitrary and capricious, undermine established contracts—a result contrary to decades of precedent—and harm the public interest. Thus, because Minnesota law does not force the Commission's hand and require that it approve Xcel's Proposal (or one like it), the Commission should reject it.

*a. Section 216B.1641 does not obligate the Commission to shift all CSGs to a VOS-based bill credit.*

The goal of statutory interpretation is to ascertain and effectuate the legislature's intent.[7] "Every law shall be construed, if possible, to give effect to all its provisions."[8] "It is a cardinal rule of statutory construction that a particular provision of a statute cannot be read out of context but must be taken together with other related provisions to determine its meaning."[9] Statutes should thus be read "as a whole," and each section should be interpreted "in light of the surrounding sections to avoid conflicting interpretations."[10] Interpretations that lead to absurd or unjust results

[5] The Commission began this process in its September 6, 2016 Order deciding that all CSGs with applications dated after December 31, 2016, would operate with a VOS-based bill credit.
[6] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 6, 13 n.25 (Sept. 6, 2016); Docket No. E-002/M-13-867, Order Adopting Partial Settlement as Modified at 23 (Aug. 6, 2015).
[7] Minn. Stat. § 645.16.
[8] *Id.*
[9] *Kollodge v. F. & L. Appliances, Inc.*, 80 N.W.2d 62, 64 (Minn. 1956); Minn. Stat. § 645.17(2) ("[T]he legislature intends the entire statute to be effective and certain.").
[10] *Am. Fam. Ins. Group v. Schroedel*, 616 N.W. 273, 277 (Minn. 2000).

are disfavored.[11] These familiar principles show that section 216B.1641(d) empowers the Commission to adopt VOS-based bill credit rates (as the Commission did in 2016 for post-January 1, 2017 CSG applications), but that the statute does not obligate that the Commission adopt those bill credit rates for all CSGs.

The CSG statute is straightforward. Section 216B.1641 grants the Commission authority to "approve, disapprove, or modify a community solar garden program," but mandates that any such program "reasonably allow for the creation, financing, and accessibility of [CSGs]," "be consistent with the public interest," and provide information to potential subscribers in a way that ensures "fair disclosure of future costs and benefits of subscriptions," among other things.[12] The statute makes clear that Xcel must purchase subscribed CSG electricity "at the rate calculated under 216B.164, subdivision 10, or, ***until that rate for the public utility has been approved by the commission***, the applicable retail rate."[13] Reading sections 216B.1641, subd. 1(d) and 216B.1641, subd. 1(e) together establishes a supervisory role for the Commission, where the Commission retains authority to determine ***when*** Xcel must begin to purchase subscribed electricity through a VOS-based bill credit from new CSGs.

Any other interpretation of section 216B.1641, subd. 1(d) would read out of the statute both section 216B.1641, subd. 1(e)'s grant of authority to the Commission ***and*** the key constraints on that authority. For instance, if this Commission were to adopt an interpretation of section 216B.1641, subd. 1(d) that it ***must*** order VOS-bill credit rates for ***all*** CSGs once it approves a utility's VOS methodology generally, the Commission would read out of the statute its obligation

[11] *Id.* at 278; *In re Commission Investigation into Potential Rule Amendments Related to Liquefied Carbon Dioxide*, Docket No. U-999/CI-21-847, Order Closing Investigation and Requiring Further Reporting at 15 (May 24, 2022) (rejecting interpretation of statute that would have produced an absurd result).
[12] Minn. Stat. § 216B.1641, subd. 1(e).
[13] Minn. Stat. § 216B.1641, subd. 1(d) (emphasis added.)

to ensure that any CSG plan it approves reasonably allow for the financing of CSGs, be in the public interest, and provide fair disclosure of future costs and benefits to subscribers. Once the Commission approved a VOS methodology ***generally*** (as it did for Xcel in 2014), it would be forced to institute a VOS-bill credit rate in the CSG context without any consideration of those key guardrails that protect the CSG program and the public.[14]

Such an interpretation would mean that the key guardrails of section 216B.1641, subd. 1(e) only have force for the beginning stages of the CSG program or for matters unrelated to the bill credit.[15] But that result is untenable. It is absurd to conclude that the legislature intended for the guardrails of section 216B.1641, subd. 1(e) to apply only temporarily, or that they would somehow not apply to issues connected with the bill credit considering that the bill credit is the heart of the entire CSG program. Minnesota law does not permit such an interpretation.[16]

The circumstances here are a case in point. The VOS methodology the Commission approved nearly ten years ago may well be reasonable in the distributed generation context, and it may well be appropriate for post-December 31, 2016 CSGs, as the Commission concluded in 2016. But forcing CSGs that began operation under an ARR-based bill credit to switch years later to a VOS-based bill credit will directly undermine their continued financeability, seriously harm the public interest, and spring unforeseen, increased costs on subscribers. None of that is compatible with section 216B.1641, subd. 1(e)'s ***mandate*** that the Commission prevent those harms.

Properly considered, section 216B.1641, subd. 1(d)'s focus is Xcel. It binds Xcel's conduct, forcing it to purchase subscribed electricity through a VOS-based bill credit rate once the

[14] *See* Minn. Stat. §§ 216B.1641, subd. 1(e)(1), (4), (5).
[15] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 13 (Sept. 6, 2016).
[16] *See Schroedel*, 616 N.W. at 277, 278; Docket No. U-999/CI-21-847, Order Closing Investigation and Requiring Further Reporting at 15 (May 24, 2022).

Commission orders the use of that rate for CSGs for that utility.[17] As this Commission has already decided, section 216B.1641(d) does not force the Commission to order the use of VOS for CSGs simply because the Commission has approved that rate for a utility in the distributed generation context. Instead, the Commission's prior decisions in 2014, 2015, and 2016 get it right: the Commission has authority to determine ***when*** to adopt VOS-based bill credit rates after it approves VOS for a utility in the distributed generation context, which it did, but it is not required to adopt VOS-based bill credits.[18]

*b. The Commission fulfilled its statutory obligations in its prior CSG decisions and reversing those decisions now would be arbitrary and capricious.*

At every opportunity, the Commission's prior decisions have correctly illustrated that the Commission has authority on when to adopt VOS-based bill credit rates in the context of section 216B.1641, subd. 1(e)'s guardrails. And at every opportunity, the Commission has decided that those CSGs that began with ARR-based bill credits should operate with those same bill credits for the entire initial 25-year term of those projects. Xcel's Proposal asks the Commission to reverse those prior decisions with no reasonable justification. Xcel's Proposal is thus an invitation for arbitrary and capricious Commission action and the Commission should refuse it.

In its September 17, 2014 order, the Commission rejected the use of a VOS-based bill credit not because VOS had not yet been established in the distributed generation context, but because the Commission found that using a VOS-based bill credit would not have complied with section 216B.1641, subd. 1(e)'s mandate that CSGs must be financeable.[19] Then after considerable

[17] *See* Minn. Stat. § 216B.1641, subd. 1(d).
[18] Docket No. E-002/M-13-867, Order Approving Solar-Garden Plan with Modifications (Sept. 17, 2014); Docket No. E-002/M-13-867, Order Adopting Partial Settlement as Modified (Aug. 6, 2015); Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program (Sept. 6, 2016).
[19] Docket No. E-002/M-13-867, Order Approving Solar-Garden Plan with Modifications at 9-10, 19 (Sept. 17, 2014).

party input and deliberation, the Commission took another critical step, ordering that Xcel clarify in its tariff that "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***."[20]

The Commission affirmed those reasoned conclusions after conducting a similar analysis in 2016. In that 2016 order, the Commission decided that CSGs applying to Xcel's CSG program after December 31, 2016, would receive a VOS-based bill credit, but that CSGs that applied prior to that date would continue to receive an ARR-based bill credit for the duration of the CSG's contract with Xcel.[21] In that 2016 decision and in an earlier 2015 decision, the Commission again fulfilled the requirements of section 216B.1641, noting that the statute only "require[s] that garden energy be purchased at the value-of-solar rate ***once the Commission approves that rate for solar gardens***."[22] Importantly, the Commission also affirmed the stable foundation of the CSG program it built in 2014, by deciding in 2016 to follow the unanimous recommendation of parties to this docket that "any change to the bill-credit rate be applied prospectively" such that the VOS rate would "apply only to applications filed after December 31, 2016."[23]

These prior Commission decisions deploy a reasoned approach to the administration of the CSG program while adopting a faithful interpretation of ***all*** parts of the CSG statute. To depart

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[20] *Id.*

[21] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 13-15 (Sept. 6, 2016).

[22] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 6, 13 n.25 ("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.") (Sept. 6, 2016); Docket No. E-002/M-13-867, Order Adopting Partial Settlement as Modified at 23 (Aug. 6, 2015) ("The applicable retail rates and REC-payment amounts were to be reviewed and adjusted annually and continue in effect until such times as the Commission approved a value-of-solar rate for solar gardens.").

[23] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 14 (Sept. 6, 2016).

from the Commission's settled approach would be a departure from that faithful interpretation. And while this Commission can reverse earlier Commission decisions in limited circumstances, it can do so only with a reasoned basis, which it lacks here.[24] CSG developers and subscribers have deep reliance interests at stake, a fact which all parties recognized in 2016 when there was unanimous agreement that the Commission only apply VOS-based bill credits to post-December 31, 2016 CSG applications.[25] And the current ARR-based bill credits are on the extreme low-end of the range of amounts the Commission expected—and accepted—when it created the CSG program in 2014.[26] Simply put, nothing has changed in law or fact that would support a decision reversing the Commission's prior decisions.

As such, any decision from the Commission that section 216B.1641, subd. 1(d) obligates it to force all CSGs—even those with applications that predate January 1, 2017—to a VOS-bill credit would be arbitrary and capricious.[27]

## II. Xcel's Proposal Conflicts with Settled Contracts and the Commission Can Only Approve it if the Commission Determines that the Existing ARR-Based Bill Credits, on Balance, Harm the Public Interest.

Seven decades ago, the United States Supreme Court recognized that utilities are not free to propose rate filings that contradict their established contracts unless statute grants the utility that authority. Nothing in Minnesota's general ratemaking statutes, the Community Solar Garden

[24] *In re Review of the 2005 Annual Automatic Adjustment of Charges for All Elec. & Gas Utils.*, 768 N.W.2d 112, 119-120 (Minn. 2009) (explaining that while an agency can ignore its own precedents, it can only do so if it provides a reasoned explanation); *see also J.C. Penney Co. v. Commissioner of Economic Sec.*, 353 N.W.2d 243, 246 (Minn. App. 1984) ("Administrative interpretations are not entitled to deference when they contravene plain statutory language or where there are compelling indications that the agency's interpretation is wrong." (internal citations omitted)); *Minn. Deer Farmers Ass'n v. Minn. Dep't of Nat. Res.*, 979 N.W.2d 465, 469 (Minn. App. 2022) (noting that agencies are due even less deference when interpreting statutes defining an agency's own authority).

[25] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 14 (Sept. 6, 2016).

[26] Docket No. E-002/M-13-867, Briefing Papers, Attachment B at 5-6 (Feb. 11, 2014).

[27] *In re Review of the 2005 Annual Automatic Adjustment of Charges*, 768 N.W.2d at 119-120; *see also J.C. Penney Co.*, 353 N.W.2d at 246; *Minn. Deer Farmers Ass'n*, 979 N.W.2d at 469.

Statute, or the Standard Contracts Xcel signed with CSG developers grant Xcel such an authority here. Accordingly, Xcel's Proposal to modify the material terms of deals Xcel has already made is improper without the agreement of Xcel's counterparties. Xcel's only option for unilateral relief from those settled contracts is through a conclusion from this Commission that the current ARR-based bill credits do violence to the public interest. There is no basis for such a conclusion and therefore the Commission should reject Xcel's Proposal.

*a. Xcel's Proposal seeking a tariffed rate that contradicts established contract rates is improper because nothing in Minnesota law grants Xcel the authority to propose a tariffed rate in violation of a rate established by contract.*

The United States Supreme Court announced the *Mobile-Sierra* doctrine in a duo of cases decided on the same day in 1956.[28] In those decisions, the Court announced the unsurprising conclusion that, absent some statutory authority to the contrary, utilities are bound by the terms of their bargained-for contracts, just like any other company.[29] As the Court observed, again, in the absence of some statutory change to the typical state of play, a utility's "unilateral announcement of a change to a contract would of course be a nullity[.]"[30] Since then, courts have repeatedly reaffirmed the basic principle that a utility is bound by its contracted rates, concluding that the *Mobile-Sierra* doctrine "is refreshingly simple: the contract between the parties governs the legality of the filing. Rate filings consistent with contractual obligations are valid; rate filings inconsistent with contractual obligations are invalid."[31] A contract rate can only be adjusted if necessary to protect the public interest from harm.[32] But when evaluating the nature of a contract

[28] *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332; *Fed. Power Comm'n v. Sierra Pac. Power Co.*, 350 U.S. 348.
[29] *Mobile Gas*, 350 U.S. at 339; *Sierra Pac.*, 350 U.S. at 353.
[30] *Mobile Gas*, 350 U.S. at 339; *see also Warrick v. Graffiti, Inc.*, 550 N.W.2d 303, 308 (Minn. App. 1996) (acknowledging that meeting of the minds and mutual agreement is required to amend contract).
[31] *Richmond Power & Light v. Federal Power Comm'n*, 481 F.2d 490, 493 (D.C. Cir. 1973).
[32] *Mobile Gas*, 350 U.S. at 339; *Sierra Pac.*, 350 U.S. at 353.

rate the utility bargained for, the standard for demonstrating sufficient harm justifying regulatory intervention is "practically insurmountable."[33]

*Mobile*, *Sierra*, and the cases that followed were rooted in two similar federal laws: the Natural Gas Act and the Federal Power Act.[34] In both cases, regulated utilities filed tariffed rates with federal regulators different from the rates they had agreed to in contracts.[35] The utilities argued that the federal statutes allowed them to unilaterally escape the contract rates simply because those statutes allowed them to change their filed rates with thirty days' notice to the Federal Energy Regulatory Commission ("FERC").[36] The Court rejected those arguments, concluding that those statutory provisions merely provided a ***process*** by which a ***validly initiated rate change proposal*** would go into effect.[37] But the statutes did nothing to empower the regulated utilities to initiate a unilateral rate change different from a bargained-for contract rate.[38] Instead, the regulated utilities' authority remained as it would be absent the statutes, except as those statutes explicitly adjusted it.[39] And under those statutes, the Court concluded that a contracted rate could only be set aside after a FERC finding that the contracted rate somehow violated the public interest.[40]

Like the federal statutes at issue in *Mobile* and *Sierra*, nothing in Minnesota law grants Xcel the authority to unilaterally alter a contract rate. As is the case with federal law, Minnesota law requires regulated utilities to file their rates (which Minnesota law defines to include

[33] *Papago Tribal Utility Auth. v. Federal Energy Reg. Comm'n*, 723 F.2d 950, 945 (D.C. Cir. 1983).
[34] *See, e.g.*, *Mobile Gas*, 350 U.S. at 339; *Sierra Pac.*, 350 U.S. at 353.
[35] *Mobile Gas*, 350 U.S. at 339; *Sierra Pac.*, 350 U.S. at 353.
[36] *Mobile Gas*, 350 U.S. at 335-37; *Sierra Pac.*, 350 U.S. at 353.
[37] *Mobile Gas*, 350 U.S. at 340; *Sierra Pac.*, 350 U.S. at 353.
[38] *Mobile Gas*, 350 U.S. at 340; *Sierra Pac.*, 350 U.S. at 353.
[39] *Mobile Gas*, 350 U.S. at 343; *Sierra Pac.*, 350 U.S. at 353.
[40] *Mobile Gas*, 350 U.S. at 345; *Sierra Pac.*, 350 U.S. at 355.

contracts[41]) with the Commission[42] and directs the Commission to ensure that all such rates are just and reasonable.[43] But as the Court explained in *Mobile* and *Sierra*, none of those statutory provisions allow a utility to unilaterally alter its bargained-for contract rates as Xcel seeks to do here. Nor does Minn. Stat. § 216B.25. In *Mobile*, after examining a near identical grant of authority in federal law, the Court concluded that provisions like section 216B.25 merely provide a procedure by which regulators (on their own or with encouragement from an affected utility) can revisit and adjust existing rates.[44] But any adjustment to existing contract rates can only come from the Commission—not through a unilateral effort from Xcel—and it is only permissible if regulators determine that "the contract rate [is] so low as to conflict with the public interest."[45] A finding that the new rate Xcel proposes is merely ***consistent with*** the public interest is not enough to justify undoing rates set forth in a contract.[46]

In this instance, Xcel's Proposal is plainly contrary to the terms of the signed contracts it entered into with CSG developers across the state. As set forth in the current version of the form Standard Contract, each of these signed contracts explain that the "Bill Credit Rate" for a particular CSG can take the form of a Standard Bill Credit or an Enhanced Bill Credit—both of which are ARR-based—or a Value of Solar Bill Credit Rate.[47] But while the credit rate might vary from CSG to CSG, these signed contracts explain that "[o]nce a Standard or Enhanced Bill Credit applies, ***that Bill Credit Type applies for the Term of the Contract***."[48] So, if a CSG now operates under a

[41] Minn. Stat. § 216B.02, subd. 5.
[42] Minn. Stat. § 216B.05.
[43] Minn. Stat. § 216B.03; Minn. Stat. § 216B.23.
[44] *Mobile Gas*, 350 U.S. at 344-45.
[45] *Mobile Gas*, 350 U.S. at 344-45; *see also Sierra Pac.*, 350 U.S. at 355.
[46] *Mobile Gas*, 350 U.S. at 345; *Sierra Pac.*, 350 U.S. at 355; *Morgan Stanley Cap. Group Inc. v. Pub. Util. Dist. No. 1*, 554 U.S. 527, 533-535 (explaining that the heightened deference given to contract rates is the product of the "just and reasonable" standard, not a different standard).
[47] Attachment A, Form Standard Contract at 1.
[48] *Id.* at 1-2.

Standard or Enhanced Bill Credit—as ***all*** CSGs that applied to the CSG program before January 1, 2017 do—these signed contracts establish that those CSGs must continue to operate in that manner "for the Term of the Contract."[49] Importantly, Xcel's Proposal would rewrite not just the tariffed, unsigned Standard Contract, but also the provisions of the contracts Xcel signed with early CSG developers, forcing all ARR-era CSGs to a VOS-based rate.

The *Mobile-Sierra* doctrine bars that result, unless this Commission concludes that the current contract rates—*i.e.*, the ARR-based Bill Credit Types identified in each signed ARR-era-CSG contract—severely harm the public interest. As explained below, the Commission has no basis for such a conclusion, and it should reject Xcel's Proposal accordingly.[50]

*b. The "variable" nature of ARR-based bill credits in the signed Standard Contracts does not grant Xcel authority for its Proposal; nor do the conflicts provision of those signed contracts.*

In an effort to avoid the clear conclusion that its Proposal is an attempt at a unilateral revision of the countless contracts Xcel signed with CSG developers, Xcel has suggested that it has authority for its proposal either: (i) because the signed Standard Contracts contemplate that the amount of the bill credit will change from time to time; or (ii) because those signed Standard Contracts explain that their terms yield to the tariffs approved by the Commission. Neither argument should persuade the Commission to upend the foundation of the CSG program.

There is no dispute that both Xcel and its CSG developer counterparties understood that the amount of the bill credit CSG subscribers would receive would fluctuate from year-to-year as Xcel's retail rates fluctuate. But while the exact bill credit ***amount*** might change, each signed Standard Contract makes clear that the ***formula*** leading to that amount remains the same "for the

[49] *Id.*
[50] *See infra*, Section III.

Term of the Contract."[51] The fact that the formula produces a different amount from year-to-year does not authorize Xcel's Proposal.

In fact, the D.C. Circuit, applying the *Mobile-Sierra* doctrine, rejected that very argument in *Richmond Power*. There, the utility argued that the contract rate was variable and therefore that its unilateral rate change was permitted.[52] The court disagreed, concluding that the values of *Mobile-Sierra*—including the preservation of the integrity of contracts and promoting stability—applied with equal force regardless of whether the parties agreed to a specific rate "or whether they agree[d] to a rate changeable in a specific manner."[53] The parties to each signed Standard Contract here agreed "to a rate changeable in a specific manner"—that is, a rate equal to Xcel's ARR that would change specifically and only as Xcel's underlying retail rates change. *Mobile-Sierra* applies in full force to prevent Xcel's Proposal, just as the court concluded in *Richmond Power*.[54]

Any reliance on Section 1.B. of the Standard Contract as a justification for Xcel's Proposal is similarly ineffective. Section 1.B. states, among other things, that "[i]n the event of any conflict between the terms of this Contract and Company's electric tariff, the provisions of the tariff shall control." But it does not state that Xcel has the authority to unilaterally change the definition of "Bill Credit Rate" in fully executed contracts to eliminate the fact that "[o]nce a Standard or Enhanced Bill Credit applies, that Bill Credit Type applies ***for the Term of the Contract***."[55] This contractual provision also does not grant Xcel the right to use the tariff filing process to create conflicts that have the effect of amending key terms of executed contracts without the agreement of Xcel's counterparties.

[51] Attachment A, Form Standard Contract at 1.
[52] *Richmond Power*, 481 F.2d at 497-98.
[53] *Id.* at 497.
[54] *Id.*
[55] Attachment A, Form Standard Contract at 1 (emphasis added.).

Indeed, section 1.B. is a far cry from the type of contractual provisions courts have concluded ***do*** grant a utility the right of unilateral amendment.[56] In *Memphis Light*, the utility entered a contract that obligated the buyer to pay for gas under the utility's rate schedule in place at the time of contracting "or any effective superseding rate schedules."[57] The Court reinforced the core holding of *Mobile-Sierra*—that the utilities and their counterparties are bound by the terms of their contracts—and concluded that in that instance, the contract did allow the utility the authority to unilaterally file revised rate schedules with regulators.[58]

Xcel bargained for no such authority here,[59] and if it had, Xcel likely would have found itself without willing CSG counterparties or without willing CSG subscribers, since such a unilateral authority would have rendered CSGs unfinanceable or the costs/benefits of CSG subscription too unpredictable to trust.[60] To read Section 1.B. to the contrary would read out of the contract the unequivocal commitment to provide a single Bill Credit Type "for the Term of the Contract."[61] The Commission should not sanction such an interpretation of fully executed bilateral contracts.[62] Instead, Section 1.B. is simply a recognition that there may be ***unintended*** conflicts between the Standard Contract and Xcel's tariff. Specifying that the tariff controls in the event of any such inadvertent conflicts does not mean that Xcel can abrogate the terms of signed contracts simply by proposing changes to its tariff. Moreover, to the extent Xcel tries to frame its Proposal as a mere change to a tariffed rate permitted by Section 1.B.—which it is not—Xcel appears to

[56] *See, e.g.*, *United Gas Pipe Line Co. v. Memphis Light, Gas & Water Div.*, 358 U.S. 103, 105.
[57] *Id.*
[58] *Id.* at 112-113.
[59] *See* Attachment A, Form Standard Contract at § 1.B.
[60] *See, e.g.*, Docket No. E-002/M-13-867, City of St. Cloud Minnesota Public Comment at 2 (Jan. 4, 2024) (explaining that this sort of unilateral action will undermine willingness to sign future bilateral agreements with Xcel).
[61] Attachment A, Form Standard Contract at 1.
[62] *See Current Tech. Concepts v. Irie Enters.*, 530 N.W.2d 539, 543 ("A contract must be interpreted in a way that gives all of its provisions meaning.").

have failed to fulfill even the bare minimum notice requirements of Minnesota law which requires that Xcel, at the very least, notify affected municipalities and counties.[63] The Commission should reject Xcel's apparent effort to characterize its Proposal as a mere tariff change, but to avoid the procedural obligations of such a change.

Finally, Xcel's own past practices put to rest any argument that it can adjust the terms of the contracts it signed with CSG developers without their agreement. Contrary to Xcel's efforts here, Xcel has regularly engaged in negotiations with CSG developers and, when ***both parties agree***, executed written amendments or revisions to the Standard Contract. That past practice is entirely ordinary and shows that Xcel's Proposal to amend its fully executed contracts without the CSG owner's assent is anything but. This Commission should therefore reject any arguments from Xcel using Section 1.B. or the variable nature of the value of the bill credit as justifications for its Proposal.[64]

## III. Enforcing Executed Contracts as Written is in the Public Interest, and Xcel's Proposal to Rewrite Executed Standard Contracts is Not.

The Commission's prior CSG decisions thoughtfully structured a CSG program that allowed CSGs to flourish in Minnesota and served the public interest and Minnesota's clean energy goals. Through those prior decisions, the Commission properly valued the importance of stability and certainty in the CSG market and followed the ***unanimous*** view of those involved that the bill credit rate established at a CSG's outset should apply for the duration of the CSG. Xcel made similar commitments to stability and certainty when it executed Standard Contracts with developers across the state. Upending those settled expectations will alter the cost-benefit equation

[63] Minn. Stat. § 216B.16, subd. 1.

[64] Again, this argument is further undermined by Xcel's own past practices, where it pursued bilateral amendments to executed contracts rather than pursuing those changes through unilateral rate filings with the Commission.

for existing CSG subscribers, immediately threaten the financeability of ARR-era CSGs, and undermine the solar industry in Minnesota as a whole. The Commission's existing preservation of ARR-based bill credits for early CSGs is in the public interest. While under *Mobile-Sierra* that is sufficient justification for this Commission to reject Xcel's Proposal,[65] those harms illustrate that Xcel's Proposal will do violence to the public interest. The Commission should reject Xcel's Proposal for that reason, too.

*a. The Commission's past approach, ensuring certainty and stability in the CSG market, promotes the public interest.*

In announcing the *Mobile-Sierra* doctrine, the United States Supreme Court recognized that preserving the integrity of utility contracts promoted stability and the health of utility-based industries.[66] As the Court observed in those cases, the long-term investments and commitments necessary to usher in the widespread adoption of a new technology (there, natural gas) required stability and certainty.[67] The same is true for CSGs in Minnesota, a fact this Commission recognized when it agreed in 2016 with the unanimous recommendation of the parties to this docket that the shift to a VOS-based bill credit should apply only to CSG applications filed after December 31, 2016.[68] And the Commission's commitment to certainty and stability has paid off, with CSGs expanding throughout the state.

Since the program was created in 2013, more than 860 MW of community solar garden energy has come online, giving thousands of Minnesotans access to clean, renewable energy and

[65] *See Sierra Pac.*, 350 U.S. at 354-55 (explaining that when evaluating a departure from a contract rate, the question is whether the contract rate harms the public interest, not whether the proposed replacement rate is in the public interest).
[66] *Mobile Gas*, 350 U.S. at 344 ("By preserving the integrity of contracts, it permits the stability of supply arrangements which all agree is essential to the health of the natural gas industry.")
[67] *Id.*
[68] Docket No. E-002/M-13-867, Order Approving Value-of-Solar Rate for Xcel's Solar Garden Program at 14 (Sept. 6, 2016).

making Minnesota one of the top CSG states in the country. The program also rewarded early adopters of CSGs in the state with significant savings on their energy costs, which was a key motivator for many CSG subscribers. CSG subscribers have noted for the Commission that savings on energy, paired with their reasonable expectation that those savings would continue at the ARR for the entire length of the contract, were key motivating factors behind their support for Minnesota's then-unproven CSG program.[69]

The benefits of widespread access to renewable energy that CSGs offer to those unable to install solar on their home or place of business, plus the financial savings that accrue to CSG subscribers that took a risk on Minnesota's nascent CSG program, far outweigh any minor costs of the program. Even on their own, those costs are not the sort of harm to the public interest that authorizes this Commission to undo the settled contractual arrangements between Xcel and CSG developers considering that such a standard is "practically insurmountable" when evaluated in the context of a contract rate the utility bargained for.[70]

What's more, Xcel does not make its proposal in the context of radically changed circumstances. The Commission's decision to rely on the ARR for pre-2017 CSGs was made with

[69] *See, e.g.*, Docket No. E-002/M-13-867, Oscar Avina Public Comment (Dec. 13, 2023) ("It only made sense to invest in a solar panel garden that would produce energy and save cost. It is disappointing that those of us who became a part of this endeavor in the start of this important project will now have to pay more."); Docket No. E-002/M-13-867, Fey Industries Public Comment (Nov. 24, 2023) ("Fey Industries, Inc. subscribes to solar gardens and supports developers who have invested in solar gardens under the assumption that we would receive the ARR for the duration of our contract."); Docket No. E-002/M-13-867, City of Sauk Rapids Public Comment (Nov. 27, 2023) ("When Sauk Rapids considered subscribing to Solar Gardens it was based on the rate of return that would be created by using the standards developed by the legislature and the PUC at that time."); Docket No. E-002/M-13-867, John Hansen Public Comment (Nov. 21, 2023) ("In the beginning this appeared to be a good way to get to participate in a solar garden with fair return for the investment. However, if contract rates were going to be changed/adjusted, then additional thought and process would have gone into the decision.").

[70] *Papago Tribal Utility Auth.*, 723 F.2d at 945 (noting that the public interest standard when evaluating contract rates is "practically insurmountable"); *Sierra Pac.*, 350 U.S. at 355 (noting that only "excessive" burden on other consumers could constitute a harm to the public interest sufficient to abandon contract rates).

full knowledge that doing so would continue to impose some costs on non-subscribers, which the Commission found to be reasonable back in 2014. The record in this docket makes this clear. In 2014, the Commission adopted an ARR-based bill credit with the full understanding that it would amount to a credit (not including any value for renewable energy credits) in Year 9 between $0.14590/kWh, on the low end, and $0.28128, on the high end.[71] The ARR today is squarely within that range and in fact is only slightly above the low-end forecast.[72] After finding it reasonable to impose this range of costs on non-subscribers in 2014, it would be arbitrary and capricious for the Commission to conclude now that these costs are so unreasonable that Xcel can modify the terms of signed contracts to reduce them.

Such a decision would be even more problematic since Xcel almost certainly holds—and receives cost recovery for—renewable energy contracts negotiated years ago that would be cheaper if negotiated now. It is well known that costs for renewable energy have decreased from costs 10-15 years ago. Still, no one expects that Xcel will abandon those higher-cost contracts to account for the changing marketplace or attempt to foist lower prices on its counterparties without their assent. The only place Xcel seems to expect such a mid-course change is in this docket, through its current Proposal. Xcel shouldn't be able to chart a course different from the usual here, particularly when the costs borne by non-subscribers are precisely those this Commission anticipated and deemed reasonable.

The history of the CSG program and the widespread opposition to Xcel's Proposal illustrates that the CSG program as it currently operates—with pre-2017 CSGs operating with an ARR-based bill credit—is in the public interest. The Commission should reject Xcel's proposal on that basis alone.

[71] Docket No. E-002/M-13-867, Briefing Papers, Attachment B at 5-6 (Feb. 11, 2014).
[72] *See id.*

*b. Adopting Xcel's proposal will harm CSG subscribers, CSG developers, the solar industry in Minnesota, and Minnesota citizens generally.*

While the Commission's existing approach to pre-2017 CSGs is in the public interest, Xcel's Proposal is the opposite and would actively harm the public interest. It will harm subscribers by reducing the value of their CSG subscriptions—either resulting in a net increase on their electricity bills or, at the very least, reduced savings. It will harm CSG developers and immediately threaten the financing of existing CSGs. And it will harm Minnesota more generally by undermining confidence in Minnesota as a viable market for clean energy investments. If the good accomplished by the Commission's current approach to pre-2017 CSGs isn't enough to reject Xcel's proposal, the Commission should reject the Proposal based on the widespread harm that it will cause.

i. Xcel's Proposal will harm the public interest by alienating subscribers and reducing the value of their subscription contracts.

CSG subscribers are "the public" in the plainest sense: CSG subscribers are everyday residents from diverse backgrounds,[73] they are companies, healthcare providers,[74] nonprofits, schools,[75] religious organizations,[76] and municipalities.[77] Yet Xcel's Proposal takes direct aim at this diverse group's interests.

CSG subscribers—like CSG developers—have direct reliance interests in the contract that the owner of the CSG to which they subscribe executed with Xcel because the value of their CSG subscriptions is tied directly to the bill credit Xcel pays. As the numerous public comments filed

[73] Attachment B, Affidavit of Timothy DenHerder-Thomas at ¶ 2 (noting that Cooperative Energy Futures serves approximately 700 households, roughly half of which are low-to-moderate income); Docket No. E-002/M-13-867, Mel Turcanik Public Comment (Dec. 10, 2023); Docket No. E-002/M-13-867, Tom Ihlenfeldt Public Comment (Dec. 20, 2023).
[74] Docket No. E-002/M-13-867, Mankato Clinic Public Comment (Nov. 7, 2023).
[75] Docket No. E-002/M-13-867, Rocori Public Schools Public Comment (Nov. 8, 2023).
[76] Docket No. E-002/M-13-867, Trinity Lutheran Public Comment (Nov. 27, 2023).
[77] Docket No. E-002/M-13-867, Sibley County Public Comment (Nov. 14, 2023).

in this docket make clear, CSG subscribers with subscriptions to pre-2017 CSGs will see a drastic reduction in the value of their CSG subscriptions. CSG subscribers report that they will suffer significant impacts, amounting to a roughly 30 percent reduction in the value of their subscription.[78] In some cases, this will lead to millions of dollars in losses.[79] And in many cases, CSG subscribers will find that they are now paying a ***premium*** for CSG-produced electricity, not just that they are saving less.[80]

The knock-on effects of reducing the value of existing CSG subscriptions are easy to see. All ratepayers, including non-CSG subscribers, who are served by a subscribing city, county, or school district will see increased costs through increased taxes or decreased services. And the increased costs to subscribing businesses will likely lead to job loss, reduced job growth, or an increase in product costs, all of which will negatively harm Minnesotans generally, regardless of CSG subscription status. Meanwhile, existing subscribers will seek to get out of their contracts, either at the end of a subscription term or through early termination.[81] This causes direct harm to CSG developers, who must then scramble to ensure that their long-running CSG remains financially viable, but it will also increase costs system-wide as disputes between subscribers and developers erupt. And it directly undermines the confidence CSG subscribers—and consumers generally—have in solar energy, Xcel, and the Commission now and in the future. As one

[78] Docket No. E-002/M-13-867, Tom Ihlenfeldt Public Comment (Dec. 20, 2023).
[79] Docket No. E-002/M-13-867, City of St. Cloud Minnesota Public Comment (Jan. 4, 2024).
[80] Docket No. E-002/M-13-867, Brett Paulsen Public Comment (Dec. 20, 2023) ("This change will drop the bill credits for residents like me by over 30% transforming a community solar subscription from a net benefit to a net cost.").
[81] *E.g.*, Docket No. E-002/M-13-867, Mel Turcanik Public Comment (Dec. 10, 2023); Docket No. E-002/M-13-867, Trinity Lutheran Public Comment (Nov. 27, 2023) ("If this rate reduction goes into effect, we will almost certainly cancel our subscription as soon as the contract finish date is reached[.]"); *see also* Attachment C, Affidavit of Daniel C. Dobbs at ¶ 7 (explaining that Standard Solar expects that its subscribers will seek to terminate or renegotiate their subscription contracts); Attachment B, Affidavit of Timothy DenHerder-Thomas at ¶¶ 8-9; Attachment D, Affidavit of Nicole LeBlanc at ¶ 8.

residential subscriber puts it: "If folks know that Xcel can unilaterally change the terms of their agreement to turn a consumer's solar investment from an asset to a liability, why would anyone want to sign on?"[82] Another adds that, "[c]hanging the term of a signed contract after the fact is unfair and illegal and would tarnish Minnesota's reputation as a reliable state for solar investment, harming the future of solar development statewide."[83]

While Xcel's Proposal might seem like an attractive way to reduce the cost of a successful renewable energy program, the Commission must recognize that it comes directly from the pockets of those that were willing to take a chance and support Minnesota's efforts to reach its aggressive clean energy goals and that it will ultimately be paid by many, if not all, Xcel ratepayers as evidenced by the significant and diverse number of organizations that have filed comments discussing the impact such a change would have on public budgets and/or services.[84] Xcel's Proposal puts the diverse coalition of interests that were first to invest in and support Minnesota's CSG program squarely in its crosshairs, illustrating that the Proposal is antithetical to the public interest.

ii. Xcel's Proposal will harm the public interest by undermining the financeability of existing and future CSGs.

Early subscribers to Minnesota CSGs played a critical role in the success of Minnesota's CSG program, but so too did the early investment from CSG developers, many of which are members of the Joint Solar Associations. Like CSG subscribers that invested in pre-2017 CSGs, early CSG developers in Minnesota face direct harm from Xcel's Proposal, particularly when it comes to their ability to continue to operate and finance existing CSGs. Xcel's Proposal thus harms

[82] Docket No. E-002/M-13-867, Sarah Sivright Public Comment (Dec. 26, 2023).
[83] Docket No. E-002/M-13-867, Dauner Public Comment (Dec. 27, 2023).
[84] While public opposition has been robust, Xcel's failure to provide even the bare minimum of required notice likely means that the current public response underestimates the breadth of opposition to Xcel's Proposal. *See supra*, Section II.a.

the public interest ***and*** violates Minn. Stat. § 216B.1641, subd. 1(e)'s requirement that any CSG program ensure that CSGs remain financeable.

The impacts to CSG development are direct and severe. Again, Xcel's Proposal will result in less value to CSG subscribers, which in turn leads to subscribers terminating or renegotiating their subscription. This means less ability for CSG developers to develop projects. While the Commission might not be persuaded that this is synonymous with the public interest, the reality is that it will have direct and immediate impacts on the operations of ***existing*** CSGs and CSGs as an enterprise more broadly. CSG developers report that undoing their settled expectations will hinder or eliminate their ability to service the debt they used to finance their existing CSGs, likely resulting in steep penalties, defaults, or early repayment obligations.[85] And in some cases, the impact will be so severe that Xcel's Proposal will result in the foreclosure of existing CSGs.[86] That is a direct threat not just to the pre-2017 CSGs affected by Xcel's Proposal, but to all CSGs developed by these developers. With these threats looming, the Commission cannot reasonably adopt Xcel's Proposal while simultaneously upholding its statutory obligation to ensure that CSGs remain financeable.[87]

But that's not all. The Joint Solar Associations' members expect that Xcel's Proposal will have a chilling effect on CSG development and the solar industry in Minnesota more generally. The uncertainty that Xcel's Proposal introduces to the CSG and solar markets in Minnesota, on its own, will hinder the growth of a key piece of Minnesota's efforts for cleaner energy. Since the 1950s, the United States Supreme Court has recognized the importance of certainty in regulated markets, and the CSG and solar markets are no different. As the Court explained: "[U]ncertainties

[85] *E.g.*, Attachment B, Affidavit of Timothy DenHerder-Thomas at ¶¶ 9-11; Attachment D, Affidavit of Nicole LeBlanc at ¶¶ 10-12; Attachment E, Affidavit of Jason Kuflik at ¶ 8.
[86] Attachment B, Affidavit of Timothy DenHerder-Thomas at ¶¶ 9-11.
[87] Minn. Stat. § 216B.1641, subd. 1(e).

regarding rate stability and contract sanctity can have a chilling effect on investments and a seller's willingness to enter into long-term contracts and this, in turn, can harm customers in the long run."[88] In this instance, this is no abstract threat; instead, solar developers will lose confidence in their ability to operate in Minnesota on a predictable, level playing field.[89] And developers expect that even if they do continue to pursue projects in Minnesota, their financing partners will increase the cost of capital to compensate them for the risk that Xcel and this Commission will change the terms of signed contracts again in the future.[90] The end result is inevitable: less clean energy for Minnesotans of all walks of life, and higher prices for clean energy across the board.

Xcel's Proposal seeks to undermine not just the foundation of Minnesota's legacy CSG program, but the Department of Commerce's new Public Interest (LMI Accessible) CSG Program and all renewable energy development in Minnesota as well. The Commission should reject the Proposal because it will cause direct and significant harm to Minnesota's ability to support continued development of solar energy across the state. Xcel's Proposal will harm the public interest.

## CONCLUSION

This Commission's careful management of Xcel's CSG program since its inception has resulted in a robust CSG ecosystem across the state. This Commission adopted a preference for stability and certainty in its past rulings, and Xcel, CSG developers, and CSG subscribers have counted on that stability and certainty as the foundation for their contractual relationships. Xcel's Proposal to reverse prior Commission decisions and undo its settled contracts threatens that

[88] *Morgan Stanley Cap. Group*, 554 U.S. at 533-53.
[89] Attachment C, Affidavit of Daniel C. Dobbs at ¶ 9; Attachment B, Affidavit of Timothy DenHerder-Thomas at ¶ 11; Attachment D, Affidavit of Nicole LeBlanc at ¶¶ 13-14; Attachment F, Affidavit of Olivier Desplechin at ¶ 9.
[90] *E.g.*, Attachment B, Affidavit of Timothy DenHerder-Thomas at ¶ 11.

thoughtful approach, CSG subscribers, and the stability of CSGs in Minnesota at large. Fortunately, the CSG Statute authorizes this Commission to reject proposals—like Xcel's—that threaten the financeability of CSGs or the public interest. The Commission should reject Xcel's Proposal because:

- The Proposal asks the Commission to arbitrarily and capriciously reverse the Commission's prior decisions without any change in law or fact;
- The Proposal would undo the foundation of the CSG Program that successfully launched CSGs in Minnesota and which benefit the public interest;
- The Proposal would actively harm the public interest by harming CSG subscribers, developers, and the solar industry more broadly; and
- Xcel failed to satisfy even the most basic notice requirements of Minnesota law, which requires notice of rate changes.

Respectfully submitted on January 8, 2024.

BY: */s/ Andrew J. Ball*
Scott F. Dunbar
Andrew J. Ball
Keyes & Fox LLP
1580 Lincoln Street, Suite 1105
Denver, CO 80203
(949) 525-6016
sdunbar@keyesfox.com
aball@keyesfox.com

*Attorneys for the Joint Solar Associations*

## STANDARD CONTRACT FOR SOLAR*REWARDS COMMUNITY

THIS CONTRACT is entered into _____ , 20_____ , by Northern States Power Company, a Minnesota corporation and wholly owned subsidiary of Xcel Energy Inc., (hereafter called "Company") and _____ (hereafter called "Community Solar Garden Operator"). Together, the Company and Community Solar Garden Operator are the Parties.

### RECITALS

The Community Solar Garden Operator is the operator of a Community Solar Garden with an established or planned solar photovoltaic electric generating facility with a nameplate capacity of _____ kilowatts of alternating current (AC), on property located at _____ _____ _____("Community Solar Garden"). The Community Solar Garden is a facility that generates electricity by means of a ground mounted or roof mounted solar photovoltaic device(s) whereby a Subscriber to the Community Solar Garden receives a Bill Credit for the electricity generated in proportion to the size of the Subscription.

The Community Solar Garden Operator is prepared to generate electricity in parallel with the Company.

### DEFINITIONS

"Bill Credit" shall mean the dollar amount paid by the Company to each Subscriber as a credit on the Subscriber's retail electric service bill to compensate the Subscriber for its beneficial share of solar photovoltaic electricity produced by the Community Solar Garden and delivered to the Company from the Community Solar Garden.

"Bill Credit Rate" shall mean the then current applicable Bill Credit Rate as found in the Company's rate book applicable to the Solar*Rewards Community Program. The Bill Credit Type is either the "Standard" Bill Credit, "Enhanced" Bill Credit, or a Value of Solar (VOS) Bill Credit Rate as found at the applicable sheet in the rate book. The Standard Bill Credit is determined by the methodology approved by the Minnesota Public Utilities Commission. The "Enhanced" Bill Credit found at that sheet in the rate book is the sum of the Standard Bill Credit and the REC price and is the applicable Bill Credit Rate only where the Community Solar Garden Operator has made an election under Section 14.iii of this Contract to transfer the solar RECs to the Company. The REC prices embedded within the Enhanced Bill Credit are fixed for the duration of the term of this Contract and are fixed at the REC price in place at the time the Community Solar Garden has filed a completed application. Accordingly, the Standard and Enhanced Bill Credit rates will change over the term of this Contract and the Bill Credit Rate will be based on the then-current Standard or Enhanced Bill Credit as provided for in this Contract, but the REC value embedded within the Enhanced Bill Credit will not change during the Contract term. Once a Standard or Enhanced Bill Credit applies, that Bill Credit Type applies for the term of the Contract. C

(Continued on Sheet No. 9-69.1)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 2nd Revised Sheet No. 69.1

The VOS Bill Credit Rate is applicable to those applications that on or after January 1, 2017, meet the requirements to be Deemed Complete as defined on Sheet No. 64, and that do not qualify for the Standard Bill Credit or Enhanced Bill Credit. N N

The specific VOS Bill Credit Rate to be applied will depend on several factors. Each application Deemed Complete in a given calendar year will have a VOS Bill Credit Rate table applicable to the vintage of the VOS based on the calendar year it was Deemed Complete ("VOS Vintage Year"). In the event a VOS Vintage Year Bill Credit Rate table is not approved for part or all of a given calendar year, the most recently approved VOS Vintage Year Bill Credit Rate table will apply to applications Deemed Complete in that calendar year until a new VOS Vintage Year Bill Credit Rate table becomes effective. Each VOS Vintage Year table of Bill Credit Rates will have separate rates for each of the 25 years of production from the garden. The rate for Year 1 for a given VOS Vintage Year will apply for all Bill Credits associated with production in the first calendar month associated with the Date of Commercial Operation and all subsequent calendar months in the same calendar year. The VOS Bill Credit Rate for Year 2 for a given VOS Vintage Year will apply for all calendar months in the following calendar year. In the same way, the rates for Year 3 through 25 shall apply in sequential order for each of the following calendar years. Where the Date of Commercial Operation is not January 1, the Year 25 rate shall also apply to the final calendar year up to the end of the Term of the Contract.

(Continued on Sheet No. 9-70)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 3rd Revised Sheet No. 70

"Community Solar Garden Allocation" shall mean the monthly allocation, stated in Watts direct current (DC) as a portion of the total nameplate capacity of the Community Solar Garden, applicable to each Subscriber's Subscription reflecting each Subscriber's allocable portion of photovoltaic electricity produced by the Community Solar Garden in a particular Production Month.

"Community Solar Garden Operator" is identified above and shall mean the organization whose purpose is to operate or otherwise manage the Community Solar Garden for its Subscribers. A Community Solar Garden Operator may be an individual or any for-profit or non-profit entity permitted by Minnesota law.

"Community Solar Garden Location" is the location of the single point of common coupling for the Community Solar Garden associated with the PV System. Multiple Community Solar Garden Locations may be situated in close proximity to one another in order to share in distribution infrastructure. This defined term is applicable to:

1. determine which county the Community Solar Garden is located in for purposes of:
    a. applying the requirement that "Each Subscriber to the Community Solar Garden must be a retail customer of the Company and each must be located in the same county or a county contiguous to the Community Solar Garden Location",
    b. having the Company publicly disclose the county where the Community Solar Garden is located,
    c. generally describing, in addition to the Community Solar Garden Address, the location of the Community Solar Garden; and,
2. detail the requirement that multiple Community Solar Garden Locations may be situated in close proximity to one another in order to share in distribution infrastructure.

This definition should not be used to determine whether a Community Solar Garden complies with the Service Territory Requirement.

"Community Solar Garden Statutory Requirements" are based on the provisions in Minn. Stat. § 216B.1641 and Minn. Stat. § 216B.1691, and for purposes of this Contract mean the following:

a. The Community Solar Garden must have not less than five (5) Subscribers;

b. No single Subscriber may have more than a forty (40) percent interest in the Community Solar Garden;

c. The Community Solar Garden must have a nameplate capacity of no more than one (1) megawatt alternating current (AC);

d. Each Subscription shall be sized to represent at least two hundred (200) watts of the Community Solar Garden's generating capacity;

e. Each Subscription shall be sized so that, when combined with other distributed generation resources serving the premises of each Subscriber, the Subscription size does not exceed one hundred twenty (120) percent of the average annual consumption of electricity over the prior twelve (12) months by each Subscriber to which the Subscription is attributed (based on the annual estimated generation of the PV System as determined by PVWATTS), provided that if historical electric energy consumption data is not available for a particular subscriber the Company will calculate the estimated annual electric energy consumption under the process detailed in the Company's rate book applicable to the Solar*Rewards Community Program. C

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f. The Community Solar Garden must comply with the Service Territory Requirement;

g. Each Subscriber to the Community Solar Garden must be a retail customer of the Company and each must be located in the same county or a county contiguous to the Community Solar Garden Location; and,

h. Customers who are exempt from the Solar Energy Standard (SES) under Minn. Stat. § 216B.1691, subd. 2(f)d, shall not participate in or subscribe to Community Solar Gardens.

"CSG Application System" or "Community Solar Gardens Application and Subscriber Management System" is the interactive, internet website-based interface maintained by or on behalf of the Company through which the Community Solar Garden Operator may establish qualifications, provide information and complete documents necessary for acceptance in the Company's Solar*Rewards Community Program, and may enter or change the Monthly Subscription Information reflecting updated information for each Subscriber, including any changes to any Subscriber's name, account number, address, and Community Solar Garden Allocation.

"Date of Commercial Operation" shall mean the first day of the first full calendar month upon which commercial operation is achieved following completion of all Interconnection Agreement requirements and processes.

"House Power" shall mean the electricity needed to assist in the PV System's generation, including system operation, performance monitoring and associated communications, except for energy directly required for the local control and safe operation of the PV System. It also means other electricity used by the Community Solar Garden, such as for perimeter lighting, a visitor's center or any other structures or facilities at the Community Solar Garden Site.

"Interconnection Agreement" shall mean the applicable Interconnection Agreement in Section 10 of the Company's rate book. N

"Monthly Subscription Information" shall mean the information stored within the CSG Application System, as timely entered or changed by the Community Solar Garden Operator via the CSG Application System, setting forth the name, account number and service address each Subscriber holding Subscriptions in the Community Solar Garden, and the Community Solar Garden Allocation applicable to each such Subscriber's Subscription, reflecting each Subscriber's allocable portion of photovoltaic energy produced by the Community Solar Garden during a particular Production Month.

"MN DIA" shall mean the Minnesota Distributed Energy Resource Interconnection Agreement. See Company Section 10 tariff. N

"MN DIP" shall mean the Minnesota Distributed Energy Resource Interconnection Process. See Company Section 10 tariff. The MN DIA shall be considered to be part of the MN DIP. N

"Production Meter" shall mean the meter which will record the energy generated by the PV System only and which will be reported on the Solar Garden Operator's bill. The readings on the Production Meter showing the energy generated by the PV System will also be used to determine the RECs generated by the PV System.

"Production Month" shall mean the calendar month during which photovoltaic energy is produced by the Community Solar Garden's PV System and delivered to the Company at the Production Meter.

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"PV System" shall mean the solar electric generating facility to be located at the Community Solar Garden, including the photovoltaic panels, inverter, output breakers, facilities necessary to connect to the Production Meter, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation, and maintenance of the electric generating facility that produces the photovoltaic energy subject to this Contract.

"Service Territory Requirement" means that the solar electric generating facility located at the Community Solar Garden is entirely located in the service territory of the Company, including the photovoltaic panels, inverter, output breakers, service meter, Production Meter, the facilities between the service meter and Production Meter, and the facilities between the photovoltaic panels and the Production Meter.

"Subscribed Energy" means electricity generated by the PV System attributable to the Subscribers' Subscriptions and delivered to the Company at the Production Meter on or after the Date of Commercial Operation.

"Subscriber" means a retail customer of the Company who owns one or more Subscriptions of a community solar garden interconnected with the Company.

"Subscriber's Account Information" consists of the Subscriber's name, account number, service address, telephone number, email address, web site URL, information on Subscriber participation in other distributed generation serving the premises of the Subscriber, and Subscriber specific Bill Credit(s).

"Subscriber's Energy Usage Data" refers to data collected from the utility Subscriber meters that reflects the quantity, quality, or timing of electric usage or electricity production attributable to the Subscriber for the service address and account number identified for participation in the Community Solar Garden. C C C

"Subscription" means a contract between a Subscriber and the Community Solar Garden Operator.

"Term of the Contract" means the term of this contract which shall be the same as for the Interconnection Agreement applicable to the Community Solar Garden, and shall begin when this Contract is signed by the Parties and end twenty five (25) years after the Date of Commercial Operation unless otherwise provided below.

"Unsubscribed Energy" means electricity generated by the PV System and delivered to the Company at the Production Meter which is not Subscribed Energy and also includes electricity generated by the PV System and delivered to the Company prior to the Date of Commercial Operation.

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**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 3rd Revised Sheet No. 73

**AGREEMENTS**

The Community Solar Garden Operator and the Company agree:

1. Sale of Electricity Generated by the Community Solar Garden. Effective upon the Date of Commercial Operation, the Community Solar Garden shall sell and deliver to the Company at the Production Meter all of the photovoltaic energy produced by the PV System. Payment for the Subscribed Energy which is produced and delivered will be solely by a Bill Credit to Subscribers as detailed below. Payment for Unsubscribed Energy will be paid to the Community Solar Garden Operator at the then current: 1.) Company's avoided cost rate (found in the Company's rate book, Rate Code A51) for solar gardens of 40 kW (AC) capacity or larger, or 2.) Company's average retail energy rate (found in the Company's rate book, Rate Code A50) for solar gardens under 40 kW (AC) capacity. Where the Community Solar Garden Operator has elected to transfer the solar RECs to the Company, or where the VOS Bill Credit Rate applies to Subscribed Energy under the Standard Contract for Solar*Rewards Community, an additional payment of $0.01/kWh will be paid to the Community Solar Garden Operator for the RECs associated with this Unsubscribed Energy. The Community Solar Garden Operator shall not sell any photovoltaic energy generated from the PV System, or any capacity associated with the PV System, to any person other than the Company during the term of this Contract, and the Company shall purchase and own all photovoltaic energy produced by the PV System. This Contract conveys to the Company all energy generated from the PV System and all capacity associated with the PV System for the Term of the Contract.

A. The Company will buy (through Bill Credits to the Subscribers) all Subscribed Energy generated by the Community Solar Garden and delivered to the Company during a particular Production Month at the Bill Credit Rate. Each Subscriber to the Solar*Rewards Community Program will receive a Bill Credit at the Bill Credit Rate for electricity generated attributable to the Subscriber's Subscription. Each Subscriber will also be charged for all electricity consumed by the Subscriber at the applicable rate schedule for sales to that class of customer. If the Bill Credit exceeds the amount owed in any billing period, the excess portion of the Bill Credit in any billing period shall be carried forward and credited against all charges. The Company shall purchase all Bill Credits with the billing statement which includes the last day in February and restart the credit cycle on the following period with a zero credit balance. Consistent with Minn. R. 7820.3800, Subp. 2, the purchase of the Bill Credits will only be made when the Bill Credit amount is more than $1 due for an existing customer or $2 or more due a person or legal entity no longer a customer of the Company. D

B. A copy of the presently filed Solar*Rewards Community Program tariff of the Company's rate book is attached to this Contract. The rates for sales and purchases of Subscribed Energy shall be changed annually or otherwise as provided by order of the MPUC. The Community Solar Garden Operator shall comply with all of the rules stated in the Company's applicable electric tariff related to the Solar*Rewards Community Program and the tariffed version of this Contract, as the same may be revised from time to time, or as otherwise allowed by an amendment to this Contract approved, or deemed approved, by the Minnesota Public Utilities Commission. In the event of any conflict between the terms of this Contract and Company's electric tariff, the provisions of the tariff shall control.

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**SOLAR*REWARDS COMMUNITY (Continued)** 1st Revised Sheet No. 74

C. For the purchases by the Company, the Company shall apply a Bill Credit each billing period to each Subscriber's bill for retail electric service at the Bill Credit Rate based upon the Subscriber's allocation as set forth in the Monthly Subscription Information applicable to the preceding Production Month. The Production Month to which the Bill Credit is applicable shall not necessarily match the billing period for the retail electric service bill in which the Bill Credit is applied.

D. For purposes of applying the Bill Credit to each Subscriber's bill, the Company shall be entitled to rely exclusively on the Monthly Subscription Information as timely entered by the Community Solar Garden Operator via the CSG Application System.

E. The correction of any allocation of previously-applied Bill Credits among Subscribers or payments to the Community Solar Garden Operator for Unsubscribed Energy, pertaining to a particular month due to any inaccuracy reflected in such Monthly Subscription Information with regard to a Subscriber's Subscription in the PV System and the beneficial share of photovoltaic energy produced by the PV System, or the share of Unsubscribed Energy, shall be the full responsibility of the Community Solar Garden Operator, unless such inaccuracies are caused by the Company. Consistent with this, in the event that any Subscription associated with a specific premise number is not eligible because it violates the provisions on tariff sheet 9-76 (par. 6.D.), 9-66.1 (par. m), or violates any applicable provision of the Landlord Addendum (and such Subscription is then an "Ineligible Subscription"), and Bill Credits have been applied to the premises number of the Ineligible Subscription, then for a period beginning on the first date of it being an Ineligible Subscription for the duration of it being an Ineligible Subscription the Company may recoup these funds and obtain payment solely from the Community Solar Garden Operator the difference between the Bill Credits provided to the premises number of the Ineligible Subscription and the Unsubscribed Energy rate. Failure of the Community Solar Garden Operator to make this payment within thirty (30) days of demand shall be considered a breach of this contract. N N

2. House Power. The Company will sell House Power to the Community Solar Garden under the rate schedule in force for the class of customer to which the Community Solar Garden Operator belongs. The Community Solar Garden Operator shall be solely responsible for arranging retail electric service exclusively from the Company in accordance with the Company's Electric Rate Book. The Community Solar Garden Operator shall obtain House Power solely through separately metered retail service and shall not obtain House Power through any other means, and waives any regulatory or other legal claim or right to the contrary. Because the Company must purchase from the Community Solar Garden all energy generated by the Community Solar Garden, the Community Solar Garden may not use the energy it generates to be consumed by it. It may not net-out or use energy it generates for House Power. The Parties acknowledge and agree that the performance of their respective obligations with respect to House Power shall be separate from this Contract and shall be interpreted independently of the Parties' respective obligations under this Contract. Notwithstanding any other provision in this Contract, nothing with respect to the arrangements for House Power shall alter or modify the Community Solar Garden Operator's or the Company's rights, duties and obligations under this Contract. This Contract shall not be construed to create any rights between the Community Solar Garden Operator and the Company with respect to the arrangements for House Power.

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**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 3rd Revised Sheet No. 75

3. Metering Charges and Requirements

A. Metering Charges are as set forth in the Section 10 tariff. ND

B. A Company-owned meter is required to be installed at each service location associated with each Community Solar Garden generation source subject to this Contract. The meter is located at the main service and will record energy delivered to the Community Solar Garden Operator from the Company, and also will record energy produced by the Community Solar Garden and delivered to the Company. Community Solar Garden Operator will provide all meter housing and socket replacement and rewiring to install the meter. Community Solar Garden Operator shall be charged monthly the metering charge for the main service meter.

4. Title, Risk of Loss, and Warranty of Title. As between the Parties, the Community Solar Garden Operator shall be deemed to be in control of the photovoltaic energy output from the PV System up to and until delivery and receipt by the Company at the Production Meter and the Company shall be deemed to be in control of such energy from and after delivery and receipt at such Production Meter. Title and risk of loss related to the photovoltaic energy shall transfer to the Company at the Production Meter. The Community Solar Garden warrants and represents to the Company that it has or will have at the time of delivery good and sufficient title to all photovoltaic energy output and/or the ability to transfer good and sufficient title of same to the Company.

5. Interconnection Requirements. The Community Solar Garden Operator must sign the applicable Interconnection Agreement under Section 10 of the Company's rate book, and comply with all of the terms and conditions of that Interconnection Agreement except as otherwise specified in this Contract. The following additional interconnection terms also apply.

A. Where the tariffed Interconnection Agreement is used in conjunction with this tariffed Contract, the term of the Interconnection Agreement shall end twenty five (25) years after the Date of Commercial Operation.

B. To the extent to which the ADDITIONAL TERMS AND CONDITIONS set forth in Section 9, Sheets 68 through 68.16 differ from the Section 10 tariff, these ADDITIONAL TERMS AND CONDITIONS shall control for applications that are not subject to the MN DIP. The ADDITIONAL TERMS AND CONDITIONS set forth in tariff Section 9, Sheet Nos. 68.17 through 68.21, fully apply if the application that is the subject of this Agreement is subject to the MN DIP.

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**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 4th Revised Sheet No. 76

6. Community Solar Garden Requirements.

A. The Community Solar Garden Operator shall assure that each of the Community Solar Garden Statutory Requirements is met.

B. For each Subscriber, there must be a completed and fully-executed Subscriber Agency Agreement and Consent Form (Attachment "A" to this Contract) which is delivered to the Company prior to the Date of Commercial Operation, or prior to adding each Subscriber.

C. Code Compliance. The Community Solar Garden Operator shall be responsible for ensuring that the PV System equipment installed at the Community Solar Garden meets all applicable codes, standards, and regulatory requirements at the time of installation and throughout its operation.

D. The decision whether to become or remain a Community Solar Garden subscriber is left to an individual tenant. Landlords or agents shall provide only accurate information that is not false, misleading or deceptive information. Beginning on October 1, 2023, Subscriber eligibility requirement shall also include that in the event the premise associated with a Subscription is occupied by a residential tenant, and where the Landlord (as defined in the Landlord Addendum) is the named customer on the Company account, then the Subscription is subject to the Landlord Addendum. However, notwithstanding this, if the premise is part of a multi-unit single-meter building and if the landlord is the existing Company account holder, or if the building for the premise has a single meter for the whole building and if the landlord is the existing Company account holder, or if the Company account for the unit continuously since January 1, 2015 has been in the name of a landlord, or if the landlord pays the electric bill and does not pass the electrical bill costs to the tenant, then a landlord may have a Subscription in its name without the need for the Community Solar Garden being subject to the Landlord Addendum. ND N

E. The ADDITIONAL TERMS AND CONDITIONS set forth in tariff Section 9, Sheet Nos. 68 through 68.16, fully apply if the application that is the subject of this Agreement is not subject to the MN DIP. The ADDITIONAL TERMS AND CONDITIONS set forth in tariff Section 9, Sheet Nos. 68.17 through 68.21, fully apply if the application that is the subject of this Agreement is subject to the MN DIP.

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**SOLAR*REWARDS COMMUNITY (Continued)**

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1st Revised Sheet No. 76.1

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**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 1st Revised Sheet No. 77

6. Community Solar Garden Requirements. (Continued)

F. Annual Report. Starting within 12 months of the Date of Commercial Operation, the Community Solar Garden Operator shall issue (and provide to the Company and each Subscriber) signed and notarized public annual reports containing at a minimum: N

- The energy produced by the Community Solar Garden;
- Financial statements including a balance sheet, income statement, and sources and uses of funds statement; and,
- Identification of the management and operatorship of the Community Solar Garden Operator.

Where the Community Solar Garden Operator as a single legal entity has more than one Community Solar Garden, it need not issue individual public reports per Community Solar Garden but may instead combine this information into a single report; provided, however, the combined report needs to identify each Community Solar Garden and energy produced for each Community Solar Garden to which the report applies. The Community Solar Garden Operator shall take care to preserve the privacy expectations of the Subscribers, such as not publicly providing the Subscriber's Account Information or Subscriber Energy Usage Data or Bill Credits, unless there is explicit informed consent or otherwise provided for in this Contract. Each Subscriber shall have an opportunity to submit comments to the Community Solar Garden Operator with a copy to the Company on the accuracy and completeness of the annual reports. N

Where the Community Solar Garden Operator is a subsidiary of a larger corporate entity (Parent), and where that Parent has multiple Community Solar Gardens in its down-line organization, it need not issue individual public annual reports for each garden but may instead combine this information into a single Annual Report containing the financial statements for the Parent entity; provided, however, the combined report identifies each Community Solar Garden and energy produced for each garden to which the report applies and includes a Parent guarantee that it has financial responsibility or obligation to pay debts on behalf of the subsidiary companies. The Community Solar Garden Operator shall take care to preserve the privacy expectations of the Subscribers, such as not publicly providing the Subscriber's Account Information or Subscriber Energy Usage Data or Bill Credits, unless there is explicit informed consent or otherwise provided for in this Contract. Each Subscriber shall have an opportunity to submit comments to the Community Solar Garden Operator with a copy to the Company on the accuracy and completeness of the annual reports. N D N N

G. Audits. The Company reserves the right to inspect the PV System as necessary to assure the safety and reliability of the system at any time during the Term of this Contract, and for an additional period of one (1) year thereafter.

H. [Intentionally Omitted] TD

I. [Intentionally Omitted] TD

J. Participation Fee. Each year, the Community Solar Garden Operator will submit a participation fee of $500 to the Company for ongoing costs incurred of administering the Solar*Rewards Community Program. The first participation fee will be charged after the Date of Commercial Operation, and the final participation fee will be charged prior to the Term of the Contract expiring. C

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**SOLAR*REWARDS COMMUNITY (Continued)** 1st Revised Sheet No. 78

6. Community Solar Garden Requirements. (Continued)

K. Inverter Capacity. The Community Solar Garden must have an inverter with a capacity of no more than one (1) megawatt alternating current (AC) to assure that the Community Solar Garden has a nameplate capacity of no more than one (1) megawatt AC.

L. Maintenance and Repair of the PV System. The Community Solar Garden Operator shall maintain the PV System and the individual components of the PV System in good working order at all times during the Term of the Contract. If during the Term of the Contract the PV System or any of the individual components of the system should be damaged or destroyed, or taken out of service for maintenance, the Community Solar Garden Operator shall provide the Company written notice within thirty (30) calendar days of the event and promptly repair or replace the damaged or destroyed equipment at the Community Solar Garden Operator's sole expense. If the time period for repair or replacement is reasonably anticipated to exceed one hundred eighty (180) days, the Company shall have the right to request to terminate this Contract by written notice.

M. No Relocation. The PV system shall be located at the Community Solar Garden as shown in its application at all times during the Term of the Contract.

N. Disclosure of Production Information. The Community Solar Garden Operator acknowledges and agrees that, in order for the Company to carry out its responsibilities in applying Bill Credits to each Subscriber's bills for electric service, the Company may be required and shall be permitted to provide access or otherwise disclose and release to any Subscriber any and all production data related to the PV System in its possession and information regarding the total Bill Credits applied by the Company with respect to the PV System and any information pertaining to a Subscriber's Subscription. Any additional detailed information requested by a Subscriber shall be provided only upon the Community Solar Garden Operator's consent in writing or email to the Company, or unless the Minnesota Public Utilities Commission or the Minnesota Department of Commerce requests that the Company provides such information to the Subscriber.

O. Disclosure of Community Solar Garden Information. The Community Solar Garden Operator acknowledges and agrees that the Company may publicly disclose the Community Solar Garden Location, Community Solar Garden Operator, nameplate capacity and generation data of the Community Solar Garden. Additionally, the Company will periodically provide a bill message to Subscribers clarifying that questions or concerns related to their Subscription should be directed to the Community Solar Garden Operator, including a statement that the Community Solar Garden Operator is solely responsible for resolving any disputes with the Company or the Subscriber about the accuracy of the Community Solar Garden production and that the Company is solely responsible for resolving any disputes with the Subscriber about the applicable rate used to determine the amount of the Bill Credit. T

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**SOLAR*REWARDS COMMUNITY (Continued)** Original Sheet No. 79

N

6. Community Solar Garden Requirements. (Continued)

P. Certain Tax and Securities Law Issues. The Company makes no warranty or representation concerning the taxable consequences, if any, to Community Solar Garden Operator or its Subscribers with respect to its Bill Credits to the Subscribers for participation in the Community Solar Garden. Additionally, the Company makes no warranty or representation concerning the implication of any federal or state securities laws on how Subscriptions to the Community Solar Garden are handled. The Community Solar Garden Operator and Subscribers are urged to seek professional advice regarding these issues.

Q. Full Cooperation with the MPUC, Minnesota Department of Commerce, and Minnesota Office of the Attorney General. The Parties agree to fully cooperate with any request for information from the MPUC, the Minnesota Department of Commerce, or the Minnesota Office of the Attorney General pertaining in any way to the Community Solar Garden, and will provide such information upon request in a timely manner. To the extent to which any request calls for producing a specific Subscriber's Account Information, Subscriber Energy Usage Data or Bill Credits, such information shall be provided and marked as Trade Secret or Confidential Information.

R. New PV Systems. The PV System must not be built or previously interconnected at the time of application to the Solar*Rewards Community Program.

S. Fair Disclosure. Prior to the time when any person or entity becomes a Subscriber, the Community Solar Garden Operator will fairly disclose the future costs and benefits of the Subscription, and provide to the potential Subscriber a copy of this Contract. The Community Solar Garden Operator shall comply with all other requirements of the MPUC and applicable laws with respect to communications with Subscribers.

N

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**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** Original Sheet No. 80

7. Requirements Applicable to the CSG Application System. The Community Solar Garden Operator must comply with all of the following: N

A. Required use of the CSG Application System. The Community Solar Garden Operator must utilize the CSG Application System to submit an application for approval to operate a Community Solar Garden and to manage Subscribers and Subscriptions.

B. Subscriber Information. The Community Solar Garden Operator shall issue Subscriptions in the PV System only to eligible retail electric service customers of the Company and provide to the Company the name, account number and service address attributable to each Subscription and the Community Solar Garden Allocation for each Subscriber's Subscription stated in Watts direct current (DC). The Community Solar Garden Operator shall take care to preserve the privacy expectations of the Subscribers, such as not publicly providing a Subscriber's Account Information, Subscriber Energy Usage Data, or Bill Credits. The Community Solar Garden Operator will not disclose such information to third parties, other than to the MPUC, the Minnesota Department of Commerce, or the Minnesota Office of Attorney General, unless the Subscriber has provided explicit informed consent or such disclosure is compelled by law or regulation.

C. Subscription Transfers. Subscriptions may be transferred or sold to any person or entity who qualifies to be a Subscriber under this Contract or to the Community Solar Garden Operator for resale by the Operator to other Subscribers. A Subscriber may change the premise or account number that the Community Solar Garden energy is attributed to, as long as the Subscriber continues to qualify under these rules. Any transfer of Subscriptions needs to be coordinated through the Community Solar Garden Operator, who in turn needs to provide the required updated information in the CSG Application System within thirty (30) days of the transfer.

D. Updating Subscriber Information. On or before five (5) business days immediately preceding the first day of each Production Month, the Community Solar Garden Operator shall provide to the Company any and all changes to the Monthly Subscription Information, by entering new or updating previously-entered data through the use of the CSG Application System. Such data to be entered or changed by the Community Solar Garden Operator shall include additions, deletions or changes to the listing of Subscribers holding Subscriptions in the PV System, including any changes to the Subscriber's account number and service address attributable to each Subscription and the Community Solar Garden Allocation for each Subscriber's Subscription, stated in Watts DC.

E. Responsibility for Verification. The Community Solar Garden Operator shall verify that each Subscriber is eligible to be a Subscriber in the Community Solar Garden and that the Community Solar Garden Statutory Requirements are met. N

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**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** Original Sheet No. 81

8. The Community Solar Garden Operator will give the Company reasonable access to its property and to the electric generating facilities if the configuration of those facilities does not permit disconnection or testing from the Company's side of the interconnection. If the Company enters the Community Solar Garden Operator's property, the Company will remain responsible for its personnel. N

9. The Company may stop providing electricity to the Community Solar Garden Operator during a system emergency. The Company will not discriminate against the Community Solar Garden Operator when it stops providing electricity or when it resumes providing electricity. In the event of an emergency requiring disconnection of the Community Solar Garden, the Company shall follow the process, and provide notice to the Community Solar Garden Operator, consistent with the provisions of the Interconnection Agreement, in Section 10 of the Company's rate book, or as otherwise provided for in the Interconnection Agreement.

10. Remedies for Breach. In the event of any breach of this Contract by the Community Solar Garden Operator, then the Company shall have available to it any other remedy provided for in this Contract and any or all of the following remedies which can be used either singularly or cumulatively.

a. In the event there is a breach resulting in some production from the Community Solar Garden being assigned in excess of a Subscriber's allowable Subscription under the Community Solar Garden Statutory Requirements, then the Company may treat this excess as Unsubscribed Energy and not provide a Bill Credit to any Subscriber for any such excess production.
b. For any breach of this Contract by the Community Solar Garden Operator:
    i. At any time the Company seeks a remedy for any breach of this Contract it shall provide in writing a Notice to the Community Solar Garden Operator to remedy the breach within thirty (30) days.
    ii. If after the thirty (30) days provided for in the Notice the Community Solar Garden Operator is still not in compliance with this Contract, then the Company shall have the right to request by written Notice to disconnect the Community Solar Garden from its network if the Community Solar Garden Operator is not in compliance with the Contract within thirty (30) days. The Company shall send copies of the Notice of Disconnection to Community Solar Garden Operator, all Subscribers of the Community Solar Garden, the Department of Commerce, OAG and MPUC.
    iii. The Community Solar Garden Operator, the Department of Commerce, OAG, and/or MPUC may object in writing to the Notice of Disconnection within thirty (30) days. Copies of any written objection shall be provided to all of the above entities. An objection to the Notice of Disconnection will trigger Section 12 of this Contract. N

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**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** Original Sheet No. 82

10. Remedies for Breach. In the event of any breach of this Contract by the Community Solar Garden Operator, then the Company shall have available to it any other remedy provided for in this Contract and any or all of the following remedies which can be used either singularly or cumulatively. N

b. For any breach of this Contract by the Community Solar Garden Operator: (Continued)

iv. If the Community Solar Garden Operator, the Minnesota Department of Commerce, OAG and/or MPUC do not object to the Notice of Disconnection, the Company is authorized to physically disconnect the Community Solar Garden pursuant to this Notice of Disconnection without providing further notice. No Bill Credits will be applied for any production occurring during physical disconnection. If within ninety (90) days of any such disconnection, the Community Solar Garden Operator returns to being in compliance with the Contract, then the Company will reconnect the Community Solar Garden to its network. Any periods of disconnection will not extend the Term of the Contract. The Community Solar Garden Operator will be financially responsible for the Company's costs of sending crews to disconnect and reconnect the Community Solar Garden to the Company's network.

v. If ninety (90) or more consecutive days elapse during which the Community Solar Garden has been disconnected or has otherwise not been in compliance with this Contract, then the Company shall have the right to request to terminate this Contract by written notice to the Community Solar Garden Operator. The Company shall send copies of any Notice requesting termination to all Subscribers of the Community Solar Garden, the Minnesota Department of Commerce, OAG and MPUC. If the Notice is objected to within thirty (30) days by the Community Solar Garden Operator, the Department of Commerce, and/or OAG, Section 12 of this agreement shall apply. Any request to terminate the Contract must be approved by the MPUC, and there is no further obligation of the Parties to perform hereunder following the effective date of such termination except as set forth in Sections 6.G and 16 of this Contract.

c. For any breach of the Interconnection Agreement, the Company shall also have all remedies provided for in Section 10 of the Company's rate book, or as otherwise provided for in the Interconnection Agreement. In the event this results in disconnection or termination of the Interconnection Agreement, the Company shall provide notice to the Minnesota Department of Commerce, OAG and MPUC. In the event that Community Solar Garden has been disconnected under the terms of the Interconnection Agreement and/or the Interconnection Agreement has been terminated, then the Company shall have the right to request to terminate this Contract by written notice to the Community Solar Garden Operator, with no further obligation of the Parties to perform hereunder following the effective date of such termination. The Company shall send copies of any Notice requesting termination of this Contract to all Subscribers of the Community Solar Garden, the Minnesota Department of Commerce, OAG and MPUC. If the Notice is objected to within thirty (30) days by the Community Solar Garden Operator, the Department of Commerce, and/or OAG, Section 12 of this agreement shall apply. Any request to terminate this Contract must be approved by the MPUC. N

(Continued on Sheet No. 9-82.1)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** Original Sheet No. 82.1

10. Remedies for Breach. In the event of any breach of this Contract by the Community Solar Garden Operator, then the Company shall have available to it any other remedy provided for in this Contract and any or all of the following remedies which can be used either singularly or cumulatively. (Continued) N

d. In the event of an alleged breach of this Contract by the Community Solar Garden Operator for which the Company sends a Notice pursuant to Section 10(b)(i), Company shall also send a copy of the Notice as soon as practicable to any financing party for the Community Solar Garden whose contact information has been provided to the Company. Any such financing party shall have the right to cure the alleged breach within the cure period provided in Section 10(b)(ii) and Company agrees to accept any such cure as if made by the Community Solar Garden Operator. The Company shall be under no obligation to provide any such financing party with any information that would violate the Data Privacy Policies set forth in Exhibit 1 to Attachment "A" of this Contract. The Company shall be under no obligation to provide any such financing party with any information it may have which is confidential to the Community Solar Garden Operator unless the Community Solar Garden Operator has provided written consent to the Company permitting the release to the financing party of such confidential information.

e. In the event of any breach of this Contract by Company, the Community Solar Garden Operator shall provide Company with a written Notice of the breach. Company shall have up to thirty (30) days to cure the breach. If the breach is not cured within the thirty (30) days, the Community Solar Garden Operator may utilize the procedures set forth in Section 12. If the breach results in Bill Credits not being issued to one or more individual Subscribers, in the absence of a cure by Company within the allowed time following the Notice, the applicable Subscriber(s) may also seek a remedy for any past due Bill Credits from the MPUC pursuant to Section 12. N

(Continued on Sheet No. 9-83)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** Original Sheet No. 83

11. Limitation of Liability N

A) Each Party shall at all times indemnify, defend, and save the other Party harmless from any and all damages, losses, claims, including claims and actions relating to injury or death of any person or damage to property, costs and expenses, reasonable attorneys' fees and court costs, arising out of or resulting from the Party's performance of its obligations under this agreement, except to the extent that such damages, losses or claims were caused by the negligence or intentional acts of the other Party.

B) Each Party's liability to the other Party for failure to perform its obligations under this Contract shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any punitive, incidental, indirect, special, or consequential damages of any kind whatsoever, including for loss of business opportunity or profits, regardless of whether such damages were foreseen.

C) Notwithstanding any other provision, with respect to the Company's duties or performance or lack of performance under this Contract, the Company's liability to the Community Solar Garden Operator shall be limited as set forth in the Company's rate book and terms and conditions for electric service, and shall not be affected by the terms of this Contract. There are no third-party beneficiaries of any Company duty under this Contract other than the Company's duty to Subscribers to issue Bill Credits as set forth in this Contract, and the duty to a financing party under Section 10.d. of this Contract.

12. Dispute Resolution

A) Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.

B) In the event a dispute arises under this Contract between the Parties, and if it cannot be resolved by the Parties within thirty (30) days after written notice of the dispute to the other Party, then the Parties may refer the dispute for resolution to the MPUC, which shall maintain continuing jurisdiction over this Agreement.

13. The separately executed power purchase agreement referenced in the Interconnection Agreement for the purchase of power exported by the Community Solar Garden Operator to the Company is not needed. Instead, this Contract shall govern the terms for the power exported by the Community Solar Garden Operator to the Company. N

(Continued on Sheet No. 9-84)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 1st Revised Sheet No. 84

14. Renewable Energy Credits (RECs). Under any of the following conditions, the RECs associated with the Community Solar Garden belong to the Company:

i. Where the Community Solar Garden or any person or entity on its behalf has received or intends to accept a Made in Minnesota benefit, as defined in Minn. Stat. § 216C.411, pursuant to Minn. Stat. §§ 216C.411 through 216C.415. No solar-REC value shall be paid under the present Contract in this circumstance.

ii. Where the Community Solar Garden or any person or entity on its behalf has received or intends to accept a Solar*Rewards benefit, as defined in Minn. Stat. § 116C.7792. No solar-REC value shall be paid under the present Contract in this circumstance.

iii. Where the Community Solar Garden Operator has elected to transfer the solar RECs to the Company under this Contract and the Value of Solar rate applicable to the Community Solar Garden has not been reflected in the Solar*Rewards Community Program tariff of the Company's rate book, then compensation to Subscribers for Subscribed Energy will be at the Enhanced bill credit rate as updated annually and found in Solar*Rewards Community Program tariff of the Company's rate book. Without this election, and where the Value of Solar rate applicable to the Community Solar Garden has not been adopted, compensation to Subscribers for Subscribed Energy will be at the Standard bill credit rate as updated annually and found in the Solar*Rewards Community Program tariff of the Company's rate book. The Enhanced bill credit is not available under this Contract where the Community Solar Garden or any person or entity on its behalf has received or intends to accept a Made in Minnesota benefit or a Solar*Rewards benefit. The Community Solar Garden Operator indicates immediately below with an "X" or check-mark or marking in the box if it elects to transfer the solar RECs under this Section 14.iii. of this Contract.

☐ By placing an "X", or checking or marking this box, the Community Solar Garden Operator indicates its election to transfer the solar RECs to the Company under Section 14.iii of this Contract. With this election, compensation to Subscribers for Subscribed Energy will be at the applicable Enhanced bill credit rate as found in the Solar*Rewards Community Program tariff of the Company's rate book. This election is only valid where it is not the case that the Community Solar Garden or any person or entity on its behalf has received or intends to accept a Made in Minnesota benefit or a Solar*Rewards benefit. This election shall remain in place for the Term of the Contract, and REC payments will last for the full Term of the Contract.

iv. Where a Value of Solar rate applicable to the Community Solar Garden has become effective as reflected in the Solar*Rewards Community Program tariff of the Company's rate book. The Value of Solar (VOS) Rate applies where the application of the Community Solar Garden Operator was Deemed Complete on or after January 1, 2017. In such a situation the Value of Solar rate shall be applicable regardless of whether or not the Community Solar Garden or any person or entity on its behalf has received or intends to accept a Made in Minnesota benefit or a Solar*Rewards benefit and shall be in place and in lieu of any election the Community Solar Garden Operator may have made in Section 14.iii above. C C

v. The application of the Community Solar Garden Operator was Deemed Complete on _____. N N

The following provisions of Section 14 only apply where the solar RECs associated with the Community Solar Garden belong to the Company under either Section 14.i, 14,ii, 14.iii, or 14.iv of this Contract.

(Continued on Sheet No. 9-85)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 1st Revised Sheet No. 85

14. Renewable Energy Credits (RECs). Under any of the following conditions, the RECs associated with the Community Solar Garden belong to the Company: (Continued)

The Community Solar Garden Operator hereby automatically and irrevocably assigns to Company all rights, title and authority for Company to register the Subscribed Energy and Unsubscribed Energy and own, hold and manage the RECs associated with all such energy in the Company's own name and to the Company's account, including any rights associated with any renewable energy information or tracking system that exists or may be established (including but not limited to participants in any applicable REC Registration Program and the United States government) with regard to monitoring, registering, tracking, certifying, or trading such credits. The Community Solar Garden Operator hereby authorizes Company to act as its agent for the purposes of registering, tracking and certifying RECs and the Company has full authority to hold, sell or trade such RECs within its own account of said renewable energy information or tracking systems. Upon the request of Company, at no cost to Company, (i) Community Solar Garden Operator shall deliver or cause to be delivered to Company such attestations and/or certifications of the Community Solar Garden and its associated RECs, and (ii) Community Solar Garden Operator shall cooperate with Company's registration and certification of the Community Solar Garden. The Company shall own and retain all RECs associated with Subscribed Energy and Unsubscribed Energy produced by the Community Solar Garden. N N D

A. Definition of Renewable Energy Credits (RECs). "Renewable Energy Credits" or "RECs" are all attributes of an environmental or other nature that are created or otherwise arise from the Community Solar Garden Operator's generation of energy using solar energy as a fuel, including, but not limited to, tags, certificates or similar products or rights associated with solar energy as a "green" or "renewable" electric generation resource, including any and all environmental air quality credits, emission reductions, off-sets, allowances or other benefits related to the generation of energy from the Community Solar Garden PV System that reduces, displaces or off-sets emissions resulting from fuel combustion at another location pursuant to any existing or future international, federal, state or local legislation or regulation or voluntary agreement, and the aggregate amount of credits, offsets or other benefits including any rights, attributes or credits arising from or eligible for consideration in the M-RETS program or any similar program pursuant to any international, federal, state or local legislation or regulation or voluntary agreement and any renewable energy certificates issued pursuant to any program, information system or tracking system associated with the renewable energy generated from the Community Solar Garden PV System. RECs do not include any federal, state or local tax credits, cash grants, production incentives or similar tax or cash benefits for which Community Solar Garden Operator or the Community Solar Garden PV System are eligible or which either receives, or any depreciation, expenses, credits, benefits or other federal, state or local tax treatment for which Community Solar Garden Operator or the Community Solar Garden PV System is eligible or that either receives.

(Continued on Sheet No. 9-86)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** Original Sheet No. 86

14. Renewable Energy Credits (RECs). Under any of the following conditions, the RECs associated with the Community Solar Garden belong to the Company: (Continued)

B. Definition of M-RETS Program. "M-RETS Program" means the Midwest Renewable Energy Trading System program, MPUC Docket No. E999/CI-04-1616 and subsequent or related proceedings.

C. Ownership of RECs. All RECs associated with the Subscribed Energy and Unsubscribed Energy shall be assigned to the Company. By participating as a Community Solar Garden Operator under this Contract, the Community Solar Garden Operator hereby assigns to Company all right title and interest of the Community Solar Garden Operator to all RECs arising out of or associated with the generation of Subscribed Energy and Unsubscribed Energy. None of the Subscribers to the Community Solar Garden shall receive any RECs associated with the Subscribed Energy and Unsubscribed Energy. The Community Solar Garden Operator warrants and represents to the Company that it has or will have at the time of delivery good and sufficient title to all RECs associated with such Subscribed Energy and Unsubscribed Energy output and/or the ability to transfer good and sufficient title of all such RECs to the Company. The Company shall be entitled to all RECs generated by the Community Solar Garden PV System for such Subscribed Energy and Unsubscribed Energy while the Community Solar Garden Operator participates in the service offered in this Contract. The Community Solar Garden Operator hereby automatically and irrevocably assigns to the Company all rights, title and authority for Company to register the Community Solar Garden Operator's RECs associated with Subscribed Energy and Unsubscribed Energy under the terms of this Contract and to and own, hold and manage these RECs associated with the Community Solar Garden in the Company's own name and to the Company's account, including any rights associated with any renewable energy information or tracking system that exists or may be established in Minnesota or other jurisdictions (including but not limited to the United States government) with regard to monitoring, registering, tracking, certifying, or trading such credits. The Community Solar Garden Operator hereby authorizes Company to act as its agent for the purposes of registering, tracking and certifying these RECs and the Company has full authority to hold, sell or trade such RECs to its own account of said renewable energy information or tracking systems. Upon the request of Company from time to time, at no cost to Company, (i) Community Solar Garden Operator shall deliver or cause to be delivered to Company such attestations / certifications of all RECs, and (ii) Community Solar Garden Operator shall provide full cooperation in connection with Company's registration of the Community Solar Garden Operator's RECs under this Contract and certification of RECs. The Company shall own all RECs arising out of or associated with the generation of Subscribed Energy and Unsubscribed Energy for all purposes, and be entitled to use them in any manner it chooses. N

(Continued on Sheet No. 9-87)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
**MINNESOTA ELECTRIC RATE BOOK - MPUC NO. 2**

**STANDARD CONTRACT FOR** Section No. 9
**SOLAR*REWARDS COMMUNITY (Continued)** 1st Revised Sheet No. 87

15.A. Miscellaneous. The provisions of this par. 15.A. only apply to those applications that are not subject to the MN DIP. The "Miscellaneous" provisions in the Interconnection Agreement between the Parties addressing the following issues are incorporated into this Contract and are fully applicable to this Contract as if set forth in full herein. Where the Interconnection Agreement in the "Miscellaneous" section uses the term "Interconnection Customer", this shall mean the Community Solar Garden Operator for purposes of the present Contract. Where the Interconnection Agreement in the "Miscellaneous" section uses the term "Agreement", this shall mean this Contract for purposes of the present Contract. N N

A. Force Majeure
B. Notices
C. Assignment
D. Non-Waiver
E. Governing Law and Inclusion of Xcel Energy's Tariffs and Rules
F. Amendment or Modification
G. Entire Agreement
H. Confidential Information
I. Non-Warranty
J. No Partnership

15.B. Miscellaneous. The provisions of this par. 15.B. only apply to those applications that are subject to the MN DIP. The following provisions in the MN DIA addressing the following issues are incorporated into this Contract and are fully applicable to this Contract as if set forth in full herein. Where the MN DIA uses the term "Interconnection Customer", this shall mean the Community Solar Garden Operator for purposes of the present Contract, and where it uses the term "Area EPS Operator" it shall mean the Company. Where the MN DIA uses the term "Agreement", this shall mean this Contract for purposes of the present Contract. References to MN DIA sections below also includes all associated sub-sections N N L

A. Force Majeure – MN DIA Section 7.6
B. Notices – MN DIA Section 13.1
C. Assignment – MN DIA Section 7.1
D. Non-Waiver – MN DIA Section 12.4
E. Governing Law – MN DIA Section 12.1
F. Amendment or Modification – MN DIA Section 12.2
G. Entire Agreement – MN DIA Section 12.5
H. Confidential Information – MN DIA Section 9
I. Non-Warranty – MN DIA Section 7.3
J. No Partnership – MN DIA Section 12.7
K. Severability – MN DIA Section 12.8
L. Subcontractors – MN DIA Section 12.11
M. Inclusion of Tariffs – MN DIA Section 12.12

(Continued on Sheet No. 9-88)

16. Term. The Term of the Contract shall be the same as for the Interconnection Agreement applicable to the Community Solar Garden, and each shall begin when signed by the Parties and end twenty five (25) years after the Date of Commercial Operation unless otherwise provided for in this Contract. In the event of termination, or early termination of this Contract, applicable provisions shall continue in effect after termination to the extent necessary to enforce and complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this Contract.

L
L

**SIGNATURES**

IN WITNESS WHEREOF, the Parties hereto have caused two originals of this Contract to be executed by their duly authorized representatives. This Contract is effective as of the last date set forth below. Each Party may sign using an electronic signature. Electronic signatures shall have the same effect as original signatures.

| **Community Solar Garden Operator** | **Northern States Power Company, a Minnesota corporation** |
|---|---|
| By: _____ | By: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

(Continued on Sheet No. 9-89)

**STATE OF MINNESOTA**

**MINNESOTA PUBLIC UTILITIES COMMISSION**

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|---|---|
| In the Matter of the Petition of Northern States Power Company for Approval of its Proposed Community Solar Gardens Program | Docket No. E002/M-13-867 |

**AFFIDAVIT OF TIMOTHY DENHERDER-THOMAS**

Timothy DenHerder-Thomas, General Manager of Cooperative Energy Futures, a Minnesota Cooperative Association, being duly sworn, states and affirms the following:

1. My name is Timothy DenHerder-Thomas. I am the General Manager of Cooperative Energy Futures (CEF), a Minnesota Cooperative Association. My business address is 310 E 38th St Suite 109, Minneapolis, MN 55409. CEF develops and owns community solar gardens exclusively in Minnesota. CEF is a member cooperative that is collectively owned by its subscriber-members.
2. Today, CEF owns and operates eight community solar gardens in Xcel Energy's Minnesota service territory, with a cumulative capacity of 6.8 MW primarily serving residential customers. Specifically, CEF's community solar gardens serve approximately 700 households, plus a few nonprofit entities, municipalities, state agencies, and small local businesses. Approximately half of CEF's residential subscribers are low-to-moderate income (LMI) customers. CEF does not serve any large corporate subscribers.
3. CEF's community solar gardens participate in Xcel's Solar*Rewards Community program and have 25-year Solar*Rewards Community contracts with Xcel that clearly state that the Bill Credit Type applicable to the project shall apply for the full 25-year

life of the contract. Under the terms of those signed contracts, Xcel provides bill credits to each community solar garden's subscribers in exchange for the energy produced by each project. The bill credit that Xcel provides pursuant to the applicable Solar*Rewards Community contract for all eight projects is equal to the "applicable retail rate" (ARR).

4. It is my understanding that the Minnesota Public Utilities Commission directed Xcel to file a proposal to unilaterally rewrite the terms of all Solar*Rewards Community contracts that provide for bill credits at the ARR such that the bill credits would instead be equal to the "Value of Solar" (VOS). It is my understanding that Xcel filed such a proposal on September 25, 2023, and that the Commission is now evaluating Xcel's proposal. It is also my understanding that the 2017 VOS Vintage Year bill credit rate that Xcel proposed would result in bill credit reductions for subscribers of between 22% and 34% depending on the customer's rate class in community solar gardens above 250kW. For residential subscribers that subscribe to community solar gardens smaller than 250 kW, Xcel's proposal would result in a bill credit reduction of 35%.
5. CEF strongly opposes Xcel's proposal.
6. Based on the Commission's prior orders and the clear language of each project's signed Solar*Rewards Community contract, CEF expected that Xcel would provide subscribers with bill credits based on the ARR for the entire 25-year term of the contract. CEF understood that the actual value of the bill credits would change over time whenever Xcel's underlying retail rates changed. However, CEF expected that the methodology used to determine the bill credits would not change and would always be calculated based on Xcel's ARR. Xcel's proposal upends those expectations.

7. CEF's subscribers have 25-year contracts with CEF and pay CEF predetermined prices for their subscriptions. CEF's subscribers entered into 25-year contracts with CEF with the expectation that they would receive bill credits at the ARR for the duration of their contracts. Approximately 95 percent of CEF's subscribers pay CEF monthly and the remaining subscribers paid for their 25-year subscription contracts upfront.
8. CEF sold its subscriptions at predetermined prices designed to provide subscribers with a net savings on their electricity bills based on the assumption that subscribers would receive bill credits at the ARR. As a result, all of CEF's subscribers experience a net savings on their electricity costs. If the Commission were to approve Xcel's proposal, every one of CEF's subscribers who pay monthly would instead pay a premium on their electricity costs, and the small number of subscribers who paid for their subscriptions upfront with the expectation that they would receive bill credits at the ARR for 25 years would receive dramatically lower savings than expected. CEF expects that its subscribers would be very frustrated by this change and would seek to terminate their subscription contracts with CEF. As a cooperative directly accountable to our members, CEF has intentionally designed subscriptions to allow our members to terminate their subscription contracts with three months' notice and no penalty. Under most situations, this approach provides a positive incentive to ensure CEF stays accountable to member needs and concerns. In this circumstance, it would dramatically harm our cooperative and our relationship with our members for reasons unrelated to CEF's service to our members.
9. I expect many if not most of CEF's subscribers, especially the approximately half of our member base who are LMI subscribers, would terminate their subscription

contracts if the Commission were to approve Xcel's proposal because they cannot afford to pay a premium for their subscription. While CEF would attempt to subscribe new customers, Xcel's proposal to provide bill credits equal to the VOS rate would compel CEF to charge substantially less for any new subscriptions in order to provide subscribers with net bill savings – a change that would directly violate multiple lender and investor covenants that CEF has in place for our community solar gardens. CEF would also incur internal costs to handle terminating subscribers and enroll new subscribers.

10. CEF obtained debt financing for each of its eight community solar gardens based on the revenue CEF expected to receive from its subscribers at the subscription rates CEF's subscribers currently pay. If the Commission were to approve Xcel's proposal, the revenue that CEF receives from its eight operating community solar gardens would be drastically reduced. In such circumstances, I expect that CEF would be unable to service the debt on its community solar gardens and would default on its loan obligations, resulting in foreclosure on its eight community solar gardens.
11. CEF relies on lenders and tax equity partners to finance its community solar gardens. Based on CEF's relationship with these financing partners, I understand that these financing partners perform due diligence on the regulatory environment in Minnesota as compared to other states. If the Commission were to approve Xcel's proposal to modify the terms of its existing Solar*Rewards Community contracts, I expect that it would negatively impact these financing partners' willingness to invest in future community solar garden projects in Minnesota and threaten CEF's ability to access capital for future projects. Simply put, if the Commission allows Xcel to modify the

terms of existing community solar garden contracts, I believe our financing partners will expect that future community solar garden contracts can also be unilaterally modified. This raises the risk profile of our projects and inhibits outside investment into our cooperative regardless of the favorability of the subscriber compensation rates available at the time, simply because it would suggest that the contractually-defined structure of the rates is apparently subject to unilateral change.

12. CEF does not believe it is legal or appropriate for Xcel to change the terms of CEF's 25-year contracts with Xcel for its eight community solar gardens that receive bill credits at the ARR.

I swear and affirm that the above statements are true to the best of my understanding and belief.

Timothy DenHerder-Thomas
General Manager
Cooperative Energy Futures
A Minnesota Cooperative Association

BRUCE A. KONEWKO
Notary Public-Minnesota
My Commission Expires Jan 31, 2024

1-3-24

**STATE OF MINNESOTA**

**MINNESOTA PUBLIC UTILITIES COMMISSION**

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|---|---|
| In the Matter of the Petition of Northern States Power Company for Approval of its Proposed Community Solar Gardens Program | Docket No. E002/M-13-867 |

**AFFIDAVIT OF DANIEL C. DOBBS**

Daniel C. Dobbs, Chief Strategy Officer of Standard Solar, Inc., being duly sworn, states and affirms the following:

1. My name is Daniel C. Dobbs. I am the Chief Strategy Officer of Standard Solar, Inc. (Standard Solar). My business address is 530 Gaither Rd., Ste. 900, Rockville, MD 20850. Standard Solar builds, owns, and operates community solar gardens across the United States, including in Minnesota.
2. Today, Standard Solar owns and operates thirty-nine community solar garden projects in Xcel Energy's Minnesota service territory, each serving a mix of residential and commercial customers, including a number of municipalities. Standard Solar's community solar gardens participate in Xcel's Solar*Rewards Community program and have 25-year Solar*Rewards Community contracts with Xcel. Under the terms of those signed contracts, Xcel provides bill credits to each community solar garden's subscribers in exchange for the energy produced by each project. For eleven of Standard Solar's community solar gardens, the bill credit that Xcel provides pursuant to the applicable Solar*Rewards Community contract is equal to the "applicable retail rate" (ARR). The bill credit rate for Standard Solar's twenty-eight other community solar gardens is equal to the Value of Solar (VOS).

3. It is my understanding that the Minnesota Public Utilities Commission directed Xcel to file a proposal to unilaterally rewrite the terms of all Solar*Rewards Community contracts that provide for bill credits at the ARR such that the bill credits would instead be equal to the VOS. It is my understanding that Xcel filed such a proposal on September 25, 2023, and that the Commission is now evaluating Xcel's proposal. It is also my understanding that the 2017 VOS Vintage Year bill credit rate that Xcel proposed would result in bill credit reductions for subscribers of between 22% and 34% depending on the customer's rate class.
4. Standard Solar strongly opposes Xcel's proposal.
5. Based on the Commission's prior orders and the clear language of each project's signed Solar*Rewards Community contract, Standard Solar expected that Xcel would provide subscribers with bill credits based on the ARR for the entire 25-year term of the contract. Standard Solar understood that the actual value of the bill credits would change over time whenever Xcel's underlying retail rates changed. However, Standard Solar expected that the methodology used to determine the bill credits would not change and would always be calculated based on Xcel's ARR for those contracts that provide for bill credits equal to the ARR. Xcel's proposal upends those expectations.
6. Subscribers to Standard Solar's solar gardens have 25-year contracts and pay fixed prices for their subscriptions. Subscribers to those community solar gardens that receive bill credits at the ARR entered into 25-year contracts with the expectation that they would receive bill credits at the ARR for the duration of their contracts.
7. Most of Standard Solar's subscribers that receive ARR bill credits experience a net savings on their electricity costs as a result of their subscription. If the Commission

were to approve Xcel's proposal, most of these subscribers would instead pay a premium on their electricity costs as a result of their subscription. Subscribers that would not pay a premium would see the net savings they currently experience drastically reduced. Standard Solar expects that subscribers to its solar gardens would be very frustrated by this change and would seek to terminate or renegotiate their subscription contracts. Standard Solar would likely be compelled to agree to renegotiate these subscription contracts to avoid customer dissatisfaction and potential lawsuits from subscribers. Renegotiating these subscription contracts would significantly reduce the revenue that Standard Solar earns from these community solar gardens and negatively impact the expected returns that compelled us to invest in these community solar gardens.

8. If the Commission were to approve Xcel's proposal, Standard Solar would expect that its financing partners to be unwilling to support community solar garden development in Minnesota in the future.

9. Standard Solar is currently planning to participate in the next generation of community solar development in Minnesota based on the provisions of HF 23-10. Standard Solar is also currently planning to participate in the standalone distributed generation programs that will be developed in Minnesota as a result of the passage of HF 23-10. However, if the Commission were to approve Xcel's proposal, Standard Solar would lose confidence in its ability to receive predictable, competitive returns from additional solar projects in Minnesota. Simply put, if the Commission allows Xcel to change bill credit methodology established by Standard Solar's 25-year contracts, Standard Solar would view the regulatory environment in Minnesota as increasingly risky and

unpredictable, requiring a significant risk premium to justify future development or investment efforts. Such a risk premium would result in reduced discounts to consumers and increased costs to finance renewable energy projects.

10. Standard Solar does not believe it is legal or appropriate for Xcel to change the terms of Standard Solar's 25-year contracts with Xcel for its eleven community solar gardens that receive bill credits at the ARR.

I swear and affirm that the above statements are true to the best of my understanding and belief.

Daniel C. Dobbs
Chief Strategy Officer
Standard Solar, Inc.

Notary Information:
Chardinay #3
Chardinay Hines
My Commission Expires: 1/4/2026

CHARDINAY N HINES
Notary Public - State of Maryland
Baltimore City
My Commission Expires Jan 4, 2026

**STATE OF MINNESOTA**

**MINNESOTA PUBLIC UTILITIES COMMISSION**

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|---|---|
| In the Matter of the Petition of Northern States Power Company for Approval of its Proposed Community Solar Gardens Program | Docket No. E002/M-13-867 |

# AFFIDAVIT OF JARED DONALD

Nicole LeBlanc, Vice President and Chief Operating Officer of PureSky Community Solar Inc. ("PureSky"), being duly sworn, states and affirms the following:

1. My name is Nicole LeBlanc. I am the Vice President and Chief Operating Officer of PureSky Community Solar Inc. My business address is Suite 950, 518 17th Street, Denver, Colorado. PureSky builds, owns, and operates community solar gardens across the United States, including in Minnesota.
2. Today, PureSky owns and operates five community solar garden projects in Xcel Energy's Minnesota service territory, each serving residential customers exclusively. Those community solar gardens participate in Xcel's Solar*Rewards Community program. These projects began operating in 2017, each pursuant to 25-year Solar*Rewards Community contracts with Xcel. Under the terms of those signed contracts, Xcel provides bill credits to each community solar garden's subscribers at the "applicable retail rate" (ARR) in exchange for the energy produced by each project.
3. It is my understanding that the Minnesota Public Utilities Commission directed Xcel to file a proposal to unilaterally rewrite the terms of these existing 25-year contracts such that the bill credits Xcel would provide to subscribers would be equal to the "Value of Solar" (VOS) rather than the ARR. It is my understanding that Xcel filed

such a proposal on September 25, 2023, and that the Commission is now evaluating Xcel's proposal. It is also my understanding that the 2017 VOS Vintage Year bill credit rate that Xcel proposed would result in bill credit reductions for subscribers of between 22% and 34% depending on the customer's rate class.

4. PureSky strongly opposes Xcel's proposal.
5. Based on the Commission's prior orders and the clear language of each project's signed Solar*Rewards Community contract, PureSky expected that Xcel would provide subscribers with bill credits based on the ARR for the entire 25-year term of the contract. PureSky understood that the actual value of the bill credits would change over time whenever Xcel's underlying retail rates changed. However, PureSky expected that the methodology used to determine the bill credits would not change and would always be calculated based on Xcel's ARR. Xcel's proposal upends those expectations.
6. Roughly 90 percent of PureSky's Minnesota subscribers—again, all of whom are residential customers—have fixed price subscription agreements with PureSky. To date, those agreements have been a net benefit to PureSky's subscribers, meaning that the cost of subscription has been less than the ARR bill credit subscribers receive pursuant to the terms of Xcel's contracts with PureSky.
7. However, because the vast majority of PureSky's Minnesota subscription agreements are fixed-price agreements, any change to the bill credit rate Xcel provides to community solar garden subscribers will directly affect the net benefit (or loss) PureSky's subscribers receive. In this instance, nearly all of PureSky's Minnesota subscribers will go from receiving a net benefit under their subscription to a receiving

a net loss. The frustration caused by such a result would damage PureSky's relationship with its subscribers.

8. If Xcel's proposal were approved, PureSky expects that many subscribers would seek to terminate their subscription agreements early. If subscribers terminate their contracts early, it will significantly reduce the revenue that PureSky earns from its community solar gardens.
9. PureSky estimates that it will suffer a $3.5 million impact to the Net Present Value of the five operating assets due to an expected reduction in recurring annual revenue by $300,000 if the Commission were to adopt Xcel's proposal.
10. In some instances, PureSky may be able to renegotiate subscriber agreements to account for this rewriting of PureSky's contracts with Xcel. But even in those instances, Xcel's proposal will burden PureSky with significant administrative costs associated with rewriting those contracts, ensuring that those new contracts comply with the obligations of Minnesota's CSG regulations, and negotiating them with subscribers. In order to continue to show bill savings to subscribers, even if PureSky is able to keep the subscribers, we will need to materially reduce their contract price and we would suffer nearly the same $3 million impact mentioned above.
11. PureSky expects that this sort of change will cause significant subscriber confusion and believes that has damaging impacts on its own.
12. Moreover, Xcel's proposal will threaten PureSky's ability to fulfill the covenants it made to secure debt and/or equity financing to develop its Minnesota CSG projects. For example, PureSky must maintain certain debt service coverage amounts. If

PureSky's revenue declines as it expects, PureSky may automatically breach those covenants, leading to penalties to PureSky or early repayment obligations.

13. These results could be catastrophic to PureSky's business, its relationships with its project financers, and to PureSky's interest in continued operations in Minnesota.

14. Simply put, adopting Xcel's proposal will be a significant deterrent to PureSky when considering future projects in Minnesota. And if PureSky does continue operations in Minnesota, it may be forced to increase the costs of its projects—or it may face increased costs from project financers—to account for the uncertainty raised by the prospect that Xcel or the Commission may make further changes to settled contracts.

15. PureSky does not believe it is legal or appropriate for Xcel to change the terms of PureSky's 25-year contracts with Xcel for its five community solar gardens.

I swear and affirm that the above statements are true to the best of my understanding and belief.

Nicole LeBlanc
Vice President and Chief Operating Officer
PureSky Community Solar Inc.

CARSON K. BROWN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20224025342
MY COMMISSION EXPIRES 06/29/2026

01/08/2024

**STATE OF MINNESOTA**

**MINNESOTA PUBLIC UTILITIES COMMISSION**

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|---|---|
| In the Matter of the Petition of Northern States Power Company for Approval of its Proposed Community Solar Gardens Program | Docket No. E002/M-13-867 |

**AFFIDAVIT OF JASON KUFLIK**

Jason Kuflik, Manager of Green Street Power Partners LLC, being duly sworn, states and affirms the following:

1. My name is Jason Kuflik. I am Manager of Green Street Power Partners LLC (GSPP) and Chief Executive Officer of GSPP's parent company, GSPP Holdco Fund, LLC. My business address is 1 Landmark Square, Suite 320, Stamford, CT 06901. GSPP is a long-term owner of solar energy projects, including community solar gardens, in Minnesota and ten other U.S. states.
2. GSPP owns four community solar garden projects in Xcel Energy's (Xcel) service territory in Minnesota that participate in Xcel's Solar*Rewards Community program. These four projects began operating in 2019 pursuant to 25-year Solar*Rewards Community contracts with Xcel. Pursuant to each project's signed contract, Xcel provides bill credits to each community solar garden's subscribers at the "applicable retail rate" (ARR).
3. It is my understanding that the Minnesota Public Utilities Commission (Commission) directed Xcel to file a proposal to change the terms of these existing 25-year contracts such that the bill credits Xcel would provide to subscribers would be equal to the "Value of Solar" (VOS) rather than the ARR. It is my understanding that Xcel filed

such a proposal on September 25, 2023, and that the Commission is evaluating Xcel's proposal. It is also my understanding that the 2017 VOS Vintage Year bill credit rate that Xcel proposed would result in bill credit reductions for subscribers of between 22% and 34% depending on the customer's rate class.

4. GSPP strongly opposes Xcel's proposal.
5. Based on the Commission's prior orders and the clear language of each project's signed Solar*Rewards Community contract, GSPP expected that Xcel would provide subscribers with bill credits based on the ARR for the entire 25-year term of the contract. GSPP understood that the actual value of the bill credits would change over time whenever Xcel's underlying retail rates changed. However, GSPP expected that the methodology used to determine the bill credits would not change and would always be calculated based on Xcel's ARR.
6. Most of GSPP's contracts with subscribers are for 25 years. Many of GSPP's subscribers are schools or municipalities. If Xcel's proposal were approved, a substantial portion of GSPP's subscribers that currently experience savings on their electric bills as a result of their subscriptions will begin paying a premium for electricity as a result of their subscriptions. The frustration caused by such a result would damage GSPP's relationship with our subscribers.
7. If Xcel's proposal were approved, GSPP expects that many subscribers would seek to exercise early termination provisions in their subscription contracts. If subscribers terminated their contracts early, it would significantly reduce the revenue that GSPP earns from its community solar gardens and would threaten GSPP's ability to service the debt used to finance GSPP's purchase of these community solar gardens.

8. Further, GSPP's financing agreements for these community solar gardens establish minimum debt service coverage ratios that GSPP must meet per year. If enough subscribers terminate their subscriptions such that GSPP's revenue from these community solar gardens decline, the debt service coverage ratios would subsequently fall below the required minimum threshold, and all the outstanding debt on the applicable community solar garden may become due at the financing party's sole and absolute discretion. Such a result would impose a significant financial strain on GSPP and damage our relationships with our financing partners.
9. GSPP does not believe it is legal or appropriate for Xcel to change the terms of GSPP's 25-year contracts for its four community solar gardens. GSPP is currently pursuing further solar development and ownership opportunities but would be hesitant to further pursue such opportunities in Minnesota if the Commission were to approve Xcel's proposal, as it would be more difficult for GSPP to obtain approval from financing partners for any opportunities in Xcel's service territory.

I swear and affirm that the above statements are true to the best of my understanding and belief.

Dated this 14 day of December, 2023.

Jason Kuflik
Manager
Green Street Power Partners LLC

STATE OF CONNECTICUT )
COUNTY OF FAIRFIELD ), to wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid this 14 day of December, 2023, by Jason Kuflik, manager of Green Street Power Partners LLC.

(SEAL)

STEPHANIE S SANTANA
Notary Public
Connecticut
My Commission Expires Sep 30, 2027

Notary Public

My commission expires: 9/30/2027

**STATE OF MINNESOTA**

**MINNESOTA PUBLIC UTILITIES COMMISSION**

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| In the Matter of the Petition of Northern States Power Company for Approval of its Proposed Community Solar Gardens Program | Docket No. E002/M-13-867 |

**AFFIDAVIT OF OLIVIER DESPLECHIN**

Olivier Desplechin, Director of Commercial and Asset Management of ENGIE, being duly sworn, states and affirms the following:

1. My name is Olivier Desplechin. I am the Director of Commercial and Asset Management of ENGIE Distributed Solar & Storage ("ENGIE"), formerly SoCore Energy LLC. My business address is 1360 Post Oak Blvd, Houston, TX 77056. ENGIE builds, owns, and operates community solar gardens across the United States, with more than 93 $MW_{dc}$ in operation, including 41 $MW_{dc}$ in Minnesota.
2. Today, ENGIE owns and operates six community solar garden projects in Xcel Energy's Minnesota service territory, each serving a mix of commercial and industrial customers. Of those customers, approximately 76% are public sector or not-for-profit entities (e.g. school districts, municipalities, houses of worship, and non-profit health care and social service providers). The remaining 24% are private sector businesses that are major employers in the state. ENGIE's community solar gardens participate in Xcel's Solar*Rewards Community program. These projects began operating in 2017, each pursuant to 25-year Solar*Rewards Community contracts with Xcel. Under the terms of those signed contracts, Xcel provides bill credits to each community solar

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garden's subscribers at the "applicable retail rate" (ARR) in exchange for the energy produced by each project.

3. It is my understanding that the Minnesota Public Utilities Commission directed Xcel to file a proposal to rewrite the terms of these existing 25-year contracts such that the bill credits Xcel would provide to subscribers would be equal to the "Value of Solar" (VOS) rather than the ARR. It is my understanding that Xcel filed such a proposal on September 25, 2023, and that the Commission is now evaluating Xcel's proposal. It is also my understanding that the 2017 VOS Vintage Year bill credit rate that Xcel proposed would result in bill credit reductions for subscribers of between 22% and 34% in 2023, depending on the customer's rate class.
4. ENGIE strongly opposes Xcel's proposal.
5. Based on the Commission's prior orders and the clear language of each project's signed Solar*Rewards Community contract, ENGIE expected that Xcel would provide subscribers with bill credits based on the ARR for the entire 25-year term of the contract. ENGIE understood that the actual value of the bill credits would change over time whenever Xcel's underlying retail rates changed. However, ENGIE expected that the methodology used to determine the bill credits would not change and would always be calculated based on Xcel's ARR. Xcel's proposal upends those expectations.
6. ENGIE's contracts with our subscribers are for 25-year terms and take one of two forms: fixed-price contracts or indexed price contracts. Approximately 56% of the capacity of our solar gardens is contracted on a fixed price basis and 44% is contracted on an indexed price basis.

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7. Subscribers with fixed-price contracts pay ENGIE an established per-kilowatt-hour (per-kWh) price for the energy they receive. If the Commission were to approve Xcel's proposal, subscribers with fixed-price contracts would see the savings that they currently receive on their electric bill drastically reduced. The frustration caused by such a result would damage ENGIE's relationship with its subscribers.
8. Subscribers with indexed price contracts pay ENGIE a per-kWh price that is indexed to the bill credit rate that they receive from Xcel. Whenever the bill credit rate increases or decreases, the per-kWh price that subscribers with indexed price contracts pay to ENGIE increases or decreases accordingly. If the Commission were to approve Xcel's proposal, the amount that subscribers with indexed price contracts would pay ENGIE each month would drastically decrease. Such a result would significantly decrease the revenue that ENGIE earns from its community solar gardens.
9. ENGIE invests significant time and company resources to educate our financing partners on the community solar business model with the goal of making these partners comfortable financing community solar projects. If the Commission were to approve Xcel's proposal, ENGIE and its financing partners would lose confidence that a signed contract in Minnesota is a durable document. This would increase the overall risk profile of community solar projects in Minnesota. Based on our relationships with our financing partners, we expect that a decision approving Xcel's proposal may limit the availability of financing and increase the cost of financing for future community solar gardens in Minnesota.
10. ENGIE currently intends to participate in the next generation of community solar garden development in Minnesota. If the Commission were to approve Xcel's proposal

to change the bill credit rate stated in our signed contracts from the ARR to the VOS rate, ENGIE would reevaluate these plans and may decide to focus our development efforts in other states.

11. Simply put, adopting Xcel's proposal will be a significant deterrent to ENGIE when considering future projects in Minnesota. And if ENGIE does continue to develop projects in Minnesota, it may be forced to increase the costs of its projects—or it may face increased costs from project financers—to account for the uncertainty raised by the prospect that Xcel or the Commission may make further changes to settled contracts.
12. ENGIE does not believe it is legal or appropriate for Xcel to change the terms of ENGIE's 25-year contracts with Xcel for its community solar gardens.

I swear and affirm that the above statements are true to the best of my understanding and belief.

Olivier Desplechin
Director of Commercial and Asset Management
ENGIE

BABU PARSHOTTAM
Notary Public, State of Texas
Comm. Expires 03-11-2024
Notary ID 126322335

12/28/2023.